ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

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SUNDAY, NOVEMBER 1, 2015

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, October 15, 2015.

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MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet November 10, 2015, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **1439-1443** of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2015 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

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

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, NOVEMBER 10, 2015, at 1:00 p.m., Room 149 Capitol Annex

PERSONNEL CABINET
Office of the Secretary

Personnel Cabinet; Classified

101 KAR 2:210 & E. 2016 Plan Year Handbook for the public employee health insurance program. ("E" expires 3/13/2016)

GENERAL GOVERNMENT CABINET
Board of Pharmacy

Board

201 KAR 2:220. Collaborative care agreements. (Amended After Comments)

Board of Veterinary Examiners

Board

201 KAR 16:050. Continuing education.

Board of Chiropractic Examiners

Board

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

Board of Physical Therapy

Board

201 KAR 22:020. Eligibility and credentialing procedure.
201 KAR 22:040. Procedure for renewal or reinstatement of a credential for a physical therapist or physical therapist assistant.
201 KAR 22:070. Requirements for foreign-educated physical therapists.

Board of Podiatry

Board

201 KAR 25:011. Approved schools; examination application; fees.
201 KAR 25:021. Annual renewal of licenses, fees.
201 KAR 25:031. Continuing education.

Board of Examiners of Psychology

Board

201 KAR 26:121. Scope of practice and dual licensure. (Not Amended After Comments)
201 KAR 26:175. Continuing education. (Amended After Comments)
201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychology for meeting education requirements for licensure as a licensed psychologist. (Not Amended After Comments)

Real Estate Appraisers Board

Board

201 KAR 30:050. Examination and experience requirement.
201 KAR 30:380. Individual appraiser license renewal and fee.

Board of Licensure of Marriage and Family Therapists

Board

201 KAR 32:025. Marriage and family therapist associate. (Amended After Comments)
201 KAR 32:035. Supervision of marriage and family therapist associates. (Amended After Comments)
201 KAR 32:045. Examination. (Amended After Comments)
201 KAR 32:060. Continuing education requirements. (Amended After Comments)

Board of Licensure and Certification for Dietitians and Nutritionists

Board

201 KAR 33:015. Application; approved programs.
201 KAR 33:020. Renewals.
201 KAR 33:030. Continuing education requirements for licensees and certificate holders.

Board of Alcohol and Drug Counselors

Board

201 KAR 35:010 & E. Definitions for 201 KAR Chapter 35. ("E" expires 2/21/2016)
201 KAR 35:015 & E. Grandparenting of certification to licensure. ("E" expires 2/21/2016)
201 KAR 35:020 & E. Fees. ("E" expires 2/21/2016)
201 KAR 35:030 & E. Code of ethics. ("E" expires 2/21/2016)
201 KAR 35:040 & E. Continuing education requirements. ("E" expires 2/21/2016)
201 KAR 35:050 & E. Curriculum of study. ("E" expires 2/21/2016)
201 KAR 35:055 & E. Temporary registration or certification. ("E" expires 2/21/2016)
201 KAR 35:060 & E. Complaint procedure. ("E" expires 2/21/2016)
201 KAR 35:070 & E. Supervision experience. ("E" expires 2/21/2016)
201 KAR 35:075 & E. Substitution for work experience for an applicant for certification as an alcohol and drug counselor. ("E" expires 2/21/2016)
201 KAR 35:080. Voluntary inactive status.
201 KAR 35:090 & E. Appeal from a denial of or refusal to renew or reinstate a registration, certificate, or license, or denial of continuing education hours by the board. ("E" expires 2/21/2016)

Board of Licensed Diabetes Educators

Board

201 KAR 45:110. Supervision and work experience. (Not Amended After Comments)

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

Fish

301 KAR 1:161. Repeal of 301 KAR 1:160.

301 KAR 1:410. Taking of fish by nontraditional fishing methods.

Game

301 KAR 2:225 & E. Dove, wood duck, teal, and other migratory game bird hunting. ("E" expires 2/17/2016)

GENERAL GOVERNMENT
Department of Agriculture
Office of Consumer and Environmental Protection
Division of Environmental Services

Structural Pest Control

302 KAR 29:010. Definitions for 302 KAR Chapter 29.
302 KAR 29:020. General provisions for structural pest control.
302 KAR 29:040. Settlement proceedings.
302 KAR 29:050. Commercial structural pest control and fumigation.
302 KAR 29:060. Certification.

CABINET FOR ECONOMIC DEVELOPMENT
Economic Development Finance Authority

Authority

307 KAR 1:005. Applications for Kentucky Incentive Programs. (Deferred from October)

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality

New Source Standards

401 KAR 59:174. Stage II controls at gasoline dispensing facilities.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections

Office of the Secretary

501 KAR 6:050. Luther Luckett Correctional Complex. (Amended After Comments)

Department of Juvenile Justice

Child Welfare

505 KAR 1:100 & E. Department of Juvenile Justice Policies and Procedures: admissions. ("E" expires 1/27/2016)(Amended After Comments)

505 KAR 1:110 & E. Department of Juvenile Justice Policy and Procedures Manual: program services. ("E" expires 1/27/2016)(Amended After Comments)

505 KAR 1:130 & E. Department of Juvenile Justice Policies and Procedures: juvenile services in community. ("E" expires 1/27/2016)(Amended After Comments)

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

Motor Carriers

601 KAR 1:113 & E. Transportation network company. ("E" Expires 2/3/2016) (Amended After Comments)

Division of Driver Licensing

Administration

601 KAR 2:030 & E. Ignition interlock. ("E" expires 2/28/2016)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education

General Admission

702 KAR 1:170. School district data security and breach procedures. (Deferred from October)

EASTERN KENTUCKY UNIVERSITY

Board of Regents

775 KAR 1:070. Capital construction procedures.

LABOR CABINET
Department of Workers' Claims

Workers' Claims

803 KAR 25:185. Procedure for e-mail notification of cancellation or removal of location of specific workers' compensation coverage.

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control

Licensing

804 KAR 4:015 & E. Interlocking substantial interest between licensees prohibited. ("E" expires 1/19/2016)(Amended After Comments)

Local Administrators

804 KAR 10:031. Local government regulatory license fees.

Horse Racing Commission

Thoroughbred Racing

810 KAR 1:018. Medication; testing procedures; prohibited practices.
810 KAR 1:028. Disciplinary measures and penalties.
810 KAR 1:040. Drug, medication, and substance classification schedule and withdrawal guidelines.

Harness Racing

811 KAR 1:090. Medication; testing procedures; prohibited practices.
811 KAR 1:093. Drug, medication, and substance classification schedule and withdrawal guidelines.
811 KAR 1:095. Disciplinary measures and penalties.

Quarter Horse, Appaloosa and Arabian Racing

811 KAR 2:093. Drug, medication, and substance classification schedule and withdrawal guidelines.
811 KAR 2:096. Medication; testing procedures; prohibited practices.
811 KAR 2:100. Disciplinary measures and penalties.

Department of Charitable Gaming

Charitable Gaming

820 KAR 1:005. Exempt Organizations. (Deferred from October)
820 KAR 1:015. Issuance of annual license for a charitable organization. (Deferred from October)
820 KAR 1:016. Distributor and manufacturer licensees. (Deferred from October)
820 KAR 1:017. Licensing inspections. (Deferred from October)
820 KAR 1:025. Financial reports of a licensed charitable organization. (Deferred from October)
820 KAR 1:027. Quarterly reports of a licensed distributor and a licensed manufacturer. (Amended After Comments)
820 KAR 1:029. Facility licensees. (Deferred from October)
820 KAR 1:034. Pulltab dispenser construction and use. (Deferred from October)
820 KAR 1:036. Pulltab rules of play. (Deferred from October)
820 KAR 1:046. Bingo rules of play. (Deferred from October)
820 KAR 1:050. Raffle standards. (Deferred from October)
820 KAR 1:055. Charity fundraising event standards. (Deferred from October)
820 KAR 1:056. Special limited charity fundraising event standards. (Deferred from October)
820 KAR 1:057. Accurate records. (Deferred from October)
820 KAR 1:058. Gaming occasion records. (Deferred from October)
820 KAR 1:120. Allowable expenses. (Deferred from October)
820 KAR 1:125. Gaming inspections. (Deferred from October)
820 KAR 1:130. Administrative actions. (Deferred from October)

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy

Certificate of Need

900 KAR 6:055. Certificate of need forms. (Amended After Comments)
900 KAR 6:070. Certificate of need considerations for formal review. (Not Amended After Comments)
900 KAR 6:075. Certificate of need nonsubstantive review. (Not Amended After Comments)
900 KAR 6:090. Certificate of need filing, hearing, and show cause hearing. (Not Amended After Comments)

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. (Amended After Comments)(Deferred from May)
902 KAR 20:180. Psychiatric hospitals; operation and services. (Deferred from June)
902 KAR 20:200. Tuberculosis (TB) testing for residents in long-term care settings.
902 KAR 20:205. Tuberculosis (TB) testing for health care workers.

Department for Medicaid Services
Division of Policy and Operations

Medicaid Services

907 KAR 1:026. Dental services' coverage provisions and requirements. (Amended After Comments) (Deferred from October)

Division of Community Alternatives

Medicaid Services

907 KAR 1:045 (~~& E~~). Reimbursement provisions and requirements regarding community mental health center services. ("E" expired 8/1/2015)(Not Amended After Comments)(Deferred from May)

Division of Policy and Operations

Medicaid Services

907 KAR 1:046. Community mental health center primary care services. (Amended After Comments)(Deferred from May)

Division of Community Alternatives

Medicaid Services

907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements. (Deferred from October)
907 KAR 1:626. Reimbursement of dental services. (Amended After Comments) (Deferred from October)

Division of Policy and Operations

Hospital Service Coverage and Reimbursement

907 KAR 10:020. Coverage provisions and requirement regarding outpatient psychiatric hospital services. (Amended After Comments) (Deferred from August)

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services. (Not Amended After Comments.) (Deferred from August)

Department for Aging and Independent Living
Division of Quality Living

Aging Services
910 KAR 1:240. Certification of assisted-living communities. (Amended After Comments)

REMOVED FROM THE AGENDA

GENERAL GOVERNMENT CABINET
~~**Board of Examiners of Psychology**~~

~~**Board**~~
~~201 KAR 26:115. Psychological testing. (Expired 10/15/2015, SOC not filed)~~

Board of Licensed Professional Counselors

Board
201 KAR 36:030. Continuing education requirement. (Comments Received, SOC ext.)

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water

Water Quality Standards
401 KAR 10:026. Designation of uses of surface waters. (Comments Received)
401 KAR 10:029. General provisions. (Comments Received)
401 KAR 10:030. Antidegradation policy implementation methodology. (Comments Received)
401 KAR 10:031. Surface water standards. (Comments Received)

PUBLIC PROTECTION CABINET
Department of Charitable Gaming

Charitable Gaming
820 KAR 1:044. Bingo equipment. (Not Amended After Comments) (Deferred from November)

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

Health Services and Facilities
902 KAR 20:260. Special health clinics. (Comments Received, SOC ext.)

Department for Medicaid Services
Division of Community Alternatives

Medicaid Services (Donna)
907 KAR 1:835. Michelle P. waiver services and reimbursements. (Comments Received, SOC ext.)
Payment and Services
907 KAR 3:090. Acquired brain injury waiver services. (Comments Received, SOC ext.)
907 KAR 3:210. Acquired brain injury long-term care waiver services and reimbursement. (Comments Received, SOC ext.)

Division of Community Alternatives

Supports for Community Living Waiver
907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies. (Comments Received, SOC ext.)
907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services. (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.

REPRINT

Compiler's Note: In the October Register, the incorrect version of this administrative regulation was published. Instead of the amendment approved by the Interim Joint Committee on Natural Resources and Environment at its meeting on September 3, 2015, the October Register included a repeat publication of the amendment previously approved by the Administrative Regulation Review Subcommittee at its meeting on July 14, 2015. Here is the amendment from the September 3, 2015 meeting that should have been published in the October Register. (This administrative regulation, as amended, became effective September 3, 2015.)

ENERGY AND ENVIRONMENT CABINET
Department for Natural Resources
Division of Forestry
(As Amended at IJC on Natural Resources and Environment, September 3, 2015)

402 KAR 3:050. Bad actor notice provisions.

RELATES TO: KRS 149.330, 149.332, 149.344, 149.346, 149.348

STATUTORY AUTHORITY: KRS 149.344

NECESSITY, FUNCTION, AND CONFORMITY: KRS 149.344 requires the cabinet to establish notification requirements for loggers or operators who have received one (1) or more bad actor designations. This administrative regulation establishes the methods and requirements for bad actors to notify the ***Division of Forestry[~~cabinet~~]*** before beginning timber harvest operations.

Section 1. Notice Required. (1) Pursuant to KRS 149.344(11)(a), a ***bad actor[~~logger~~]*** who has received one (1) or more bad actor designations pursuant to KRS 149.344(8) shall notify the ***Division of Forestry[~~cabinet~~]*** prior to conducting logging operations.

(2) The ***bad actor[~~logger~~]*** shall continue to notify the ***division[~~cabinet~~]*** until all civil penalties have been paid and all site remediation required by the ***division[~~cabinet~~]*** has been performed.

Section 2. (1)(a) Bad actor notification shall be made by letter, facsimile, email, telephone conversation, or in person ***to the appropriate Division of Forestry regional office covering the county where the harvest shall occur***.

(b) A message left on an answering machine or voice mail service shall not constitute valid notification.

(2) In the notification, the ***bad actor[~~logger or operator~~]*** shall identify the anticipated date of harvest and the location of the timber harvesting site in sufficient detail to enable the division to locate the site in the field. The location shall be identified by:

(a) The name of the landowner;

(b) The county; and

(c) One (1) of the following methods:

1. Latitude and longitude of the site to the nearest one-tenth (1/10) of a minute or the UTM (Universal Transverse Mercator) coordinates to the nearest 100 meters;

2. USGS (United States Geological Survey) 7.5-minute topographic quadrangle map or reproduction thereof, marked to show the name of the quadrangle map, the map scale, the north arrow, and the exact location of the site; or

3. The nearest named community and the approximate distance and direction from the community to the site, the name and number of the nearest highway or street, and a description of how to reach the site from the nearest road intersection or other appropriate landmark.

EMERGENCY ADMINISTRATIVE REGULATIONS

NONE

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 2:100. Junior Reserve Officers Training Corps *and Junior Guard* certification.

RELATES TO: KRS ***160.380(5),*** 161.010, 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate and for programs of preparation for teachers and other professional school personnel, and KRS 161.030(1) requires all certificates issued under KRS 161.010 to 161.1266 to be issued in accordance with the administrative regulations of the board. This administrative regulation establishes the Kentucky certification for instructor of the Junior Reserve Officers Training Corps.

Section 1. (1) The certificate for senior instructor, Junior Reserve Officers Training Corps, shall be issued initially for a two (2) year period to an applicant ***if the applicant has submitted[upon completion of the following]***:

(a) A bachelor's degree from a standard college or university as defined ***by[in]*** KRS 161.010;

(b) ***An*** official recommendation by the appropriate branch of military service;

(c) ***A*** contract for this employment by a local school district;[~~and~~]

(d) ***A*** recommendation for certification by the local school superintendent;

(e)***[Submission of]*** A national and state criminal background check performed in accordance with KRS 160.380(5) within twelve (12) months prior to the date of application; and

(f)***[Submission of]*** A DD214 documenting honorable service.

(2) The certificate for senior instructor, Junior Reserve Officers Training Corp, may be renewed for a five (5) year period upon recommendation by the local school superintendent and upon completion of nine (9) semester hours to include***[the following]***:

(a) Human growth and development and learning theory;

(b) Foundations of education; and

(c) Career development and vocational planning.

(3) Each five (5) year renewal thereafter shall require the completion of two (2) years of experience teaching in the Junior Reserve Officers Training Corps.

Section 2. (1) The certificate for junior instructor, Junior Reserve Officers Training Corps, shall be issued initially for a two (2) year period to an applicant ***if the applicant has[upon completion of the following]***:

(a) ***Graduated*** high school***[graduation]***, or its equivalence as determined by ***a minimum passing standard[an acceptable score]*** on the General Education Development Test;

(b) ***Submitted an*** official recommendation by the appropriate branch of military service;

(c) ***Submitted a*** contract for this employment by a local school district;[~~and~~]

(d) ***Submitted a*** recommendation for certification by the local school superintendent;

(e) ***Submitted[Submission of]*** a national and state criminal background check performed in accordance with KRS 160.380(5) within twelve (12) months prior to the date of application; and

(f) ***Submitted a[Submission of]*** a DD214 documenting honorable service.

(2) Initial Renewal. The certificate for junior instructor, Junior Reserve Officers Training Corps, may be initially renewed for a two (2) year period upon application to the board***. The applicant shall complete and submit[, using the]*** Form CA-2, incorporated by reference in 16 KAR 4:060,[~~"Form TC-2, Application for Certificate Renewal/Duplicate," incorporated by reference in 16 KAR 2:090~~] and ***submit verification[submission of the following]***:

(a) ***[Verification]***By the local school superintendent of two (2) years' ***[successful]***experience as a Junior Reserve Officer Training Corps Instructor at a local school district;

(b) ***Of*** successful completion of the "New-to-Kentucky Teacher" Module and the "Substitute Teacher Orientation" Module found on www.kyeducators.org. The junior ROTC instructor shall make reasonable efforts to complete the modules within the first ninety (90) days of employment with the local school district; and

(c) ***Of*** successful completion of***:***

1. A minimum of twenty-four (24) clock hours of district-approved professional development, annually; or

2.[(d) Successful completion of] Six (6) semester hours from a standard college or university as defined ***by[in]*** KRS 161.010 to include***[the following]***:

a.[1.] Human growth and development and learning theory;

b.[2.] Foundations of education; and

c.[3.] Career development and vocational planning.

(3) Each subsequent two (2) year renewal thereafter shall require completion by September 1 of the year of expiration of***[the following]***:

(a) Six (6) semester hours selected from an associate degree program from a standard college or university as defined ***by[in]*** KRS 161.010; or

(b) Twenty-four (24) clock hours of district-approved professional development, annually.

(4) Upon completion of the associate degree with ***at least*** a 2.5 grade point standing, the certificate for junior instructor, Junior Reserve Officers Training Corps, shall be renewed for a five (5) year period. Each five (5) year renewal thereafter shall require completion of two (2) years of experience teaching in the Junior Reserve Officers Training Corps.

(5) A junior instructor who renews the certificate for junior instructor, Junior Reserve Officers Training Corps by completing the twenty-four (24) hours of professional development annually shall not be eligible to receive the five (5) year certificate as ***established[noted]*** in subsection (4) of this section, but shall be granted a certificate of two (2) years in duration.

Section 3. (1) The certificate for a senior instructor of the Junior Guard shall be issued initially for a two (2) year period ***if the applicant[upon completion of the following]***:

(a)***[Applicant]*** Is a current member of the United States Military or has retired from the United States Military within a two (2) year period;

(b) ***Has*** a bachelor's degree from an accredited college or university as defined ***by[in]*** KRS 161.010;

(c) ***Has submitted[Submission of]*** a national and state criminal background check performed in accordance with KRS 160.380(5) within twelve (12) months prior to the date of application;

(d) ***Has submitted[Submission of]*** a DD214 documenting honorable service;

(e) ***Has submitted an*** official letter of recommendation from the National Guard;

(f) ***Has submitted a*** contract for employment with a local school district; and

(g) ***Has submitted a*** recommendation for certification by the local school superintendent or designee.

(2) The certificate for the Senior Instructor of the Junior Guard may be renewed for a five (5) year period upon recommendation by the local school superintendent and upon completion of six (6) semester hours to include***[the following]***:

(a) Human growth and development; and
(b) Foundations of education.
(3) Each five (5) year renewal thereafter shall require the completion of two (2) years of experience teaching in the Junior Guard.

CASSANDRA WEBB, Chairperson
APPROVED BY AGENCY: August 10, 2015
FILED WITH LRC: August 14, 2015 at noon
CONTACT PERSON: Jimmy Adams, Acting Executive Director, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4606, fax (502) 564-7080.

EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 2:110. Endorsement for teachers for gifted education.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.052
STATUTORY AUTHORITY: KRS 161.028, 161.030
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. KRS 161.052 requires that all persons employed as a teacher for gifted education hold an appropriate certificate endorsement for gifted education. This administrative regulation establishes a preparation-certification program for teachers for gifted education.

Section 1. Definitions. (1) "Qualified teacher" means a teacher who holds the appropriate certification as a teacher for gifted education unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.
(2) "Teacher for gifted education" means a teacher who works:
(a) Directly with identified gifted pupils, in addition to the regularly assigned classroom teacher; or
(b) For at least one-half (1/2) of the regular school day in a classroom made up only of properly identified gifted students.

Section 2. (1) A certificate endorsement as teacher for gifted education shall be issued in accordance with ***KRS Chapter 161 and KAR Title 16***~~[the pertinent Kentucky statutes and the Education Professional Standards Board administrative regulations]~~ to an applicant who:
(a) Holds a certificate valid for classroom teaching at the elementary school level, the middle grade level, or the high school level;
(b) Successfully completed the Kentucky Teacher Internship Program established in 16 KAR 7:010. ***A teacher who has***~~[Teachers who have]~~ successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who ***is***~~[are]~~ not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate[~~1. Has completed at least one (1) year of successful teaching experience; or~~
~~2. For an individual certified after January 1, 1985, has successfully completed the beginning teacher internship~~]; and
(c) Has completed the appropriate program of preparation for the certificate endorsement established in this administrative regulation at a teacher education institution approved under the standards and procedures ***established***~~[included]~~ in 16 KAR 5:010.
(2) The endorsement as teacher for gifted education shall be valid for grades K-12.
(a) Assignment to a full-time self-contained gifted education class shall be restricted to the level of the base certificate.
(b) The endorsement shall have the same duration as the base certificate.
(3) ***Each person employed as a teacher***~~[All persons employed as teachers]~~ for gifted education shall hold an appropriate certificate endorsement for gifted education, except a teacher:
(a) Identified in Section 3 of this administrative regulation; or
(b) Certified on or before July 1, 1984, in accordance with KRS 161.052.

Section 3.(1) If a qualified teacher is not available for the position of teacher for gifted education as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a probationary endorsement for teaching gifted education for a teacher who:
(a) Has a bachelor's degree;
(b) Has a valid Kentucky teaching certificate;
(c) Has been admitted to the preparation program for the endorsement for teachers for gifted education; and
(d) Is currently enrolled in graduate studies related to the education profession.
(2) The request for the probationary endorsement shall be submitted on Form CA-GP[~~TC-GP~~] to the Education Professional Standards Board for each teacher for gifted education requiring the probationary endorsement.
(3)(a) The probationary endorsement for teachers for gifted education shall be valid for a period of two (2) years from the initial request.
(b) A teacher receiving this probationary endorsement shall complete the required curriculum for recommendation for the endorsement for teacher for gifted education issued under Section 2 of this administrative regulation within the two (2) year validity of the probationary endorsement.
(c) The probationary endorsement shall not be renewed.

Section 4. Incorporation by Reference. (1) Form CA-GP, 08/15[~~TC-GP, 6/2000~~], is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson
APPROVED BY AGENCY: August 10, 2015
FILED WITH LRC: August 14, 2015 at noon
CONTACT PERSON: Jimmy Adams, Acting Executive Director, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4606, fax (502) 564-7080.

EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 2:140. Probationary certificate for teachers of children, birth to primary.

RELATES TO: KRS 157.3175, 161.020, 161.030***, 34 C.F.R. 200.56, 20 U.S.C. 7801(23)***
STATUTORY AUTHORITY: KRS 161.028, 161.030
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. KRS 161.028(1)(a) requires the Education Professional Standards Board to establish the standards for obtaining and maintaining a teaching certificate. KRS 161.028(1)(b) requires that a teacher education institution be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board. KRS 161.028(1)(f) requires the

Education Professional Standards Board to issue and renew any certificate. This administrative regulation establishes a plan for recruiting qualified individuals into positions for teachers of children ages birth to primary age.

Section 1. Definition. "Qualified teacher" means a teacher who holds an interdisciplinary early childhood education certificate or who has received an approval ***as established[~~identified~~]*** in 16 KAR 2:040, Section 5, unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. If a qualified teacher is not available for the position as teacher of children birth to primary age, as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a one (1) year probationary interdisciplinary early childhood education certificate be issued as provided in this administrative regulation.

(1) A prerequisite for a one (1) year probationary interdisciplinary early childhood education certificate for teaching children, birth to primary age, shall be:

(a) A certificate or statement of eligibility in kindergarten or elementary special education; or

(b)[~~A baccalaureate or advanced degree in early childhood education, early childhood special education, or child development with:~~

~~1. A cumulative minimum grade point average of 2.50 on a 4.00 scale; or~~

~~2. A minimum grade point average of 3.00 on a 4.00 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework; or~~

~~(c)~~] A certificate in another area, if the applicant has had one (1) year of teaching children birth through age five (5) years.

(2) The applicant shall have:

(a) Enrolled in an approved preparation program for certification in interdisciplinary early childhood education established in 16 KAR 2:040; and

(b) Completed a minimum of nine (9) semester hours of credit in the development of children below primary age or in special education.

(3) The requirements established in subsection (2) of this section shall be verified by submission of a curriculum contract completed by the teacher education institution with an***[~~approved~~]*** interdisciplinary early childhood education preparation program ***approved pursuant to 16 KAR 2:040***.

(4) The applicant shall complete twelve (12) clock hours of training established by the Kentucky Department of Education prior to employment.

(5) The applicant shall complete an additional six (6) clock hours of training established by the Kentucky Department of Education within the first three (3) months of employment.

(6) To apply for the probationary interdisciplinary early childhood education certificate, the applicant shall submit a completed Form CA-BP[~~TC-BP~~] to the Education Professional Standards Board.

Section 3. Requirements for Renewal of a Probationary Interdisciplinary Early Childhood Education Certificate. (1) The first renewal of the probationary interdisciplinary early childhood education certificate shall be for one (1) year based upon***[~~successful completion of the following requirements~~]***:

(a) Evidence of employment in a Kentucky school district or nonpublic school as a teacher of children ages birth to primary;

(b) Completion of at least six (6) semester hours or its equivalent from the***[~~approved~~]*** interdisciplinary early childhood education preparation program as ***approved pursuant to 16 KAR 2:040 and*** indicated on the teacher's curriculum contract; and

(c) Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. A teacher who has successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.

(2)(a) Subsequent one (1) year renewals of the probationary interdisciplinary early childhood education certificate shall require at least six (6) semester hours or its equivalent of additional credit from the***[~~approved~~]*** interdisciplinary early childhood education preparation program as ***approved pursuant to 16 KAR 2:40 and as*** indicated on the teacher's curriculum contract.

(b) The total validity period of the probationary certificate for interdisciplinary early education shall not exceed three (3) years in compliance with the No Child Left Behind Act of 2001, 20 U.S.C. 7801(23) and 34 C.F.R. 200.56.

(3) Upon successful completion of all program requirements for the approved interdisciplinary early childhood education preparation program established in 16 KAR 2:040, including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for interdisciplinary early childhood education, birth to primary, valid for five (5) years shall be issued.

(4) Program requirements for completion of the interdisciplinary early childhood education preparation program while serving on the probationary certificate established in this administrative regulation shall not include student teaching.

Section 4. Incorporation by Reference. (1) Form CA-BP, 08/15[~~TC-BP, rev. 10/02~~], Education Professional Standards Board, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 14, 2015 at noon

CONTACT PERSON: Jimmy Adams, Acting Executive Director, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4606, fax (502) 564-7080.

EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 2:150. Probationary certificate for teachers of engineering and technology education.

RELATES TO: KRS 161.020, 161.028(1)(a), (c), 161.030

STATUTORY AUTHORITY: KRS 161.028(1)(a), (c), 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for their respective positions to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. Pursuant to KRS 161.028, a teacher education institution is required to be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes a plan for recruiting certified classroom teachers into positions for teachers of engineering and technology.

Section 1. Definition. "Qualified teacher" means a teacher who holds certification as an engineering and technology teacher unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. Requirements for a Probationary Certificate for Teachers of Engineering and Technology. (1) If a qualified teacher is not available for the position of engineering and technology teacher as attested to by the local superintendent, the superintendent may request, by filing a Form CA-ET[~~TC-ET~~] with the Education

Professional Standards Board, that a one (1) year probationary certificate be issued as approved by the Office[~~Division~~] of Career and Technical Education to a teacher who:

(a) Holds[~~one (1) of the following:~~

~~1.~~] a valid classroom teaching certificate for teaching in the middle school or secondary school;[~~or~~

~~2. A bachelor's degree in a related area of concentration or major approved by Division of Career and Technical Education engineering and technology consultant and a designated university teacher educator;~~]

(b)1. Has a cumulative grade point average of ***at least*** 2.5 on a 4.0 scale; or

2. Has a grade point average of ***at least*** 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework;

(c) Meets the minimum standards for admission to an educator[~~a teacher~~] education preparation program at an approved institution of higher education;

(d) Has enrolled in an***[approved]*** educator preparation program ***approved pursuant to 16 KAR Chapter 5,***[~~Develops a continuous plan for curriculum completion with an approved institution~~] for engineering and technology; and

(e) Documents 1,000 clock hours or six (6) months of full-time employment of work related experience or other exceptional life experience related to teaching engineering and technology.

(2) Upon completion of all requirements established in subsection (1) of this section, the candidate shall be issued a probationary certificate for teachers of engineering and technology, valid for one (1) year.

Section 3. Requirements for Renewal of a Probationary Certificate for Teachers of Engineering and Technology. (1) The first renewal of the probationary certificate for teachers of engineering and technology shall be for one (1) year, based upon***[the successful completion of the following requirements]***:

(a) Evidence of employment by a participating district;

(b) Completion of eighteen (18) clock hours of orientation and management training provided through the technology education new teacher institute, within the first six (6) weeks of employment;

(c) Completion of at least six (6) semester hours toward the completion of the educator preparation program in which the applicant is enrolled[~~from the continuous curriculum plan~~]; and

(d) Successful completion of the internship program required by KRS 161.030 and 16 KAR 7:010.

(2) The probationary certificate may be renewed a maximum of two (2) times and shall require at***[the time of]*** application**,** proof of the completion of at least six (6) hours of additional credit from the preapproved continuous curriculum plan.

(3) Upon successful completion of all requirements for an approved teacher preparation program, including successful completion of all required assessments ***established[identified]*** in 16 KAR 6:010, a professional certificate for engineering and technology shall be issued valid for five (5) years.

Section 4. Upon recommendation by the teacher education institution, teaching experience performed in a full-time position requiring certification for engineering and technology teachers shall be substituted for the student teaching requirement.

Section 5. Incorporation by Reference. (1) Form CA-ET, 08/15[~~TC-ET, 09/2010~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

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EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 2:160. Probationary certificate for teachers of exceptional children.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. This administrative regulation establishes a plan for recruiting certified classroom teachers into positions for teachers of exceptional children.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification as a teacher of exceptional children unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. If a qualified teacher is not available for the position of teacher of exceptional children as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a one (1) year probationary certificate be issued as provided in this administrative regulation. (1)(a)1. A valid classroom certificate or an internship statement of eligibility for grades K-4, 1-8, P-5, 5-9, or 5-8 shall be a prerequisite for a one (1) year probationary certificate for learning and behavior disorders, grades P-12; for hearing impaired, grades P-12; and for visually impaired, grades P-12.

2. The applicant shall have enrolled in an educator[~~a~~] preparation program***, in accordance with 16 KAR Chapter 5,*** in the certification area for which application is being made, and shall have completed a minimum preparation of nine (9) semester hours of credit from the special education component of the approved curriculum.

(b)1. A valid classroom teaching certificate or an internship statement of eligibility for grades 7-12, 8-12, all grades, or 9-12 shall be a prerequisite for a one (1) year probationary certificate for learning and behavior disorders, grades P-12; for the endorsement for learning and behavior disorders, grades 8-12; for hearing impaired, grades P-12; and for visually impaired, grades P-12.

2. The applicant shall have enrolled in an educator[~~a~~] preparation program in the certification area for which application is being made, and shall have completed three (3) semester hours in the teaching of reading and a minimum preparation of nine (9) semester hours of credit from the special education component of the approved curriculum.

(c)1. A valid classroom teaching certificate or an internship statement of eligibility for grades K-4, 1-8, 5-8, 7-12, P-5, 5-9, 8-12, all grades, or 9-12 shall be a prerequisite for a one (1) year probationary certificate for teaching the moderately and severely disabled, grades P-12.

2. The applicant shall have enrolled in an educator[~~a~~] preparation program for teaching the moderately and severely disabled and shall have completed nine (9) semester hours of credit from the special education component of the approved curriculum for teaching the moderately and severely disabled.

(d)1. A certificate for teaching exceptional children, including interdisciplinary early childhood education, shall be a prerequisite for a one (1) year probationary certificate for teaching learning and behavior disorders, grades P-12; the endorsement for learning and behavior disorders, grades 8-12; hearing impaired, grades P-12; visually impaired, grades P-12; or moderately and severely disabled, grades P-12.

2. The applicant shall have enrolled in an educator[~~a~~] preparation program in the certification area for which application is being

made***[;]*** and shall have completed a minimum preparation of nine (9) semester hours of credit from the special education component of the approved curriculum.

(2) The applicant shall complete twelve (12) clock hours of training as required by the Office of ***Next-generation Learners, Division of Learning[Special Instructional]*** Services.

(3)(a) The applicant shall complete an additional six (6) clock hours of training during the fall conference conducted by the Kentucky Department of Education, Division of Learning[Exceptional Children] Services. ***A teacher[Teachers]*** employed after the fall conference shall complete these six (6) hours of training during the spring conference of the Council for Exceptional Children; or

(b) If the applicant is unable to attend either the fall conference or the spring conference, the applicant shall complete an additional six (6) clock hours of training conducted or approved by the Kentucky Department of Education, Division of Learning[Exceptional Children] Services.

1. The applicant shall contact the Division of Learning[Exceptional Children] Services to schedule the training.

2. The training shall be similar to the topics covered at the conferences.

(4) The Kentucky Department of Education shall report to the Education Professional Standards Board those probationary certified teachers of exceptional children who have not completed the training requirements established in subsections (2) and (3) of this section by June 30 of each year for the preceding school year.

(5) Application for a probationary certificate for a teacher of exceptional children shall be made on Form CA-19[TC-19].

Section 3. The probationary certificate for teachers of exceptional children may be renewed a maximum of two (2) times***[and shall require at the time of application, proof of the completion of a minimum of six (6) semester hours of additional credit from the special education component to be completed by September 1 of the year of expiration]***.

Section 4. Requirements for Renewal of a Probationary Certificate for Teachers of Exceptional Children. (1) The first renewal of the probationary certificate for teachers of exceptional children shall be for one (1) year based upon***[successful completion of the following requirements]***:

(a) Evidence of employment in a Kentucky school district or nonpublic school as a teacher of exceptional children in the area indicated on the initial probationary certificate;

(b) Completion of at least six (6) semester hours or its equivalent toward the completion of the approved exceptional children educator preparation program; and

(c) Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. ***A teacher who has[Teachers who have]*** successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who ***is[are]*** not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.

(2)***[(a)]*** Subsequent one (1) year renewal of the probationary certificate for teachers of exceptional children shall require at least six (6) semester hours or its equivalent of additional credit toward completion of the approved exceptional children educator preparation program.

Section 5.[(b) The probationary certificate for teachers of exceptional children may be renewed for a maximum of two (2) times after the initial issuance.

(3)] Upon successful completion of all program requirements for the approved exceptional children educator preparation program, including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for teaching exceptional children established in 16 KAR 2:010 and valid for five (5) years shall be issued.

Section 6.[(4)] Program requirements for completion of the exceptional children educator preparation program while serving on the probationary certificate for teachers of exceptional children shall not include student teaching[Upon recommendation by the teacher education institution, teaching experience performed in a full-time position requiring certification for teachers of exceptional children shall be substituted for the special education portion of the student teaching requirement].

Section 7.[Section 5.][An applicant holding a classroom teaching certificate who is recruited into a position for teachers of exceptional children under this administrative regulation shall complete the assessment requirements identified in 16 KAR 2:010 and 16 KAR 6:010 for teaching exceptional children, grades primary through twelve (12).

Section 6.] Incorporation by Reference. (1) "Form CA-19", 08/15["Form TC-19", revised 7/2001], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

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EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 2:170. Probationary certificate for middle school teachers.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.020, 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualifications for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. KRS 161.028 requires the Education Professional Standards Board to establish the standards for obtaining and maintaining a teaching certificate. This administrative regulation establishes the probationary certificate for middle school teachers and the requirements for issuance and renewal of this certificate.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification as a middle school teacher unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. Requirements for Issuance of the Probationary Certificate for Middle School Teachers, Grades Five (5) Through Nine (9). (1) If a qualified teacher is not available for the position of middle school teacher at the grade level and content area necessary as attested by the local superintendent, the superintendent may request a one (1) year probationary certificate for a teacher who:

(a) Holds at least a valid Kentucky teaching statement of eligibility or Kentucky teaching certificate issued by the Education Professional Standards Board;

(b)1. Has a cumulative grade point average of ***at least*** 2.5 on a 4.0 scale; or

2. Has a grade point average of ***at least*** 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework;

(c) Has an offer of employment from a Kentucky school district

or accredited nonpublic school in grades five (5) through nine (9) in a content area or areas;

(d) Has enrolled in an approved middle school preparation program for the content area or areas for which certification is sought; and

(e) Has successfully completed at least twelve (12) semester credit hours of content coursework in each content area for which certification is sought.

(2) Application shall be made on Form CA-MG[~~TC-MG~~].

(3) Compliance with the requirements established in subsection (1)(d) and (e) of this section shall be verified by submission of a curriculum contract completed by the teacher education institution with ***a[an approved]*** middle school preparation program***, approved pursuant to 16 KAR Chapter 5,*** in the content area or areas for which certification is sought.

(4)(a) Upon completion of all requirements established in this section, the applicant shall be issued a probationary certificate for middle school teachers in the content area or areas valid for one (1) year.

(b) The probationary certificate shall be valid for teaching grades five (5) through nine (9) in the content area or areas indicated on the face of the certificate.

Section 3. Requirements for Renewal of a Probationary Certificate for Middle School Teachers, Grades Five (5) Through Nine (9). (1) The first renewal of the probationary certificate for middle school teachers shall be for one (1) year based upon***[successful completion of the following requirements]***:

(a) Evidence of employment in a Kentucky school district or nonpublic school in grades five (5) through nine (9) in the content area or areas indicated on the initial probationary certificate;

(b) Completion of at least six (6) semester hours or its equivalent from the***[approved]*** middle school preparation program***, approved pursuant to 16 KAR Chapter 5,*** as indicated on the teacher's curriculum contract; and

(c) Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. ***A teacher who has[Teachers who have]*** successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who ***is[are]*** not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.

(2)(a) Subsequent one (1) year renewals of the probationary certificate for middle school teachers shall require at least six (6) semester hours or its equivalent of additional credit from the ***[approved]***middle school preparation***, approved pursuant to 16 KAR Chapter 5,*** program as indicated on the teacher's curriculum contract.

(b) The probationary certificate for middle school teachers may be renewed for a maximum of two (2) times after the initial issuance[~~The total validity period of the probationary certificate for middle school teachers shall not exceed three (3) years in compliance with the No Child Left Behind Act of 2001, 20 U.S.C. 7801(23) and 34 C.F.R. 200.56~~].

(3) Upon successful completion of all program requirements for the***[approved]*** middle school preparation program, ***approved pursuant to 16 KAR Chapter 5,*** including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for teaching middle school established in 16 KAR 2:010 and valid for five (5) years shall be issued.

(4) Program requirements for completion of the middle school preparation program while serving on the probationary certificate for middle school teachers shall not include student teaching.

Section 4. Incorporation by Reference. (1) Form CA-MG, 08/15 [~~TC-MG, rev. 7/2002~~], Education Professional Standards Board, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

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EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 3:030. Professional certificate for directors and assistant directors of pupil personnel.

RELATES TO: KRS ***156.101,*** 159.080, 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028, and 161.030 require[~~requires~~] that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. ***KRS 161.028(1)(b) requires that a[Additionally,]*** teacher education ***institution[institutions are required to]*** be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the preparation and certification program for director of pupil personnel services***[,]*** and establishes the requirements for a probationary certificate if a person holding certificate for director of pupil personnel services is not available.

Section 1. Definitions. (1) "Level I" means the standards-based program of studies designed for minimal preparation to serve in the position of director and assistant director of pupil personnel.

(2) "Level II" means the standards-based program of studies to attain the first five (5) year renewal of the certificate for the position of director or assistant director pupil personnel.

(3) "Qualified applicant" means an applicant who holds the appropriate certification as a director of pupil personnel services unless the superintendent of the employing school district has documented evidence that the applicant is unsuitable for appointment.

Section 2. (1) The professional certificate for director of pupil personnel services shall be issued in accordance with ***KRS Chapter 161 and KAR Title 16[the pertinent Kentucky statutes and this administrative regulation]*** to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures ***established[included]*** in 16 KAR 5:010.

(2) As prerequisites for the Level I program of preparation for the initial professional certificate for director of pupil personnel services, the candidate shall:

(a) Have been admitted to a preparation program approved by the Education Professional Standards Board pursuant to 16 KAR 5:010;

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Qualify for a Kentucky teaching certificate.

(3) Application for the professional certificate for director of pupil personnel services shall be made on Form CA-1, incorporated by reference in 16 KAR 2:010[~~TC-1~~].

(4) The initial professional certificate for director of pupil personnel services shall be:

(a) Issued for a duration period of five (5) years upon the successful completion of a Level I program approved by the Education Professional Standards Board pursuant to 16 KAR 5:010; and

(b) Renewed subsequently for five (5) year periods.

1. The first renewal shall require the completion of a Level II program approved by the Education Professional Standards Board pursuant to 16 KAR 5:010.

2. Each five (5) year renewal thereafter shall require the completion of:

a. Two (2) years of experience as a director of pupil personnel services;

b. Three (3) semester hours of additional graduate credit or the equivalent related to the position of director of pupil personnel services; or

c. Forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective ***Instructional*** Leadership***[Training]*** Program provided in KRS 156.101.

(5)***(a)*** If a lapse in certification occurs for lack of completion of the Level II preparation, the certification may be reissued for a five (5) year period upon successful completion of the Level II preparation**.**

(b) If a lapse in certification occurs[, but] for the lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study or the equivalent appropriate to the program.

Section 3. Graduate level credit earned in the Level I and Level II preparation program ***established[identified]*** in Section 2 of this administrative regulation shall be eligible for consideration of Rank I classification pursuant to 16 KAR 8:010, "Plan I" or "Plan II".

Section 4. (1) If a qualified applicant for director of pupil personnel services is not available as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a one (1) year probationary certificate for a director of pupil personnel services who has:

(a) A valid Kentucky classroom teaching certificate;

(b) A master's degree;

(c) Three (3) years of successful teaching experience; and

(d) Been admitted to the preparation program for the professional certificate for director of Pupil Personnel services.

(2) Application for the one (1) year probationary certificate for a director of pupil personnel services shall be made on Form CA-40[TC-40].

(3) Each annual renewal of the probationary certificate for director of pupil personnel services shall require completion of an additional nine (9) semester hours selected from the approved program.

Section 5. A preparation program for the certificate for director of pupil personnel services shall be consistent with the six (6) standards included in the Educational Leadership Policy Standards: ISLLC["Interstate School Leaders Licensure Consortium Standards for School Leaders"] and the six (6) standards included in ["]Technology Standards for School Administrators, both incorporated by reference[" found] in 16 KAR 3:050[, Section 3, and incorporated by reference].

Section 6. Incorporation by Reference. (1) "Form CA-40", 08/15, is incorporated by reference[The following material is incorporated by reference:

(a) "Interstate School Leaders Licensure Consortium Standards for School Leaders", November 2, 1996;

(b) "Form TC-1, rev. 10/02";

(c) "Form TC-40, rev. 10/03"; and

(d) "Technology Standards for School Administrators", 2001, Collaborative for Technology Standards for School Administrators].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 14, 2015 at noon

CONTACT PERSON: Jimmy Adams, Acting Executive Director, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4606, fax (502) 564-7080.

EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 3:040. Director of special education.

RELATES TO: KRS ***156.101,*** 157.250, 161.020, 161.030

STATUTORY AUTHORITY: KRS 157.250, 161.020, 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028, and 161.030 require[requires] that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board***. KRS 161.028(1)(b) requires that a[; furthermore, the]*** teacher education ***institution[institutions are required to]*** be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the director of special education certificate, the program approval standards for the preparation-certification program for directors of special education, and***[identifies]*** acceptable certificates for individuals who may serve in a position ***that[which]*** supervises, directs, administers, or coordinates special education programs.

Section 1. Definitions. (1) "Level I" means the standards-based program of studies designed for minimal preparation to serve in the position of director of special education.

(2) "Level II" means the standards-based program of studies to attain the first five (5) year renewal of the certificate for the position of director of special education.

(3) "Qualified applicant" means an applicant who holds the appropriate certification as a director of special education unless the superintendent of the employing school district has documented evidence that the applicant is unsuitable for appointment.

Section 2. (1) The professional certificate for director of special education shall be issued in accordance with ***KRS Chapter 161 and KAR Title 16[the pertinent Kentucky statutes and administrative regulations of the Education Professional Standards Board]*** to an applicant who has satisfied the prerequisites and who has completed an approved program of preparation ***that[which]*** corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 16 KAR 5:010 and this section.

(2) As prerequisites for the Level I program of preparation for the initial professional certificate for director of special education, the candidate shall:

(a) Have been admitted to a preparation program approved by the Education Professional Standards Board pursuant to 16 KAR 5:010;

(b) Have completed three (3) years of full-time experience as a teacher or school psychologist with a minimum of one (1) year as a teacher of exceptional children or school psychologist;

(c) Have attained a master's degree[Rank II certification]; and

(d) Qualify for a Kentucky teaching certificate or school psychologist certificate.

(3) If a candidate's ***master's degree[Rank II certification]*** is not in the educational leadership field, a teacher education institution may require additional coursework in this field as part of the Level I preparation.

(4) Application for the professional certificate for director of special education shall be made on Form CA-1, incorporated by reference in 16 KAR 2:010[TC-1].

(5) The initial professional certificate for director of special education shall be:

(a) ***Except as established in Section 4(1) of this administrative regulation,*** issued for a duration period of five (5) years***[(except as provided in Section 4(1) of this administrative regulation)]*** upon the successful completion of a Level I program approved by the Education Professional Standards Board pursuant to 16 KAR 5:010; and

(b) Renewed subsequently for five (5) year periods.

1. The first renewal shall require the completion of a Level II program approved by the Education Professional Standards Board pursuant to 16 KAR 5:010.

2. Each five (5) year renewal thereafter shall require the completion of:

a. Two (2) years of experience as a director of special education;

b. Three (3) semester hours of additional graduate credit or the equivalent related to the position of the director of special education; or

c. Forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership***[Training]*** Program provided in KRS 156.101.

(6)***(a)*** If a lapse in certification occurs for lack of completion of the Level II preparation, the certification may be reissued for a five (5) year period upon successful completion of the Level II preparation**.**

(b) If a lapse in certification occurs[, but] for the lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study or the equivalent appropriate to the program.

(7) Graduate level credit earned in the Level I and Level II preparation programs ***established[identified]*** in this section shall be eligible for consideration of Rank I classification pursuant to 16 KAR 8:010, "Plan I" or "Plan II".

Section 3. ***Each person[All persons]*** whose job description includes supervising, directing, administering, or coordinating special education programs, at the district-wide level shall be required to hold one (1)***[of the following]***:

(1)***[The]*** Endorsement for director of special education;

(2)***[The]*** Professional certificate for director of special education;

(3)***[The]*** Endorsement for supervisor of special education;

(4)***[The]*** Endorsement for teacher consultant for special education;

(5)***[A]*** Certificate valid for supervisor of instruction for persons serving in that position[such positions] on July 14, 1992, as provided by KRS 157.250; or

(6)***[A]*** Valid certificate possessing the code ADSE for approval of director of special education.

Section 4.(1) If a qualified applicant is not available for the position of director of special education, the superintendent on behalf of the local board of education may request a professional certificate for director of special education for a two (2) year period for an applicant who has:

(a) A valid Kentucky certificate for teachers of exceptional children;

(b) A master's degree[Rank II certification];

(c) Three (3) years of full-time experience teaching exceptional children;

(d) Completed a course in special and regular education case law; and

(e) Been admitted to the preparation program for the professional certificate for director of special education.

(2) Application for the two (2) year certificate for a director of special education shall be made on Form CA-28[TC - 28].

(3) The applicant shall complete the total curriculum for the professional certificate for director of special education by September 1 of the year of expiration.

Section 5. Incorporation by Reference. (1) "Form CA-28", ***10/15[08/15]***, is incorporated by reference[The following material is incorporated by reference:

(a) "Interstate School Leaders Licensure Consortium Standards for School Leaders" November 2, 1996;

(b) "Form TC-1, rev. 10/02";

(c) "Form TC-28, rev. 10/02"; and

(d) "Technology Standards for School Administrators", 2001, Collaborative for Technology Standards for School Administrators].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 14, 2015 at noon

CONTACT PERSON: Jimmy Adams, Acting Executive Director, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4606, fax (502) 564-7080.

EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 9:030. Professional certificate for college faculty[: secondary education].

RELATES TO: KRS ***160.380(5)(c),*** 161.020, 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048 ***authorizes[establishes]*** the eligibility requirements for a candidate seeking to participate in an alternative teacher preparation program. This administrative regulation establishes the requirements for and renewal of the professional certificate for college faculty[: secondary education].

Section 1. Prerequisites. (1)(a) An eligible candidate who meets the requirements of KRS 161.048(4)(a) and (b) shall be issued a statement of eligibility for the professional certificate for college faculty[: secondary education] valid for five (5) years.

(b) Application for the statement of eligibility for the professional certificate for college faculty[: secondary education] shall be made on Form CA-194[TC-194].

(2) Upon confirmation of employment in an assignment for the grade level and specialization identified on the statement of eligibility, a provisional teaching certificate shall be issued.

(3) Upon successful completion of the Kentucky Teacher Internship Program as provided in KRS 161.030 and 16 KAR 7:010, the professional certificate for college faculty[: secondary education] shall be issued[, valid] for an additional four (4) years.

Section 2. Renewal. Each five (5) year renewal of the professional certificate for college faculty[: secondary education,] shall require:

(1) Three (3) years of successful classroom teaching experience; or

(2) Six (6) semester hours of additional graduate credit.

Section 3. Equivalent College Teaching Experience. (1) Ninety (90) semester credit hours taught at the postsecondary level at a regionally- or nationally-accredited institution of higher education shall be accepted as the equivalent of five (5) years of full-time teaching experience.

(2) The ninety (90) hours of college teaching experience may:

(a) Be accumulated at more than one (1) institution of higher education; and

(b) Include part-time teaching or adjunct teaching positions.

(3)(a) A full-time faculty member's experience at a regionally- or nationally-accredited institution of higher education may include the following activities in lieu of regular full-time teaching experience as established in subsection (1) of this section:

1. Action research;

2. Service to the P-12 schools; or

3. Other activities undertaken as part of a full-time faculty

member's assigned responsibilities at the institution of higher education.

(b) The head of the faculty member's unit shall verify the validity of the experiences or responsibilities in this subsection in lieu of regular full-time teaching load on a per semester basis.

Section 4. An applicant for a professional certificate for college faculty who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.

Section 5. Incorporation by Reference. (1) "Form CA-194", 08/15[~~TC 194, revised 3/2001~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

APPROVED BY AGENCY: August 10, 2015

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EDUCATION PROFESSIONAL STANDARDS BOARD
(As Amended at ARRS, October 13, 2015)

16 KAR 9:040. Part-time adjunct instructor certificate.

RELATES TO: KRS ***160.380(5)(c),*** 161.020, 161.028(1)(a), (c), 161.030, 161.046, 161.048(5), 161.120

STATUTORY AUTHORITY: KRS 161.028(1)(a), (c), 161.030, 161.046(2), 161.048(1)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.046 and 161.048(5) ***authorize[establish]*** the position of adjunct instructor and require the Education Professional Standards Board to promulgate administrative regulations to establish certification requirements. This administrative regulation establishes the minimum requirements for an adjunct instructor certificate.

Section 1. Definition. "Exceptional life or work experience candidate" means a person with recognized superiority as compared with others in rank, status, and attainment or superior knowledge and skill in comparison with the generally-accepted standards in the area in which certification is sought.

Section 2. Candidate Eligibility Requirements. (1) An adjunct instructor shall meet the requirements for good moral character as required in KRS 161.120 and the following requirements relating to educational and occupational experience:

(a) An adjunct instructor employed in middle school or secondary school shall hold:

1. A bachelor's degree from a regionally accredited institution with:

a.(i) A cumulative minimum grade point average of ***at least*** 2.50 on a 4.00 scale; or

(ii) A minimum grade point average of ***at least*** 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework; and

b. A major, minor, or area of concentration in the specialty subject to be taught; or

2. A master's degree in the specialty subject to be taught from a regionally-accredited institution with the minimum grade point average established in subparagraph ***1.a.[1a]*** of this paragraph***;[.]***

(b) An adjunct instructor in elementary school or early childhood education program shall hold:

1. A bachelor's degree from a regionally-accredited institution with:

a.(i) A cumulative minimum grade point average of ***at least*** 2.50 on a 4.0 scale; or

(ii) A minimum grade point average of ***at least*** 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework; and

b. A major, minor, or area of concentration in a planned program of child development or a related area; or

2. A master's degree in a planned program of child development or a related area from a regionally accredited institution with the minimum grade point average established in subparagraph ***1.a.[1a]*** of this paragraph***; and[.]***

(c) An adjunct instructor for occupation-based career and technical education shall:

1. Be a high school graduate;

2. Have at least four (4) years of appropriate occupational experience for the specialty to be taught; and

3.a. Complete the specialty area examination prerequisite as ***established[identified]*** in 16 KAR 6:020; or

b. Hold either an associate degree or technical diploma in a related area.

(2)(a) An applicant for adjunct instructor certification who does not meet the minimum academic preparation requirements established in subsection (1) of this section may apply for this certificate as an exceptional life or work experience candidate.

(b) An exceptional life or work experience candidate shall be recommended by the employing school district and complete the application process established in subsection (3) of this section.

(c) An exceptional life or work experience candidate shall include the following information as verification of exceptional qualifications in the field of endeavor to be taught or service to be practiced:

1. Sufficient documentation that demonstrates to the local school district and the Education Professional Standards Board that an applicant is an exceptional life or work experience candidate as defined in Section 1 of this administrative regulation and has talents and abilities commensurate with the Kentucky[~~New~~] Teacher Standards ***for Preparation and Certification*** established in 16 KAR 1:010;

2. Documentation of achievement that may include academic and nonacademic preparation, distinguished employment, evidence of related study or experience, publications, professional achievement, or recognition attained for contributions to an applicant's field or endeavor; and

3. Recommendations from professional associations, former employers, professional colleagues, or any other individual or group whose evaluations shall support exceptional life or work experience in this field.

(3) Form CA-25[~~TC-25~~] signed by the local district superintendent and approved by the local board of education shall be submitted to the Education Professional Standards Board for each adjunct instructor.

(a) The application shall be accompanied by official transcripts of all college credits earned by the prospective adjunct instructor along with documentation of any exceptional competencies or experiences submitted in support of the application.

(b) Upon receipt of the application and appropriate documentation, a candidate meeting all of the requirements shall be issued a one (1) year adjunct instructor certificate.

Section 3. Orientation Program. Each local board of education shall provide for an orientation program for the adjunct instructors employed within the district.

(a) A detailed description of the orientation program shall be a part of the certificate application form.

(b) The orientation program shall include an emphasis on student safety, district policies and procedures, and pedagogical assistance commensurate with the Kentucky[~~New~~] Teacher Standards ***for Preparation and Certification*** established in 16 KAR 1:010.

Section 4. An applicant for a part-time adjunct instructor who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior

to the date of application.

Section 5. Incorporation by Reference. (1) "Form CA-25", 08/15["Form TC-25", revised 8/99], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CASSANDRA WEBB, Chairperson

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 14, 2015 at noon

CONTACT PERSON: Jimmy Adams, Acting Executive Director, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4606, fax (502) 564-7080.

DEPARTMENT OF MILITARY AFFAIRS
(As Amended at ARRS, October 13, 2015)

106 KAR 3:010. Kentucky National Guard Tuition Award Program.

RELATES TO: KRS ***164.001(7),*** 164.516, 164.5161, 164.5165, 164.5169***, 10 U.S.C. 1606, 20 U.S.C. 1070a, 38 U.S.C. 30, 32***

STATUTORY AUTHORITY: KRS***[164.516,]*** 164.5161, 164.5165***[, 164.5169]***

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 164.5161(2) authorizes the Kentucky National Guard Tuition Award Program. 164.5161(4) requires the Department of Military Affairs to promulgate an administrative regulation to establish eligibility requirements for participation in the Kentucky National Guard Tuition Award Program. This administrative regulation establishes eligibility requirements for participation in the Kentucky National Guard Tuition Award Program[The 1996 Regular Session of the General Assembly established the Kentucky National Guard Tuition Award Program and directed that the Department of Military Affairs promulgate administrative regulations to establish the eligibility of National Guard members to participate in the program. This administrative regulation establishes: (1) eligibility requirements; (2) the application process; (3) individual and educational institution notification; (4) educational institution verification; and (5) referral for payment through the Kentucky Higher Education Assistance Authority]***.

Section 1. Definitions. (1) "Award period" means the division of the year established by the educational institution, such as a quarter, semester, trimester, ***[or]***summer session***,*** or other academic term.

(2) "Education office" means the Kentucky National Guard Education Office.

(3) "Educational institution" is defined by KRS***[164.516(1) and]*** 164.5161(1).

(4) "Kentucky National Guard" is defined by KRS 164.516(2).

(5) "Member" is defined by KRS 164.516(3).

(6) "Participant" means a member whose application for tuition under the Kentucky National Guard Tuition Award Program has been approved and for whom funds have been disbursed by the Kentucky Higher Education Assistance Authority to the appropriate educational institution.

(7) "Program" means the Kentucky National Guard Tuition Award Program established by KRS 164.516, 164.5161, 164.5165, and 164.5169.

(8) ***"Satisfactory membership" means the member has:***

(a) Not failed the most recent physical fitness test;

(b) Met the height-weight standard;

(c) Met attendance standards for the past twelve (12) months from the date of application, to include no:

1. Unsatisfactory performance; and

2. Absences without leave; and

(d) No restrictions on the member's personnel file that prevent positive personnel actions["ROTC" means the Reserve Officer Training Corps].

(9) "Simultaneous membership participant" or "SMP" means a person who is simultaneously:

(a) Enrolled in the Reserve Officer Training Corps; and

(b) A member of the Kentucky National Guard.

(10) "Undergraduate degree" means:

(a) A bachelor's degree; or

(b) An associate degree for completion of a course of study in a technical field, such as but not limited to registered nurse, dental hygienist, physical therapy assistant, engineering technology, or business technology.

[(11) "Satisfactory membership" means the member has:

(a) Not failed the most recent physical fitness test;

(b) Met the height-weight standard;

(c) Met attendance standards for the past twelve (12) months from the date of application, to include:

1. No unsatisfactory performance; and

2. No absences without leave.

(d) No restrictions on his personnel file that prevent positive personnel actions.]

Section 2. Eligibility. (1) A member shall not be eligible for a tuition award if ***the member[it has been determined that he]*** has failed to meet the minimum requirements for satisfactory membership in the Kentucky National Guard.

(2)(a) Except as ***established in[provided by]*** paragraph (b) of this subsection, a member shall be eligible for a tuition award for an award period that will end before the expiration of ***the member's[his]*** term of service.

(b) A member shall be eligible for a tuition award for an award period that will end after the expiration of ***the member's term of service if the member has submitted a signed Kentucky National Guard Tuition Award Program Application and states the member's intent to extend the member's[his term of service if the member has submitted his signed application which states his intent to extend his]*** term of service beyond the end of the award period.

(3) Unless ***the member[he]*** is a simultaneous membership participant, a member who has not completed basic training shall not be eligible for the program.

(4) Beginning with the 2016-2017 academic year, a participating member's eligibility for the Kentucky National Guard Tuition Award Program shall expire if ***the***:

(a)***[The]*** Member has completed a Bachelor's degree; or

(b)***[The]*** Aggregate of program funds disbursed on behalf of the member meets the lifetime benefit established in this paragraph based on the education institution in which the member is enrolled for the most recent award period.

1. The lifetime benefit shall be:

a. $20,000 at an institution within the Kentucky Community and Technical College System;

b. $40,000 at a Kentucky private postsecondary educational institution;

c. $40,000 at a Kentucky four (4) year public ***"***comprehensive university***"*** as defined ***by[in]*** KRS 164.001(7); or

d. $50,000 at a Kentucky four (4) year public research institution, which shall be either the University of Louisville or the University of Kentucky.

2. ***Beginning after the 2016-2017 academic year,*** the limit for each type of institution established in subparagraph 1. of this paragraph shall be ***increased[adjusted]*** annually by five (5) percent to allow for tuition increases.

Section 3: Loss of Eligibility. (1) A participant shall not be eligible to reapply for a tuition award if:

(a) The educational institution for which ***the participant[he]*** received a tuition award has determined that ***the participant[he]*** has been:

1. Placed on academic suspension; or

2. Expelled for a violation of the educational institution's policies or regulations; or

(b) ***The participant[~~Kentucky National Guard has determined that he~~]*** has failed to meet the minimum requirements for satisfactory membership in the Kentucky National Guard.

(2) A member who has been determined to be ineligible pursuant to subsection (1) of this section shall remain ineligible to reapply for a tuition award until:

(a) The educational institution permits ***the member's[~~his~~]*** reenrollment; and

(b) The ***member[~~Kentucky National Guard has determined that he~~]*** meets the minimum requirements for satisfactory membership in the Kentucky National Guard.

Section 4. Priority of Applicants. In the selection of participants, priority shall be:

(1) Given to a member who has not***[~~:~~***

~~(a) Earned an undergraduate degree; or~~

~~(b)~~] received a certificate or diploma from a vocational education program; and

(2) Determined by date of receipt of application at the education office.

Section 5. Application. (1) An application for a tuition award shall be submitted for each award period.

(2) Except for fall 1996, an application shall be filed on or before:

(a) April 1, for an award period beginning:

1. May through July; and

2. August through December; and

(b) October 1, for an award period beginning January through April.

(3) The member shall:

(a) Complete a ["]Kentucky National Guard Tuition Award Program Application["] for the educational institution the member plans to attend; and

(b) Forward the completed form to the member's unit commander.

(4) A unit commander shall:

(a) Verify an applicant's eligibility; and

(b) Transmit the application and verification of eligibility to the education office.

(5) The education services officer shall:

(a) Review the application;

(b) Determine the priority of the application ***as established in Section 4 of this administrative regulation***;

(c) Assign a control number to each application;

(d) Mail a written notification to the applicant stating:

1. That ***the[~~his~~]*** application has been approved, or disapproved; and

2. If disapproved, the reasons therefore; and

(e) Transmit a copy of the ["]Kentucky National Guard Tuition Award Roster["] to the appropriate educational institution.

(6) The ["]Kentucky National Guard Tuition Award Roster["] shall contain:

(a) Name and federal I.D. code of educational institution;

(b) Names of approved applicants;

(c) Social Security number of each applicant;

(d) The amount of the tuition award granted each applicant;

(e) Control number for each applicant;

(f) Date of award roster;

(g) Signature and date signed by education services officer;

(h) Educational institution certification statement, signature, and date signed;

(i) Educational institution fund transfer account entry line, if applicable;

(j) Adjusted amount of tuition entry line;

(k) Period of enrollment for each roster;

(l) Academic year;

(m) Total number of eligible students; and

(n) Total amount of awards.

(7) The education officer shall request the educational institution to:

(a) Verify enrollment; and

(b) State in the adjusted amount entry line the exact amount of tuition charged the participant.

Section 6. ***Funds shall be appropriated[~~The Kentucky Higher Education Assistance Authority shall, to the extent that funds have been appropriated and are available to the Kentucky National Guard Tuition Award Program, disburse funds~~]*** pursuant to 11 KAR 13:010.

Section 7. Tuition Award Period. (1) A tuition award shall be granted for an award period.

(2)(a) A participant's award shall not exceed the amount of the tuition charged by the educational institution minus the amount received by the applicant that is restricted to the payment of tuition from:

1. A government agency;

2. An educational institution;

3. Charity;

4. Public educational trust; or

5. Any other entity.

(b) The provisions of paragraph (a) of this subsection shall not apply to an amount received by an applicant:

1. Pursuant to 10 U.S.C. 1606 (Montgomery G.I. Bill, Reserve Components);

2. Pursuant to 38 U.S.C. 30 (New G.I. Bill, Active Duty);

3. Pursuant to 38 U.S.C. 32 (G.I. Bill, Vietnam Era);

4. Pursuant to 20 U.S.C. 1070a (Federal Pell Grant Program);

5. From a loan obtained by an applicant; and

6. From scholarships that are not restricted to the payment of tuition.

Section 8. Appeals. A member whose application has been disapproved, or whose application has been approved for an amount disputed by the member, may request reconsideration, in writing with supporting documents, through command channels to the Adjutant General.

Section 9. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Kentucky National Guard Tuition Award Program, Application AGO KyForm 18-7", [{]15 August 1996[}"]; and

(b) "Kentucky National Guard Tuition Award Roster AGO KyForm 18-9", [{]1 August 1996[}"].

(2)(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky National Guard Education Services Office, Vets Building, Boone National Guard Center, Frankfort Kentucky 40601-6168, Monday through Friday, 7:30 a.m. to 5 p.m.

(b) The office may be closed on alternate Mondays due to being under an adjusted work schedule. It is suggested that a call be made to the office to determine actual work hours, (502) 607-1039 or (502) 607-1307. [~~(c) Total number of pages incorporated by reference: three (3).~~]

STEVEN P. BULLARD, Director
EDWARD W. TONINI, Maj. Gen

APPROVED BY AGENCY: August 12, 2015

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

CONTACT PERSON: Steven P. Bullard, Director of Administrative Services, Kentucky Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, phone 502-607-1738, fax 502-607-1240.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Accountancy
(As Amended at ARRS, October 13, 2015)

201 KAR 1:050. License application.

RELATES TO:[~~2006 Ky. Acts ch. 33,~~] KRS 325.261, 325.280, 325.330

STATUTORY AUTHORITY: KRS 325.240(2)***, 325.330(1)(c)***

NECESSITY, FUNCTION, AND CONFORMITY: KRS

325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. KRS 325.330(1)(c) requires the board to promulgate administrative regulations establishing an application process. This administrative regulation establishes the requirements for obtaining[325.261 establishes the standards for licensure as a certified public accountant. KRS 325.280 establishes the standards for licensure as a certified public accountant by reciprocity. KRS 325.330 establishes the process for issuing a license. This administrative regulation describes the procedure to obtain] a license as a certified public accountant.

Section 1. (1) A person who has met the qualifications contained in KRS 325.261 shall submit the ["]Application for[~~Initial~~] License[~~as a Kentucky Certified Public Accountant"~~].

(2) With his or her application, the person shall include:

(a) A check or money order, which is nonrefundable, made payable to the ["]Kentucky State Board of Accountancy["] for $100;

(b) The certificate of experience as described in 201 KAR 1:063;

(c)[~~One (1) photograph taken within ninety (90) days preceding the application, the back of which shall contain the signature in ink of the applicant;~~

~~(d)~~] A list of colleges and universities with graduation dates, degrees awarded, and the official transcript described in 201 KAR 1:190, unless it is already in possession of the board;

(d)[~~(e)~~] An official transcript as described in 201 KAR 1:190 from an accredited college or university as described in 201 KAR 1:190 which verifies the candidate has satisfied the 150-hour requirement of KRS 325.261;

(e)[~~(f)~~] Proof of successful completion of the Uniform CPA Exam [~~Certified Public Accountants Examination~~]. If the applicant successfully completed the examination in Kentucky, ***documentation shall not be[no documentation is]*** required. If the examination was successfully completed in another jurisdiction, the applicant shall have an ["]Authorization for[~~of~~] Interstate Exchange of Information["] submitted to the board on his or her behalf; and

(f)[~~(g)~~] If the applicant is not a citizen of the United States:

1. Documentation from the United States Citizenship and Immigration Services, or its successor, to verify the person is legally residing in the United States; or

2. Documentation from the employer that verifies the person is an employee of a public accounting firm, company, or institution of postsecondary education located outside the United States, ***which[but]*** also has an office or campus located in the United States.

Section 2. License by Reciprocity. (1) An applicant for a license by reciprocity shall submit or cause to have submitted:

(a) An ["]Application for Reciprocal License[~~as a Kentucky Certified Public Accountant by Reciprocity"~~];

(b) Payment of the fee and other documents required by Section 1(2) of this administrative regulation, except for an official transcript; and

(c) An ["]Authorization for Interstate Exchange of Information["]***[,]*** form completed by the licensing jurisdiction where the applicant holds a valid and active license to practice.

(2) If the applicant cannot provide the certificate of experience as required in Section 1 of this administrative regulation***[;]*** and:

(a) Is applying under the provisions of KRS 325.280(1)(c)1, the applicant shall have the licensing jurisdiction where he or she holds a valid and active license send certified copies of experience requirement documents from his or her license file; or

(b) Is applying under the provisions of KRS 325.280(1)(c)2, he or she shall submit or cause to have submitted one (1) of the following documents which clearly reflects that the applicant has practiced public accounting as a full-time profession for four (4) of the last ten (10) years:

1. Proof of public accounting errors and omissions insurance;

2. A letter from an attorney, client, or certified public accountant that has knowledge of the applicant's practice;

3. Copies of firm license applications; or

4. Copies of personal tax returns.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for[~~Initial~~] License", August 2015[~~as a Kentucky Certified Public Accountant (2006)"~~];

(b) "Application for Reciprocal License", August 2015[~~Licenses as a Kentucky Certified Public Accountant by Reciprocity (2005)"~~]; and

(c) "Authorization for Interstate Exchange of Information", August 2015[~~(2005)"~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. and 4:30 p.m.

KEVIN DOYLE, President

APPROVED BY AGENCY: August 12, 2015

FILED WITH LRC: August 13, 2015 at 10 a.m.

CONTACT PERSON: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Accountancy
(As Amended at ARRS, October 13, 2015)

201 KAR 1:063. Certificate of experience.

RELATES TO: KRS 325.261***, 325.340(1)(h)[(4)]***

STATUTORY AUTHORITY: KRS 325.240(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS ***325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. This administrative regulation establishes requirements for documenting experience when applying[325.261 establishes the standards for licensure as a certified public accountant. This administrative regulation describes the experience to be documented when one applies]*** to become a certified public accountant.

Section 1. Definitions. (1) "One (1) year" means the completion of 2,000 hours of employment obtained after the award of a baccalaureate degree during an employment period of not less than twelve (12) months, excluding any leave or holiday time.

(2) "Verification" means ***confirmation by*** a certified public accountant, as described in KRS 325.261(6)***, of[confirming]*** the truth or accuracy of the applicant's accounting or attest experience.

Section 2. (1) An applicant for licensure shall ***submit a Certificate of Experience, which has been provided by the certified public accountant for verification of experience[have submitted by the certified public accountant verifying the experience a]***["]***[Certificate of Experience]***["].

(2) If the applicant has been employed by more than one (1) employer to meet the experience requirement described in KRS 325.261 and this administrative regulation, a certificate shall be submitted for each employment situation.

Section 3. Experience Verification. The certificate of experience shall include the following information verified by a certified public accountant as described in KRS 325.261(6):

(1) The name and address of the employing ***public accounting firm, industry, or government agency[firm, company, agency, or institution of higher education]***;

(2) The month, day, and year the employment***:***

(a) Began***:[,]*** and

(b)[the month, day and year the employment] Was

terminated or the experience was completed;

(3) Total number of hours worked during the employment period, excluding holiday or leave time;

(4) A brief description of the applicant's job duties;

(5) The applicant's working titles during employment; and

(6) The signature of the verifying certified public accountant which attests to the truth and accuracy of the statements made regarding the applicant's experience.

Section 4. Documentation and Verification of Applicant Experience. A false or misleading statement made by a certified public accountant on a certificate of experience shall constitute a violation of KRS 325.340(1)(h).

Section 5. Incorporation by Reference. (1) "Certificate of Experience", August 2015,[~~(2005)~~"] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday,[~~between~~] 8 a.m. to 4:30 p.m.

KEVIN DOYLE, President

APPROVED BY AGENCY: August 12, 2015

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GENERAL GOVERNMENT CABINET
KENTUCKY STATE BOARD OF ACCOUNTANCY
(As Amended at ARRS, October 13, 2015)

201 KAR 1:081.[~~Initial~~] Firm license, renewal, and reinstatement.

RELATES TO: KRS 325.220(6), 325.301, 325.380[~~.~~]

STATUTORY AUTHORITY: KRS 325.240(2), 325.301(4), (5), (6), (7), (8)[~~.~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS ***325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. KRS 325.301(4) through (8) require the board to promulgate administrative regulations concerning applications, renewals, and related fees[~~325.301 establishes the standards for the initial issuance and renewal of a license for a certified public accounting firm~~]***. This administrative regulation establishes the procedures for firms to obtain and renew a license to practice as required by KRS 325.301.

Section 1. Definitions. (1) "Certified public accountant owner" means a certified public accountant with a current and active license to practice issued by a state board of accountancy and who is operating a public accounting firm as a:

(a) Shareholder in a***[~~professional service corporation or~~]*** corporation;

(b) Partner in a partnership or registered limited liability partnership;

(c) Member of a limited liability company; or

(d) Sole proprietor[~~, beginning August 1, 2012~~].

(2) "Firm" ***is defined by KRS 325.220(3)[~~means the business entities defined in KRS 325.220(6)~~]***.

(3) "Firm manager" ***is defined by KRS 325.220(4)[~~means a CPA as defined in KRS 325.220(7)~~]***.

(4) "Nonlicensed owner of the firm" means a person referred to in KRS 325.301(3)(b).

Section 2. To obtain an initial license to practice, the firm manager shall submit:

(1) A completed ***Instate Application***["~~Initial~~]***[~~Firm License~~]***["] form; and

(2) A check or money order made payable to the ["]Kentucky State Board of Accountancy["] in the amount of $100. ***This fee shall be nonrefundable.***

Section 3. ***To obtain an initial license to practice, a sole proprietor shall submit:***

(1) A completed Sole Proprietor Firm Application form; and

(2) The fee required by Section 2(2) of this administrative regulation.[~~Effective August 1, 2012,~~]***[~~A sole proprietor shall obtain a public accounting firm license according to the procedures contained in Section 2 of this administrative regulation.~~]***

Section 4. A certified public accountant shall:

(1) Have ultimate responsibility for all services provided by the firm;

(2) Have ultimate authority over any unit, division, or branch of the firm that performs attest services; and

(3) Comply with the ["]Statement on Quality Control Standards["], January, 2012[~~June 2000~~], issued by the American Institute of Certified Public Accountants Auditing Standards Board, as incorporated by reference.

Section 5. A nonlicensed owner of the firm shall not sell or otherwise transfer any ownership interest in the firm to any person who fails to satisfy the requirements of KRS 325.301(3).

Section 6. Renewal of a Firm License. (1) Except as provided in subsection (2) of this section, a firm manager shall renew a firm license by:

(a) Using the online ["]Firm License Renewal System["] offered by the board at www.cpa.ky.gov; and

(b) Paying a ***nonrefundable*** renewal fee in the amount of $100.

(2) If a firm manager is unable to use the online procedure, he or she shall:

(a) Submit a written request to obtain a paper copy of the ["]Firm License Renewal["] form to the Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202;

(b) Complete and submit the form to the board; and

(c) Submit a check or money order made payable to the Kentucky State Board of Accountancy in the amount of $100. ***This fee shall be nonrefundable.***

(3)[~~Effective August 1, 2012~~,] A sole proprietor shall renew his or her firm license according to the procedures contained in this section.

[~~(4) Failure to receive a notice to renew shall not constitute an adequate excuse for failing to renew the firm license.~~]

Section 7. (1) A firm manager who fails to renew the firm license by the August 1 deadline shall renew the license on or before September 1 by:

(a) Utilizing the online ["]Firm License Renewal System["] offered by the board at www.cpa.ky.gov;

(b) Paying the ***nonrefundable*** $100 renewal fee; and

(c) Paying a ***nonrefundable*** $100 late fee.

(2) A firm manager shall correct any outdated or inaccurate information listed on the ["]Firm License Renewal System["] except for a change in the name of the firm.

Section 8.[~~A firm license that expired on July 1, 2011 shall be renewed by the firm manager utilizing the process described in Section 6 of this administrative regulation.~~

~~Section 9.~~] A firm is prohibited from operating and holding out as a CPA firm if the firm license is expired for a period of more than one (1) month.

Section 9.[~~10.~~] Changes in firm information. A firm manager shall notify the board within thirty (30) days of any changes to the licensing information on file with the board by submitting a ["]Firm

Change[~~Changes"~~] form.

Section 10.[~~11.~~] (1) Upon the death or retirement of a firm member which is composed of only two (2) certified public accountant owners, the board shall authorize the continuation of the use of the firm name by the surviving certified public accountant owner for a period of time not to exceed two (2) years from the date of the certified public accountant owner's death or retirement.

(2) The remaining certified public accountant owner shall advise the board in writing of this change within thirty (30) days of its occurrence.

Section 11.[~~12.~~] The firm name registered with the board shall be the firm name used in all circumstances.

Section 12.[~~13.~~] (1) The following material is incorporated by reference:

(a) "Instate[~~Initial~~] Firm[~~License~~] Application", August, 2015[~~2012~~];

(b) "Firm Change Form" August, 2015[~~2012~~];

(c) "Firm Online License Renewal Process", August, 2015[~~2012~~];

(d) "Firm License Renewal", January, 2015;[~~2012; and~~]

(e) "Statement on Quality Control Standards", January 2012; and

(f) "Sole Proprietor Firm Application", August, 2015[~~2000~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday,[~~between~~] 8 a.m. to[~~and~~] 4:30 p.m.

KEVIN DOYLE, President

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GENERAL GOVERNMENT CABINET
Kentucky State Board of Accountancy
(As Amended at ARRS, October 13, 2015)

201 KAR 1:140. Procedures for the reinstatement or reissuance of a CPA license.

RELATES TO: KRS 325.330(6), ***325.360,*** 325.370

STATUTORY AUTHORITY: KRS 325.240(2), 325.330(6), (7), 325.370(2)

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325.*** KRS 325.330(6) and (7) and 325.370 authorize the board to reinstate and reissue licenses that have expired, been suspended, revoked or denied renewal. This administrative regulation establishes the procedures for reinstating or reissuing a license.

Section 1. Definition. "Accounting or auditing course" means***:***

(1) A field of study dealing with pronouncements of authoritative accounting principles issued by the standard setting bodies***; and***

(2)(a)[~~and other related subjects generally classified with the accounting discipline and shall include~~] Auditing subjects related to the examination of financial statements, operations, systems***,*** and programs;

(b) The review of internal and management controls;

(c) The reporting on the results of audit findings;

(d) Compilations;

(e)[~~and~~] Reviews***; and***

(f) Other related subjects generally classified with the accounting discipline, except for[~~, but shall not include~~] courses in tax and computer software training***[~~classes~~]***.

Section 2. A licensee who ***fails[~~failed~~]*** to renew his or her license by the August 1 renewal date shall be allowed to renew his or her license by complying with the requirements of KRS 325.330(7), 201 KAR 1:100, 201 KAR 1:065, and paying a $100 late fee***,*** if***:***

(1) The license is renewed online on or before September 1***;*** or

(2) The renewal materials and payment are received at the board office on or before September 1.

Section 3. (1) A license expired for a period of more than one (1) month or voluntarily surrendered for any reason***,*** except ***if[~~when~~]*** a complaint is pending before the board***,*** may be considered by the board for reinstatement if the applicant:

(a) Submits a completed ["]License Reinstatement Application["];

(b) Documents compliance with the continuing professional education requirements established in subsection (2) of this section; and

(c) Submits a money order or check in the amount of $200 made payable to the Kentucky State Board of Accountancy.

(2) An applicant shall document successful completion of either sixty (60) or eighty (80) hours of continuing professional education, based on the amount of hours the applicant was to have completed when the applicant's license expired or was voluntarily surrendered. The hours shall:

(a) Include accounting or auditing courses that comprise at least one-half of the total amount of hours of continuing professional education required for the applicant;

(b) Include two (2) hours of coursework in professional ethics;

(c) Have been completed within two (2) years of the reinstatement request; and

(d) Not have been previously used to satisfy Kentucky license renewal ***or reinstatement*** requirements.

(3) ***When submitting an application, an applicant who[~~An individual who at the time of submitting an application~~]*** is actively licensed in another state that maintains a continuing education requirement shall satisfy all of the requirements of this section***,*** except for the continuing education hours required by subsection (2) of this section.

Section 4. (1) If a license was revoked for reasons other than failure to satisfy the continuing professional education requirements, it may be considered for reinstatement if the applicant for reinstatement submits to the board***,*** fifteen (15) days prior to the next scheduled meeting***,[~~: (a)~~]*** a letter:

(a)[~~1.~~] Requesting reinstatement;

(b)[~~2.~~] Specifying the manner in which the applicant for reinstatement has complied with the terms of a disciplinary order of the board; and

(c) Stating[~~3. A statement of~~] the reasons***[~~the board~~]*** for the reinstatement request.

(2)(a) Except as provided in paragraph (b) of this subsection, the board shall:

1. Review the request for reinstatement, the findings of fact, conclusions of law, and board order;

2. Affirm or deny the request; and

3. If denied, state in writing the corrective or remedial education, training***,*** or review required before reinstatement shall be granted.

(b) The board shall not consider a request for reinstatement submitted to the board:

1. Prior to the date for resubmission that is specified in the disciplinary order of the board; or

2. If the CPA or CPA firm in a disciplinary order waived the ability to seek reinstatement.

(3)(a) If an applicant for reinstatement disagrees with the board's determination under this section, he or she may file a written request for a hearing before the board.

(b) A hearing held pursuant to the provisions of this subsection shall be conducted in accordance with KRS 325.360 and 201 KAR

1:150.

Section 5. Incorporation by Reference. (1) "[~~Reinstatement~~]License Reinstatement Application", August 2015[~~January 2011~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday,[~~between~~] 8 a.m. to 4:30 p.m.

KEVIN DOYLE, CPA, President

APPROVED BY AGENCY: August 12, 2015

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CONTACT PERSON: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Accountancy
(As Amended at ARRS, October 13, 2015)

201 KAR 1:150. Procedures for the dissemination of information relative to hearings held before the Kentucky State Board of Accountancy.

RELATES TO: KRS 325.360(10), (11)

STATUTORY AUTHORITY: KRS 325.240(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS ***325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325[~~325.360(11) authorizes the board to exchange information regarding disciplinary actions with public authorities or private organizations~~]***. This administrative regulation ***establishes requirements for[~~facilitates~~]*** the dissemination of information.

Section 1. Following the board's adoption of a final order which concludes a disciplinary action, the name of the licensee and a summary of the findings shall be published in the next edition of the board's newsletter and a copy of the order shall be placed on the board's Web site***, www.cpa.ky.gov***.

KEVIN DOYLE, CPA, President

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FILED WITH LRC: August 13, 2015 at 10 a.m.

CONTACT PERSON: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281.

GENERAL GOVERNMENT CABINET
Kentucky Board of Optometric Examiners
(As Amended at ARRS, October 13, 2015)

201 KAR 5:030. Annual courses of study required.

RELATES TO: KRS ***218A.202,*** 218A.205(3)(h), 320.280

STATUTORY AUTHORITY: KRS 218A.205(3)(h), 320.240(7), 320.280(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.280(2) requires all licensed optometrists to annually take courses of study in subjects relating to the practice of optometry. KRS 218A.205(3)(h) requires optometrists to obtain seven and one-half (7.5) percent of their continuing education credits in the use of the electronic monitoring system established pursuant to KRS 218A.202, pain management, or addiction disorders. This administrative regulation establishes the required hours of study and prescribes the approved programs and those records ***that[~~which~~]*** shall be maintained and submitted showing proof of attendance at those programs.

Section 1. (1) The annual course of study shall be completed each calendar year.

(2)(a) A licensee shall attend a minimum of eight (8) continuing education credit hours.

(b) In addition to the requirements of paragraph (a) of this subsection, an optometrist who is authorized to prescribe therapeutic agents shall attend a minimum of seven (7) credit hours in ocular therapy and pharmacology, for a total of at least fifteen (15) continuing education credits.

(c) In addition to the requirements of paragraph (a) and (b) of this subsection, an optometrist who is credentialed by the board to perform expanded therapeutic procedures shall attend a minimum of five (5) additional credit hours in expanded therapeutic procedures, for a total of at least twenty (20) continuing education credits.

(d) A licensee who is authorized to prescribe controlled substances shall obtain two (2) credit hours that relate to the use of the electronic monitoring system established in accordance with KRS 218A.202 known as Kentucky All Schedule Prescription Electronic Reporting (KASPER), pain management, or addiction disorders as part of the licensee's total continuing education credits.

Section 2. In order to be approved, an educational course shall be sponsored by a recognized ***not for profit[~~and established~~]*** state, regional (multistate)***,*** or national optometric association, an accredited college of optometry, or an accredited college of medicine.

Section 3. (1) In order to be credited for an educational course, a licensee shall submit an attendance form to the board.

(2) The attendance form shall be submitted on or before December 31 of each calendar year.

Section 4. A sponsor of an approved educational course shall furnish an attendance form to a licensee. The attendance form shall contain the following information:

(1) Name of the sponsoring organization;

(2) Name and address of the licensee;

(3) Educational topics addressed at the course;

(4) Identity of the speakers;

(5) Number of hours attended by the licensee;

(6) Date of the program;

(7) Statement by the licensee that he or she has attended the course; and

(8) Signature of an official of the sponsoring organization.

Section 5. Credit shall not be given for more than two (2) hours attendance in a course of office management and administration.

Section 6. (1) Except as ***established[~~provided~~]*** in subsection (2) of this section, credit may be granted for a maximum of five (5) hours continuing education through the Internet.

(2) The credit hours required by Section 1(2)(c) of this administrative regulation shall not be obtained through the Internet.

[~~Section 7. Within one (1) year of initial licensure and thereafter every decennial year, an optometrist shall successfully complete a continuing education course of not less than one (1) hour concerning HIV/AIDS that complies with KRS 214.610(1) and is approved by the Cabinet for Health and Family Services, HIV/AIDS Branch.~~]

JERALD COMBS, President

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 11, 2015 at 11 a.m.

CONTACT PERSON: Connie Calvert, Executive Director, Kentucky Board of Optometric Examiners, 163 W. Short St., Suite 550, Lexington, Kentucky 40507, phone (859) 246-2744, fax (859) 246-2746.

GENERAL GOVERNMENT CABINET
Kentucky Board of Optometric Examiners
(As Amended at ARRS, October 13, 2015)

201 KAR 5:110. Expanded therapeutic procedures.

RELATES TO: KRS 320.210(2)***,[and]*** 320.240(4), (5), ***[and]***(7)***, 320.310(1)***

STATUTORY AUTHORITY: KRS 320.210(2)***,[and]*** 320.240(4), (5), ***[and]***(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.240(4) ***authorizes[grants]*** the Kentucky Board of Optometric Examiners***[the authority]*** to promulgate ***administrative[reasonable]*** regulations ***for[and the board's administrative regulations shall include the]*** classification and licensure of optometrists by examination and credentials. KRS 320.240(5) requires a therapeutically licensed optometrist to meet educational and competence criteria set forth by the board in order to perform expanded therapeutic procedures, and evidence of proof of continuing competency shall be determined by the board. This administrative regulation establishes the educational and competence criteria necessary for a therapeutically licensed optometrist to perform expanded therapeutic procedures.

Section 1. Qualifications for a Kentucky Licensed Optometrist to be Credentialed to Utilize Expanded Therapeutic Procedures. A Kentucky licensed optometrist shall be credentialed to perform expanded therapeutic procedures if:

(1) The applicant provides proof that the applicant:

(a) Holds an active license in good standing by another state;

(b) Is also credentialed by that state to perform expanded therapeutic procedures; and(c) The requirements in the state of licensure for performing expanded therapeutic procedures meet or exceed the requirements in this section; or

(2)***[(a)]*** The optometrist***:***

(a) Is currently therapeutically licensed in Kentucky; and

(b)***[.]*** Provides proof of completion of a course approved by the board that includes:

1.***[The following]*** Didactic ***classroom*** instruction***[: Class room instruction]*** covering:

a. Laser physics***;[,]*** hazards and safety;

b. Biophysics of laser;

c. Laser application in clinical optometry;

d. Laser tissue interactions;

e. Laser indications***;[,]*** contraindications and potential complications;

f. Gonioscopy;

g. Laser therapy for open angle glaucoma;

h. Laser therapy for angle closure glaucoma;

i. Posterior capsulotomy;

j. Common complications***;[:]*** lids, lashes, ***and*** lacrimal;

k. Medicolegal aspects of anterior segment procedures;

l. Peripheral iridotomy;

m. Laser trabeculoplasty

n. Minor surgical procedures;

o. Overview of surgical instruments***;[,]*** asepsis and OSHA;

p. The surgical anatomy of the eyelids;

q. Emergency surgical procedures;

r. Chalazion management;

s. Epilumeninesence microscopy;

t. Suture techniques;

u. Local anesthesia***;[:]*** techniques and complications;

v. Anaphylaxsis and other office emergencies;

w. Radiofrequency surgery; and

x. Post-operative wound care;

2. Clinical or laboratory experience including:

a. Video tape demonstration;

b. In vitro observation or participation;

c. In vivo observation; and

d. A formal clinical or laboratory practical examination; and

3. Passage of a written test utilizing the National Board of Examiners in Optometry format.

(3) A board approved course shall be:

(a) Provided by an accredited optometry or medical school;

(b) Taught by full-time or adjunct faculty members of an accredited optometry or medical school;

(c) A minimum of thirty-two (32) clock hours in length; and

(d) Sponsored by an organization that meets the standards of 201 KAR 5:030.

Section 2. Qualifications for a New Applicant for Licensure to be Credentialed to Utilize Expanded Therapeutic Procedures. A new applicant for licensure as an optometrist shall be credentialed to perform expanded therapeutic procedures if:

(1) The applicant provides proof that the applicant has graduated from an optometry school ***with a program that[whose program]*** includes all of the education, training, and testing requirements established in Section 1 ***of this administrative regulation***; or

(2) By the end of the second[first] licensure renewal period, the licensee shall provide proof of compliance with Section 1 of this administrative regulation.

Section 3. Qualifications for an Applicant for Licensure by Endorsement to be Credentialed to Utilize Expanded Therapeutic Procedures. An applicant for licensure by endorsement shall be credentialed to perform expanded therapeutic procedures in Kentucky if:

(1) The applicant provides proof that:

(a) The applicant holds an active license in good standing by another state;

(b) Is credentialed by that state to perform expanded therapeutic procedures; and

(c) The requirements in the state of licensure for performing expanded therapeutic procedures meet or exceed the requirements in Section 1; or

(2) By the end of the second[first] licensure renewal period, the licensee ***provides[shall provide]*** proof of compliance with Section 1 of this administrative regulation.

Section 4. Qualifications for an Optometrist to be Credentialed to Utilize Expanded Therapeutic Laser Procedures. (1) An optometrist credentialed in Kentucky to perform expanded therapeutic procedures shall be credentialed to perform expanded therapeutic laser procedures if the optometrist:

(a) Provides documentation to the board from a board approved preceptor indicating that the optometrist has:

1. Performed the anterior segment laser procedure in the presence of the board approved qualified preceptor; and

2. Demonstrated clinical proficiency ***to the board approved preceptor*** in the performance of the procedure on a living human eye***[to the satisfaction of the board approved qualified preceptor]***.

(2) The board approved***[qualified]*** preceptor shall document in writing the preceptor's observations of the optometrist's performance and state that the optometrist has satisfactorily demonstrated ***the optometrist's[his]*** knowledge and qualifications in the performance of the procedure.

(3) A board approved***[qualified]*** preceptor shall be:

(a) A licensed optometrist or ophthalmologist whose license is in good standing;

(b) A full-time or adjunct faculty member of an accredited optometry or medical school; and

(c) Credentialed in the expanded therapeutic procedure or expanded therapeutic laser procedure that the preceptor is teaching.

Section 5. Prohibitions and Referrals. (1) Performing expanded therapeutic procedures without credentialing based upon the education requirements ***established[outlined]*** in this administrative regulation shall be grounds for discipline pursuant to the requirements of KRS 320.310(1).

(2) ***An injection[Injections]*** into the posterior segment/chamber or retinal tissue to treat any macular or retinal disease shall ***[not]***be ***prohibited[permitted]*** under KRS 320.210(2)(b)16.

(3) Any eyelid or adnexal lesion found to be malignant shall be referred to a practitioner trained and qualified to treat those lesions.

Section 6. Annual Course of Study. (1) In addition to the continuing education credit hours required by 201 KAR 5:030**,** Section 1(1) and (2)(a) and (b), an optometrist who is credentialed by the board to perform expanded therapeutic procedures shall attend a minimum of five (5) additional credit hours in expanded therapeutic procedures, for a total of twenty (20) continuing education credits.

(2) ***[~~None of~~]***The five (5) required contact credit hours in expanded therapeutic procedures ***shall not[~~may~~]*** be obtained through the internet.

Section 7. ***Applications and Forms. (1) An education provider shall complete and submit the Application for Expanded Therapeutic Procedures Course.***

(2) A current licensee applying for credentialing for expanded therapeutic procedures who has completed the thirty-two (32) hour expanded therapeutic procedures course shall complete and submit the Application for Kentucky Licensed Optometrist to be Credentialed to Utilize Expanded Therapeutic Procedures.

(3) Each new applicant shall complete the Application for New Applicant to be Credentialed to Utilize Expanded Therapeutic Procedures.

(4) An applicant already licensed in another state and credentialed in expanded therapeutic procedures who is applying for Kentucky licensure shall complete and submit the Application for Endorsement to be Credentialed to Utilize Expanded Therapeutic Procedures.

(5) A licensed optometrist or ophthalmologist who is a professor or adjunct professor at a college of optometry or medicine and who is licensed and qualified to practice expanded therapeutic laser procedures shall complete and submit the Preceptor Approval Form.

(6) After a preceptor has observed an optometrist successfully perform a laser procedure pursuant to Section 4 of this administrative regulation, the preceptor shall complete and submit the Preceptor Evaluation of Expanded Therapeutic Laser Procedure.

(7) After an optometrist has successfully performed a laser procedure observed by a preceptor, the optometrist shall complete and submit the Application to Utilize Expanded Therapeutic Laser Procedures.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Expanded Therapeutic Procedures Course", August 2011;

(b) "Application for Kentucky Licensed Optometrist to be Credentialed to Utilize Expanded Therapeutic Procedures", August 2011;

(c) "Application for New Applicant to be Credentialed to Utilize Expanded Therapeutic Procedures", August 2011;

(d) "Application for Endorsement to be Credentialed to Utilize Expanded Therapeutic Procedures", August 2011;

(e) "Preceptor Approval Form", August 2011;

(f) "Preceptor Evaluation of Expanded Therapeutic Laser Procedure", August 2011; and

(g) "Application to Utilize Expanded Therapeutic Laser Procedure(s)", August 2011.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Optometric Examiners, 163 W. Short St., Suite 550, Lexington, Kentucky 40507, telephone (859) 246-2744, Monday through Friday, 8:00 a.m. to 4:30 p.m.

JERALD COMBS, President

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 11, 2015 at 11 a.m.

CONTACT PERSON: Connie Calvert, Executive Director, Kentucky Board of Optometric Examiners, 163 W. Short St., Suite 550, Lexington, Kentucky 40507,phone (859) 246-2744; fax (859) 246-2746.

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Licensure for Long-term Care Administrators
(As Amended at ARRS, October 13, 2015)

201 KAR 6:070. Continuing education requirements.

RELATES TO: KRS 216A.090

STATUTORY AUTHORITY: KRS 216A.070(3), 216A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216A.070(3) authorizes the Board of Licensure for Long-term Care Administrators to promulgate administrative regulations necessary for the proper performance of ***board[~~its~~]*** duties. KRS 216A.090 authorizes the board to promulgate an administrative regulation requiring a licensed long-term care administrator to complete continuing education requirements as a condition of renewal of licensure. This administrative regulation ***establishes[~~delineates~~]*** the requirements for continuing education and ***the[~~prescribes~~]*** methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. (1) "Approved" means recognized by the Kentucky Board of Licensure for Long-Term Care Administrators.

(2) "Continuing education hour" means sixty (60) clock minutes of participation in a continuing educational experience.

(3) "Program" means an organized learning experience planned and evaluated to meet behavioral objectives, including an experience presented in one (1) session or in a series.

(4) "Provider" means an organization approved by the Kentucky Board of Licensure for Long-Term Care Administrators for providing a continuing education program.

(5) "Relevant" means having content applicable to the practice of long term care administration.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of thirty (30) continuing education hours shall be accrued by each person holding licensure during the two (2) year period for renewal.

(2) All continuing education hours shall be in or related to the field of long-term care administration.

(3) ***More than[~~A maximum of~~]*** fifteen (15) continuing education hours ***shall not[~~may~~]*** be accrued during one (1) calendar day.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of a long-term care administrator. A continuing education hour shall be earned by completing an educational activity ***established[~~described~~]*** in this section. (1) Programs not requiring board review and approval. An educational program shall be considered relevant to the practice of long-term care administration and shall be approved without further review by the board if ***the program[~~it~~]*** is:

(a) Sponsored or approved by the National Association of Long-Term Care Administrator Boards (NAB) or another board of licensure ***that[~~which~~]*** is a member of NAB; or

(b) Sponsored by:

1. Leading Age, or***[~~any of its~~]*** affiliated state chapters;

2. The American College of Health Care Administrators, or any of its affiliated state chapters;

3. The American College of Healthcare Executives;

4. The American Health Care Association, or***[~~any of its~~]*** affiliated state chapters;

5. The American Hospital Association, or***[~~any of its~~]*** affiliated state chapters;

6. The Kentucky Board of Nursing; or

7. The American Medical Directors Association, or***[~~any of its~~]*** affiliated chapters.

(2) Programs requiring board review and approval. A relevant program from one (1) of the following sources shall be approved by the board:

(a) A college course directly related to business administration, economics, marketing, computer science, social services, psychology, gerontology, or health professions including nursing or premedicine, except that a college course ***established[~~described~~]*** in this paragraph shall not fulfill more than one-half (1/2) of a licensee's continuing education requirement;

(b) A relevant program, including a home study course or in-service training provided by another organization, educational institution, or other service provider approved by the board;

(c) A relevant program or academic course presented by the licensee.

1. A presenter of a relevant program or academic course shall earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements.

2. Credit shall not be issued for repeated instruction of the same course; or

(d) Authoring an article in a relevant, professionally recognized or juried publication.

1. Credit shall be granted for an article that was published within the two (2) year period immediately preceding the renewal date if the licensee has not received credit for another publication during that renewal period.

2. A licensee shall earn one-half (1/2) of the continuing education hours required for a relevant publication.

Section 4. Procedures for Approval of Continuing Education Programs. A course ***that[~~which~~]*** has not been preapproved by the board may be used for continuing education if approval is secured from the board for the course. In order for the board to adequately review this program, the licensee requesting approval shall submit:

(1) A published course or similar description;

(2) Names and qualifications of the instructors;

(3) A copy of the program agenda indicating hours of education, coffee breaks, and lunch breaks;

(4) Number of continuing education hours requested;

(5) Official certificate of completion or college transcript from the sponsoring agency or college;

(6) Application for Continuing Education; and

(7) The fee required by 201 KAR 6:060, Section 7.

Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs. (1) Sponsor approval.

(a) Any entity seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation.

(b) An applicant shall satisfy the board that the entity seeking this status:

1. Consistently offers programs ***that[~~which~~]*** meet or exceed all the requirements established in subsection (2) of this section; and

2. Does not exclude any licensee from its programs.

(2) A continuing education activity shall be qualified for approval if the board finds the activity being presented:

(a) Is an organized program of learning;

(b) Pertains to subject matters ***that[~~which~~]*** integrally relate to the practice of long term care administration;

(c) Contributes to the professional competency of the licensee; and

(d) Is conducted by individuals who have relevant educational training or experience.

Section 6. Responsibilities and Reporting Requirements of Licensees. (1) Each licensee shall be responsible for obtaining the required continuing education hours established in Section 2 of this administrative regulation. The licensee shall:

(a) Identify his or her own continuing education needs;

(b) Take the initiative in seeking continuing professional education activities to meet these needs; and

(c) Seek ways to integrate new knowledge, skills, and attitudes.

(2) Each person holding licensure shall:

(a) Select approved activities by which to earn continuing education hours;

(b) Submit to the board, if applicable, a request for continuing education activities requiring approval by the board as established in Section 4 of this administrative regulation;

(c) Maintain his or her own records of continuing education hours;

(d) At renewal, list the continuing education hours obtained during that licensure renewal period; and

(e) At renewal, ***submit[~~furnish~~]*** documentation of attendance and participation in the number of continuing education hours required by Section 2 of this administrative regulation and as required by this paragraph.

1. Each person holding licensure shall maintain, for ***at least*** a period of two (2) years from the date of renewal, all documentation verifying successful completion of continuing education hours.

2. During the two (2) year licensure renewal period, up to fifteen (15) percent of all licensees shall be required by the board to ***submit[~~furnish~~]*** documentation of the completion of the number of continuing education hours, required by Section 2 of this administrative regulation, for the current renewal period.

3. Verification of continuing education hours shall not otherwise be reported to the board.

4. Documentation shall take the form of official documents including:

a. Transcripts;

b. Certificates;

c. Affidavits signed by instructors; or

d. Receipts for fees paid to the sponsor.

5. Each licensee shall retain copies of the documentation.***[~~.~~]***

Section 7. Responsibilities and Reporting Requirements of Providers. (1) A provider of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 4 of this administrative regulation, directly to the licensee.

(2) A provider of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

Section 8. Board to Approve Continuing Education Hours; Appeal ***if[~~when~~]*** Approval Denied. (1) If an application for approval of continuing education hours is denied, the licensee may request reconsideration by the board of its decision.

(2) The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

(3) An appeal shall be conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) The board may, in an individual case involving medical disability, illness, or undue hardship, grant a waiver of the minimum continuing education requirements or an extension of time within which to fulfill the requirements or make a required report.

(2) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the person holding a license and shall be accompanied by a verifying document signed by a licensed physician.

(3) A waiver of the minimum continuing education requirements or an extension of time within which to fulfill the continuing education requirements shall be granted by the board for a period of time not to exceed one (1) calendar year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for

Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of licensure shall submit evidence of thirty (30) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) Upon request by a licensee, the board ***shall[~~may~~]*** permit the licensee to resume practice, with the provision that the licensee shall receive thirty (30) hours continuing education within six (6) months of the date on which the licensee is approved to resume practice.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

Section 11. Incorporation by Reference. (1) "Application for Continuing Education", August 2015[~~January 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 Long-Term Care Administrators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

GREG WELLS, Chairman

APPROVED BY AGENCY: July 30, 2015

FILED WITH LRC: August 12, 2015 at 10 a.m.

CONTACT PERSON: J. Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 564-6801.

GENERAL GOVERNMENT CABINET
Board of Medical Licensure
(As Amended at ARRS, October 13, 2015)

201 KAR 9:305. Continued licensure of athletic trainers.

RELATES TO: KRS 214.610, 311.901(1), 311.905(2), 311.909(1)(o)

STATUTORY AUTHORITY: KRS 214.610(1), 311.901(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.901(1) requires the Kentucky Board of Medical Licensure to promulgate administrative regulations relating to the licensure and regulation of athletic trainers and requires continuing education courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. This administrative regulation establishes the criteria for the continued licensure of athletic trainers.

Section 1. Definition. "CEU" means the completion of ten (10) hours of educational courses approved by the:

(1) Kentucky Board of Medical Licensure; or

(2) Board of Certification, Inc.

Section 2.***(1)***[~~(1)~~] An athletic trainer licensed to practice in the Commonwealth of Kentucky shall complete six (6) CEUs during each three (3) year renewal cycle beginning with the renewal cycle that ends on June 30, 2015.

(2)(a) Upon initial licensure or within the first three (3) year renewal cycle from initial licensure, each licensee shall complete an educational course approved by the Cabinet for Health and Family Services on the transmission, control, treatment, and prevention of the human immunodeficiency virus HIV/AIDS.

(b) The hours of the course required by paragraph (a) of this subsection shall be counted as part of the six (6) CEUs required by subsection (1) of this section for the three (3) year renewal cycle during which the HIV/AIDS course was completed.[~~(2)(a) During each ten (10) year period of practice, each licensee shall complete a minimum of two (2) hours of continuing education in HIV/AIDS courses approved pursuant to KRS 214.610.~~

~~(b) The hours required by paragraph (a) of this subsection shall be counted as part of the six (6) CEUs required by subsection (1) of this section for the three (3) year renewal cycle during which the HIV/AIDS course was completed.~~]

PRESTON P. NUNNELLEY, M.D., President

APPROVED BY AGENCY: July 13, 2015

FILED WITH LRC: July 14, 2015 at 10 a.m.

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

GENERAL GOVERNMENT CABINET
Board of Medical Licensure
(As Amended at ARRS, October 13, 2015)

201 KAR 9:310. Continuing medical education.

RELATES TO: KRS 214.610,***[~~214.615,~~]*** 214.620, 218A.205, 311.565(1)(b), 311.601, 620.020

STATUTORY AUTHORITY: KRS 311.565(1)(a), (b), 311.601(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.601(1) authorizes the board to promulgate an administrative regulation that establishes requirements to ***ensure[~~insure~~]*** the continuing professional competency of licensees. This administrative regulation establishes continuing medical education requirements for physicians in Kentucky, including requirements for courses relating to the use of KASPER, pain management, and addiction disorders required for physicians who prescribe or dispense controlled substances in the Commonwealth of Kentucky.

Section 1. Continuing Medical Education. Except as provided in Section 4 of this administrative regulation, at the time a licensee seeks to renew his or her license, the licensee shall submit verification of satisfactory completion of a program of continuing medical education using the Continuing Medical Education Certification Form by the renewal deadline established in 201 KAR 9:051.

Section 2. In order to meet the continuing medical education requirements, a licensee shall:

(1) Submit evidence that thirty (30) of the sixty (60) hours were certified in Category I by an organization accredited by the:

(a) Accreditation Council on Continuing Medical Education; or

(b) The American Osteopathic Association;

(2) Submit evidence that:

(a) The licensee has received the American Medical Association's "physician recognition award", or the American Osteopathic Association's "osteopathic physicians' recognition award"; and

(b) The award is in effect at the time the license is renewed;

(3) Submit verification that the:

(a) Licensee has completed continuing medical education requirements of any specialty organization which is recognized by the American Medical Association or American Osteopathic Association as at least equivalent to their recognition awards; and

(b) Certification is in effect at the time a license is renewed; or

(4) Submit verification that the licensee is in, or has been in, an approved postgraduate training program. Each year of postgraduate training shall be equivalent to fifty (50) hours of continuing medical education.

Section 3. Required Hours of Continuing Education. (1)(a) For each three (3) year continuing education cycle, a licensee shall complete a total of sixty (60) hours of continuing medical education, if his or her license has been renewed for each year of a continuing medical education cycle.

(b) If the license has not been renewed for each year of a

continuing medical education cycle, a licensee shall complete twenty (20) hours of continuing medical education for each year for which the license has been renewed.

(c) A licensee whose initial licensure was granted the first year of the continuing education cycle for which verification is submitted shall complete sixty (60) hours of continuing medical education before the end of the cycle.

(d) A licensee whose initial licensure was granted the second year of the continuing education cycle for which verification is submitted shall complete forty (40) hours of continuing medical education before the end of the cycle.

(e) A licensee whose initial licensure was granted the third year of the continuing education cycle for which verification is submitted shall complete twenty (20) hours of continuing medical education before the end of the cycle.

(2) Upon renewal of licensure following the end of a three (3) year continuing education cycle, a licensee shall certify that he or she has met the continuing medical education requirements for the cycle as provided by this section.

(3) Verification of completion of continuing medical education requirements shall be submitted upon request by the board.

Section 4. Extensions of Time. (1) To request an extension of time, the licensee shall submit:

(a) A completed Request for Extension to Complete Required CME Hours; and

(b) The fee required by 201 KAR 9:041, Section 1(17).

(2) The board may grant an extension of time to a physician who for sufficient cause has not yet received continuing medical education certification, following the submission of the items required by subsection (1) of this section. ***For the purposes of this subsection, sufficient cause includes situations such as the following:***

(a) An illness;

(b) Any event meeting the Family Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 et seq., Pub.L. 103-3 criteria, and the federal regulations implementing the act, 29 C.F.R. Part 825;

(c) Financial exigencies; or

(d) Practice circumstances making it prohibitive to attend the courses.

Section 5.[~~During each ten (10) year period of practice, each licensee shall complete a minimum of one (1) hour of continuing medical education in HIV/AIDS courses approved pursuant to KRS 214.610, 214.615 and 214.620.~~

~~Section 6.~~] (1) For each three (3) year continuing education cycle beginning on January 1, 2015, a licensee who is authorized to prescribe or dispense controlled substances within the commonwealth at any time during that cycle shall complete at least four and one-half (4.5) hours of approved continuing education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects. A licensee may satisfy this requirement by completing a single approved program of four and one-half (4.5) hours or longer or by completing multiple approved programs for a total of four and one-half (4.5) hours or longer for that cycle.

(2) Each physician licensed to practice medicine or osteopathy within the Commonwealth of Kentucky who is authorized to prescribe or dispense controlled substances within the commonwealth from July 20, 2012 through the end of the three (3) year continuing education cycle beginning on January 1, 2012 and ending on December 31, 2014 shall complete at least four and one-half (4.5) hours of approved Category I Credit continuing medical education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects on or before December 31, 2014. The licensee may satisfy this requirement by completing a single approved program of four and one-half (4.5) hours or longer or by completing multiple approved programs for a total of four and one-half (4.5) hours or longer for this cycle.

(3) Each physician licensed to practice medicine or osteopathy within the Commonwealth of Kentucky who is authorized to prescribe or dispense controlled substances during the calendar years 2013 and 2014, but not during any portion of 2012, shall complete at least three (3) hours of approved Category I Credit continuing medical education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects on or before December 31, 2014. The licensee may satisfy this requirement by completing a single approved program of three (3) hours or longer or by completing multiple approved programs for a total of three (3) hours or longer for those two (2) years.

(4) Each physician licensed to practice medicine or osteopathy within the Commonwealth of Kentucky who is authorized to prescribe or dispense controlled substances during calendar year 2014, but not during any portion of 2012 or 2013, shall complete at least one and one-half (1.5) hours of approved Category I Credit continuing medical education hours relating to the use of KASPER, pain management, addiction disorders, or a combination of two (2) or more of those subjects on or before December 31, 2014. The licensee may satisfy this requirement by completing a single approved program of one and one-half (1.5) hours or longer or by completing multiple approved programs for a total of one and one-half (1.5) hours or longer for that calendar year.

(5)(a) To qualify as approved continuing education under this section, the educational program shall have been approved in advance for the specified number of continuing education hours by the board.

(b) The board may approve an educational program that:

1. Consists of a live presentation;

2. Is presented by a live or recorded webinar; or

3. Is presented through an online module.

(c) The board shall maintain a current listing of approved continuing education programs on its official Web site, www.kbml.ky.gov.

(6)(a) In order to lawfully prescribe or dispense controlled substances within the Commonwealth of Kentucky, a licensee shall complete the required number of continuing education hours for each period designated in this section.

(b) Failure to complete the required number of continuing education hours for the required period or to submit the required written verification within the time specified shall constitute a violation of KRS 311.595(9) and (12), which shall constitute an immediate danger to the public health, safety, or welfare, for the purposes of KRS 311.592 and 13B.125.

(c) If the board determines that a licensee has failed to complete the required continuing education hours within the time specified or has failed to provide the written verification of completion within the time specified, the appropriate inquiry panel or its chair shall promptly issue an emergency order restricting that licensee from prescribing or dispensing controlled substances within the Commonwealth of Kentucky until the licensee has completed the required continuing education hours for that period and has provided written verification of completion to the board.

(d) An emergency order restricting a licensee from prescribing or dispensing controlled substances within the Commonwealth of Kentucky issued pursuant to paragraph (c) of this subsection shall remain valid and in effect until the board has received written verification that the licensee has successfully completed the required continuing education hours for the time period specified. Upon receipt of the written verification, the panel or its chair shall immediately issue an order terminating the emergency order issued pursuant to this section.

(e) If a licensee who is affected by an emergency order issued pursuant to this section requests an emergency hearing pursuant to KRS 13B.125(3), the hearing officer conducting the emergency hearing shall affirm the emergency order if presented with written notification on board letterhead stating that the board has not received the required written verification that the licensee completed the required continuing education hours for the ***continuing medical education cycle by the deadline date for the cycle[~~period specified by the time specified~~]***.

(7) If a licensee prescribes or dispenses a controlled substance within the Commonwealth of Kentucky during any period after the

licensee has failed to complete the required continuing education hours within the time specified or has failed to provide written verification of completion within the time specified, each instance of prescribing or dispensing of a controlled substance shall constitute a separate violation of KRS 311.595(12) and (9), as illustrated by KRS 311.597(1)(b), and shall serve as the basis for disciplinary sanctions pursuant to KRS 311.595.

Section 6.[~~7.~~] Each licensee practicing in the specialty of pediatrics, radiology, family medicine, or emergency medicine and each licensee practicing in an urgent care practice environment shall complete at least one (1) hour of continuing medical education regarding the recognition and prevention of pediatric abusive head trauma in a course approved by the board pursuant to KRS 620.020, prior to December 31, 2017, or within five (5) years of initial licensure.

Section 7.[~~8.~~] The board may randomly require physicians submitting certification of continuing medical education to demonstrate satisfactory completion of the continuing medical education requirements stated in the certification.

Section 8.[~~9.~~] (1) A licensee shall be fined ***$200 or more[~~a minimum of $200~~]***, if he or she fails to:

(a) ***Certify*** timely ***completion of[~~complete~~]*** the continuing medical education requirements; or

(b) Obtain an extension of time for completion of the continuing medical education requirements.

(2)(a) A licensee ***who obtains an extension of time[~~subject to subsection (1) of this section~~]*** shall be granted ***an extension[~~a period~~]*** of six (6) months to come into compliance.

(b) If a licensee has not completed the continuing medical education requirements within the six (6) month ***extension[~~period~~]*** established by this subsection, his or her license shall:

1. Be immediately suspended; and

2. Remain suspended until the licensee has submitted verifiable evidence that he or she has completed the continuing education requirements.

Section 9.[~~10.~~] A waiver of the requirements established by the provisions of this administrative regulation shall not be granted.

Section 10.[~~11.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Continuing Medical Education Certification Form", January 2013; and

(b) "Request for Extension to Complete Required CME Hours", January 2013.

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

PRESTON P. NUNNELLEY, M.D., President

APPROVED BY AGENCY: July 13, 2015

FILED WITH LRC: July 14, 2015 at 10 a.m.

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

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:170. Real estate[~~Private~~] school and pre-license course approval.

RELATES TO: KRS 324.010(7), 324.046(1), (2), 324.085

STATUTORY AUTHORITY: KRS 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the commission to promulgate administrative regulations necessary to implement KRS Chapter 324. KRS 324.010(7) and (8) authorizes the commission to approve a real estate school. KRS 324.046(1) and (2) require an applicant for initial licensure as a broker or sales associate to have completed the specified number of courses from an approved or accredited real estate school. This administrative regulation establishes the requirements and application procedures for an approved real estate school seeking approval of courses for license credit.

Section 1. (1) To apply for certification as an approved real estate school or to renew certification, a real estate school shall submit a:

(a) Completed Provider Application – Form E101[~~for an Approved Real Estate School,~~] including the information required concerning curriculum, instructors, required textbooks, educational materials, and policies of the school;

(b) Copy of the license[~~Certificate of Approval~~] from the Kentucky Commission on[~~State Board for~~] Proprietary Education[~~or Kentucky Department of Education~~], if applicable;

(c) Sample schedule to outline how a course will be presented;

(d) Completed detailed Course Outline – Form E105 broken into four (4) hour increments to include teaching methods, learning objectives for the course, auxiliary aids, and materials for each course, which shall include:

1.[~~A Real Estate~~] Instructor Application – Form E100 and any additional documents required to explain a response on the application for each instructor who will teach this course, as required by 201 KAR 11:175; and

2. A copy of the written material, other than the textbook or real estate license law manual, which the instructor will use in the classroom;

(e) Sample copy of a school brochure or information sheet promoting the school;

(f) Copy of legal documentation required to support an answer, if applicable;

(g) A sample copy of an official transcript that will be issued by the school;[~~.~~]

(h) A copy of a contract or agreement signed by the student ***that[~~which~~]*** outlines the class schedule, assignments or projects, examination requirements, grading system, and attendance requirements; and

(i) Other documents as ***established[~~outlined~~]*** in Section 2 of this administrative regulation.

(2) An approved real estate school shall include a statement in the school application that a criminal conviction may prevent an applicant from qualifying for licensure under KRS 324.045. Failure to do so ***shall[~~may~~]*** result in suspension of an approved school's certification until the information is included in the application.

(3) An approved real estate school shall notify the commission within ten (10) days of a material change in the information originally ***submitted[~~furnished~~]*** on the application or in an attachment to the application.

(4) ***An Education Course Application, Form E102.[~~A renewal application~~]*** shall be submitted by October 1 of each even numbered year. The approval shall be for a two (2) year period, beginning November 1.

Section 2. (1) The curriculum for a pre-license course at an approved real estate school shall:

(a) Include a minimum of:

1. Three (3) academic hours per course; or

2. Fifteen (15) hours for a course related to the appraisal of property;

(b) Be conducted for a maximum of no more than **nine (9) [~~seven (7) academic~~]** hours during a twenty-four (24) hour period;

(c)***[~~1.~~]*** Consist of a course containing the topics listed in the Pre-license Prescribed Topics – Form E112[~~Topics Prescribed~~] by the Real Estate Commission.

1.[~~2.~~] A real estate course shall be ***[~~one that~~]***[~~which~~]***[~~is~~]*** designated specifically as a real estate course by an approved or accredited real estate school that[~~which~~] offers the course.

2.[~~3.~~] The academic content for the course shall specifically focus on real estate.

3.[4.] The course shall be for academic credit and not a continuing education unit, examination preparation or review, experiential education, or competency testing.

4.[5.] A candidate shall not submit completion of the same course or essentially the same course twice for licensure credit;

(d)***[1.]*** Include a closed-book monitored final examination of at least:

1.a. **Fifty (50)[~~Seventy-five (75)~~]** multiple choice questions for a three (3) hour academic[~~hour~~] course; or

b. 100 multiple choice questions for a six (6) hour academic[~~hour~~] course.

2. The passing score shall be seventy-five (75) percent in order to pass the course.

3. Examination questions shall cover all aspects of material covered in the course, including applicable license laws and administrative regulations.

4. **Two (2) retakes[~~One (1) retake~~]** of the examination shall be permitted; and

(e) Include in all real estate pre-license[~~prelicense~~] courses, a practicum or project applicable to the topic, that shall be completed with a passing score and averaged with the final examination and other components or assignments required in the course, as part of the student's final grade.

(2) The application for course approval shall include a copy of the final examination and answer key, an explanation and copies of the project or practicum that shall be required of students, when that assignment shall be due, and how the final grade for the course shall be calculated.

(3)(a) All primary and secondary providers offering online pre-license[~~prelicense~~] or other distance education courses shall be approved in accordance with the provisions ***established[~~set forth~~]*** in 201 KAR 11:240[~~certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC) as to format and delivery systems of the program~~].

(b) The commission shall review the content to ensure that ***the content[~~it~~]*** meets the requirements ***established[~~outlined~~]*** in this administrative regulation and in 201 KAR 11:240.

(4)(a) The application and all required attachments shall be submitted to the commission for consideration at its next ***regularly scheduled meeting, which is posted on the commission's Web site after calendar approval[~~regularly-scheduled meeting~~]***.

(b) The provider shall be notified in writing of the commission's approval or denial of the course for academic credit.

Section 3. Each real estate pre-license[~~prelicense~~] course completed at an out-of-state accredited institution, for which credit may be granted under this section, shall be approved or rejected ***pursuant to subsections (1) through (9) of this section.[~~under the following procedure:~~]***

(1) A course description from the school catalog, course syllabus, table of contents from text used in the course, or other summary of the course shall be provided to the commission by the applicant***.[~~;~~]***

(2) The commission education director shall review the material submitted by the applicant and recommend the commission either grant or reject credit under this section at the commission's regular monthly meeting***.[~~;~~]***

(3) The commission education director shall record:

(a) The name of the course;

(b) ***If[~~Whether~~]*** approval was granted or rejected; and

(c) The date of approval or rejection.

(4) If a course has been previously approved by the commission under this section or if a course is substantially similar to a previously-approved course, the commission education director shall be authorized to determine course approval***.[~~;~~]***

(5) In determining ***if[~~whether~~]*** a course is substantially similar to a previously-approved course, one (1) or more of the following items shall be considered:

(a) The table of contents from text used in the course;

(b) The course syllabus;

(c) Course description from the school catalog; or

(d) Other summary of the course.

(6) The commission's education director shall notify an applicant if a course is rejected for credit under this section***.[~~;~~]***

(7)(a) If an applicant disagrees with the education director's decision under this section, he or she shall, within ten (10) days from the date of the education director's notification of rejection, file with the commission a written request for a commission review of ***the[~~its~~]*** education director's decision.

(b) The request shall specifically indicate the applicant's disagreement.

(c) Failure to indicate disagreement within the ten (10) day period shall constitute waiver by the applicant and the education director's decision shall become final***.[~~;~~]***

(8)(a) In addition to notifying[~~the indication to~~] the education director of disagreement with his or her decision, the applicant shall provide a written summary to the education director detailing why credit under this section is merited.

(b) The commission education director shall forward this summary to the commission along with his or her response to the commission for a final decision at the commission's regular monthly meeting.

(c) Failure to provide within ten (10) days a specific summary detailing why credit is merited under this section shall constitute waiver by the applicant and the education director's decision shall become final at that point;

(9)(a) If the applicant indicates disagreement with the education director's decision within ten (10) days of notification and provides a written summary detailing the disagreement within ten (10) days of notification, the commission shall consider the submissions from the applicant and the education director and reject or approve the course for credit under this section.

(b) The commission shall notify the applicant of its decision in writing.

Section 4. An approved real estate[~~course~~] school shall not:

(1) Advertise in conjunction with the business of a broker or a brokerage firm; or

(2) Discuss, induce, or promote affiliation with a broker or brokerage firm.

Section 5. (1) An approved real estate school shall maintain accurate and permanent records on each student enrolled in a course.

(a) A permanent record shall include each student's record of courses completed or
attempted, academic hours awarded, and final grades.

(b) A certificate of completion shall be:

1. Included in the permanent records of each student; and

2. Mailed to each student upon completion of a course.

(2) Records shall:

(a) Be maintained for three (3) years; and

(b) Include student attendance records, final grade, and test scores.

(3) An approved real estate school shall notify the commission, in writing, within five (5) days of the beginning of a pre-license[~~prelicense~~] course. Notice shall include the name of the course, class location, and scheduled dates and times the class will be offered.

(4) Schools and instructors shall take appropriate steps to maintain the confidentiality of the final examinations***[~~at all times~~]***. These steps shall include:

(a) Maintaining examinations and answer keys in a secure place accessible only to the school administrator and the instructor;

(b) Prohibiting students from retaining copies of the final examination and answer sheets; and

(c) Monitoring students ***continuously during[~~at all times when~~]*** examinations***[~~are being conducted~~]***.

Section 6. (1) An approved real estate school shall permit an inspection and monitoring by the commission or its designee to evaluate an aspect of the administration or operation of the school or to evaluate the performance of the instructor.

(2) Monitoring may include a periodic mailing by the commission to students seeking an evaluation of his or her pre-

license[~~prelicense~~] course and instructor.

Section 7. (1) Private school approval ***shall[may]***[~~shall~~] be withdrawn if the commission determines that:

(a)[(~~1~~)] Information contained on the application or renewal is inaccurate or misleading;[~~or~~]

(b)[(~~2~~)] The establishment or conduct of the school is not in compliance with this administrative regulation or the instruction is so deficient as to impair the value of the course; or

(c)[~~If a school has been given notice of a deficiency under this section, the commission shall give the school an opportunity to correct the deficiency within thirty (30) days. If the deficiency has been corrected, the commission may, after reviewing the steps taken to correct the problem, recertify the school or course.~~

~~(3)~~] The school is not certified by the Kentucky Commission on[~~State Board for~~] Proprietary Education.

(2) If the commission has notice that a school's approval may be subject to withdrawal for the reasons set forth in subsection (1) of this section, the commission shall:

(a) Give written notice to the school of the intent to withdraw approval and the reasons therefor;

(b) Give the school an opportunity to address the notice, in writing, within thirty (30) days of the date of the notice of intent to withdraw approval; and

(c) Review the issues and the school's response***[, and the commission may withdraw approval of the school]***.

Section 8. An effort made directly or indirectly by a school, official, ***[or]***employee, or a person on their behalf to reconstruct the real estate licensing examination or portion of the examination shall result in immediate revocation of school approval.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Instructor Application - Form E100[~~Application for Certification of Approved Real Estate School~~]", 05/15[~~09/07~~] edition, Kentucky Real Estate Commission;

(b) ***"Education Course Application", Form E102, 5/15;***

(c) "Provider Application – Form E101[~~Course Outline~~]", 05/15[~~09/07~~] edition, Kentucky Real Estate Commission;

(d)[(c)] "Course Outline – Form E105[~~Certificate of Completion~~]", 05/15[~~09/07~~] edition, Kentucky Real Estate Commission; and

(e)[(d)] "Pre-license Prescribed Topics – Form E112[~~Topics Prescribed by the Real Estate Commission~~]", 05/15[~~2007~~] edition, Kentucky Real Estate Commission[~~; and~~

~~(e) "Real Estate Instructor Application", 09/07 edition, Kentucky Real Estate Commission~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

BOB ROBERTS, Chairperson

APPROVED BY AGENCY: September 14, 2015

FILED WITH LRC: September 14, 2015 at 4 p.m.

CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:175. Instructor approval procedures and guidelines.

RELATES TO: KRS 324.010(7)[~~(1)(g), 324.046(1), (2)~~]

STATUTORY AUTHORITY: KRS 324.085, 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the commission to promulgate administrative regulations necessary to implement KRS Chapter 324. KRS 324.010(7)[~~(1)(g)~~] authorizes the commission to approve a real estate school. KRS 324.085(4) ***and (5) authorize[, (5) authorizes]*** the commission to promulgate administrative regulations necessary to implement requirements for instructor approval [~~342.046(1) and (2) require an applicant for initial licensure as a broker or sales associate to have completed the specified number of courses from an approved or accredited real estate school~~]. This administrative regulation establishes the requirements and application procedures for approval as an instructor at an approved real estate school.

Section 1. To apply for certification as an instructor at an approved real estate school, an instructor shall:

(1) Submit a:

(a) Completed[~~Real Estate~~] Instructor Application – Form E100;

(b) Copy of a current resume;

(c) Copy of legal documentation required to support an answer ***on the Instructor Application – Form E100***, if applicable; and

(d) Completed Course Outline – Form E105 for each course;

(2) Have:

(a) A bachelor's, master's,[~~masters~~] or doctorate degree from a college or university duly accredited by a nationally recognized rating or accrediting organization, in a field directly related to the nature of the course, such as real estate, business, law, finance, or education;

(b) An associate degree in real estate from a college or university duly accredited by a nationally recognized rating or accrediting organization;

(c) Completed five (5) consecutive years full-time experience in the real estate related subject area that he ***or she*** is teaching (averaging at least twenty (20) hours per week for each of the five (5) years); or

(d) A combination of teaching, education, and full-time experience in real estate totaling five (5) years (averaging at least twenty (20) hours per week for each year of experience); and

(3) Possess:

(a) A thorough familiarity of the provisions of KRS Chapter 324 and the effect of those provisions on the subject area of the course; and

(b) A thorough knowledge of the subject area of the course he ***or she*** is teaching.

Section 2. Approval of an instructor shall be withdrawn by the commission for:

(1) A violation of a provision of KRS Chapter 324 or ***201 KAR Chapter 11[an administrative regulation promulgated under it]***;

(2) Falsification of material submitted to the commission to become an approved instructor;

(3) Failure to provide to the commission requested material;

(4) While acting as an instructor in an educational facility, engaging in brokerage activity with an enrolled student;

(5) Soliciting an investment from a student; or

(6) Attempting to recruit a student to a real estate company while acting as an instructor.

Section 3. (1) An approved instructor may[~~shall~~] teach:

(a) A pre-license[~~prelicensure~~] course offered by an:

1. Approved real estate school; or

2. Accredited real estate school ***that[which]*** receives funding under the real estate education, research and recovery fund;[~~or~~]

(b) A mandatory continuing education course; or

(c) A post-license education course.

(2) A person who is not an approved instructor shall not teach a course listed in subsection (1) of this section.

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

(a) "[~~Real Estate~~]Instructor Application – Form E100", 05/15[~~11/97~~] edition, Kentucky Real Estate Commission; and

(b) "Course Outline – Form E105", 05/15[~~11/97~~] edition, Kentucky Real Estate Commission.

(2) This material may be inspected, copied, or obtained at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM HUFF, Chairperson
APPROVED BY AGENCY: June 22, 2015
FILED WITH LRC: June 29, 2015 at 11 a.m.
CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:195. Informal settlement procedures.

RELATES TO: KRS 324.160, 324.170, 324.281
STATUTORY AUTHORITY: KRS ***13B.070(3),*** 324.160, 324.170, 324.821
NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.270(1) requires the commission to order a KRS Chapter 13B hearing before ordering any disciplinary action. This administrative regulation is necessary to provide a settlement option after a hearing is ordered to allow opportunity for more economical and expeditious resolution of the pending matter. This administrative regulation establishes the informal settlement process for entry of agreed orders.

Section 1. Settlement by Informal Proceedings. After ordering a hearing, the commission, through its legal counsel**,** may***[at any time,]*** enter into informal settlement proceedings with the licensee for the purpose of expeditiously resolving any disciplinary matter pursuant to KRS 324.160.

(1)***(a)*** The commission may approve or reject any settlement proposal**.**

(b)[, however,] Any matter to which a licensee and the commission's legal counsel have stipulated ***that[which]*** is rejected by the commission shall not thereafter bind the parties or the commission.

(2) The board may employ mediation as a method of resolving the matter informally.

(3) All proposed agreed orders shall be signed by the licensee***[,]*** and shall advise the licensee that by entering into an agreed order, the licensee expressly acknowledges that the licensee is fully and completely informed of the due process rights afforded to the licensee under KRS Chapter 324 and KRS Chapter 13B and that the licensee knowingly, willingly, and voluntarily agrees to waive those rights and enter into an agreed order.

JIM HUFF, Chairperson
APPROVED BY AGENCY: June 22, 2015
FILED WITH LRC: June 22, 2015 at 4 p.m.
CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:210. Licensing, education, and testing requirements.

RELATES TO: KRS ***2.013,*** 324.010, 324.040, 324.045(1), (2), (3), 324.046
STATUTORY AUTHORITY: KRS 324.281(5), 324.282
NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the Real Estate Commission to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS Chapter 324. This administrative regulation establishes standards relative to education[,] and licensure application requirements.

Section 1. In lieu of proof of high school graduation or a GED diploma, an applicant may submit an official transcript from a United States institution***[,]*** or from an institution outside of the United States***[as indicated in Section 2 of this administrative regulation]***, which indicates ***successful post-secondary*** completion of***:***

(1) A degree program***;[at a post-secondary]***[post secondary] ***[institution,]*** or

(2)[a transcript from a United States institution, or from an institution outside of the United States as indicated in Section 2 of this administrative regulation, which indicates successful completion of] Twenty-eight (28) academic semester hours or the equivalent***[from a post-secondary]***[post secondary]***[institution]***.

Section 2. (1) If an applicant submits documentation of qualifying education in a language other than English, the diploma or transcript shall***:***

(a) Be ***accurately*** translated***; and***

(b) Include[by a disinterested third party.

(2) The entity shall provide:

(a) A translation of the documents; and

(b)] a certification stating that the translation is true, accurate, and complete.

(2)[(3)] The applicant shall provide a letter to the commission indicating that the curriculum of the proffered education is equivalent to a high school diploma or GED. The comparison shall be made by an education credential service provider with membership in the National Association of Credential Evaluation Services[: (a) International Education Research Foundation, www.ierf.org;

(b) International Education Evaluations, www.iee1981.com; or

(c) World Education Services, www.wes.org/fees/evaltypes.asp].

(3)[(4)] If the applicant is unable to comply with the requirements of this section, the applicant shall ***submit[furnish]*** proof of the receipt of a GED granted by an agency or institution within the United States.

Section 3. An applicant who successfully passes the real estate examination shall apply for a license within sixty (60) days after the examination. A candidate who fails to apply for a license within this period shall be reexamined[An official transcript is a document imprinted with the institution's seal, signed by the registrar, and sent directly from the institution to the commission.

Section 4. An applicant who successfully passes the real estate examination shall apply for a license within sixty (60) days after the examination. A candidate who fails to apply for a license within this period shall be reexamined].

JIM HUFF, Chairperson
APPROVED BY AGENCY: June 22, 2015
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CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:230. Continuing education requirements.

RELATES TO: KRS 324.010(7), (8), 324.046(5), 324.085(1), (2), 324.090, 324.160(1)(c), [324.160](4)(u), 324.281(7)***, 324.287,***

324.310

STATUTORY AUTHORITY: KRS 324.085(1), (4), 324.160(1)(c), [~~324.160~~](4)(u), 324.281(5), (7), (8), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.085(1) requires an actively-licensed agent, except an agent licensed prior to June 19, 1976, to successfully complete six (6) hours of mandatory continuing education each year as a condition of license renewal and requires that three (3) of the six (6) hours pertain to the study of real estate law. This administrative regulation establishes the requirements relating to continuing education and***[~~sets~~]*** the amount of the fine for failure to comply with the requirements.

Section 1. Definition. "Continuing education course" means a course approved pursuant to the requirements set forth in KRS 324.085(1) and this administrative regulation.

Section 2. Mandatory Continuing Education. (1) An active licensee, licensed by the commission on or after June 19, 1976, shall meet the requirements of KRS 324.085(1) by attending and successfully completing six (6) hours of continuing education courses that are sponsored or approved by the commission by December 31 of each calendar year.

(a) An active licensee[~~license~~] shall receive continuing education credit for any approved course taken, if he or she files with the commission a certificate of completion for each course for which credit is sought by December 31 of each calendar year.

(b) These courses may be offered[~~taken~~] in one (1) to six (6) hour increments.

(c) An active license shall not be renewed unless the licensee has complied with the provisions of this administrative regulation.

(2) An active licensee shall attend a commission-approved core course once every four (4) years***, with[***;***]*** the first four (4) year cycle beginning from the date of initial licensure. The core course shall:

(a) Satisfy the licensee's mandatory continuing education requirement for the year in which the course is taken; and

(b) Be a six (6) hour comprehensive review of the requirements of***:***

1. KRS Chapter 324***;***

2.[,] 201 KAR Chapter 11***;***

3.[;] Common and federal law relating to real estate***;[;]*** and

4. The standards of practice for a real estate licensee.

(3)[~~When a licensee is first licensed in Kentucky, his or her year of compliance shall be assigned by the commission based upon the following schedule:~~

~~(a) If the licensee's birth month is January, February, or March, the licensee shall take the core course in the first year of a four (4) year cycle.~~

~~(b) If the licensee's birth month is April, May, or June, the licensee shall take the core course in the second year of a four (4) year cycle.~~

~~(c) If the licensee's birth month is July, August, or September, the licensee shall take the core course in the third year of a four (4) year cycle.~~

~~(d) If the licensee's birth month is October, November, or December, the licensee shall take the core course in the fourth year of a four (4) year cycle.~~

~~(4)~~] Continuing education hours exceeding the amount required shall not be carried forward to the next year's requirements or used to reactivate a license in the next calendar year.

(4)[~~(5)~~]***(a) An hour[~~Hours~~]*** of instruction in ***a*** pre-license[~~prelicense~~] real estate education ***course[~~courses~~]***, unless it is the licensee's year to complete the core course, shall be credited to the mandatory continuing education requirements for the calendar year in which ***the course[~~it~~]*** is taken and completed.

(b) The licensee shall submit a transcript or course completion certificate for the pre-license[~~prelicense~~] course in order to receive credit toward the continuing education requirements for that calendar year.

Section 3.[~~2.~~] Exemptions from the Mandatory Continuing Education Requirement. (1) The provisions of this administrative regulation shall not apply to any person licensed by the commission prior to June 19, 1976.

(2) A license recognition broker[~~licensee~~] shall not be required to attend a continuing education course during the first calendar year in which he or she is first licensed in Kentucky.

(3) A licensee shall not be required to attend a continuing education course during the first two (2) calendar years from the date of issuance of an initial sales associate license.

(4)(a) An escrowed licensee shall not be required to attend continuing education courses while the license remains in escrow.

(b) Before a license is changed from escrow to active status, a licensee shall provide the commission with documentation of the completion of the current calendar year's[~~continuing~~] education requirements.

(c) If the licensee has not completed the core course in the previous four (4) years as required, the core course shall become the current calendar year's continuing education requirement for a license changing from escrow to active.

[~~Section 3. Continuing Education Course Criteria. (1) One (1) hour of continuing education shall be allowed for each fifty (50) minutes of actual attendance.~~

~~(2) To receive approval, courses shall:~~

~~(a) Be in hourly increments from one (1) to six (6) hours;~~

~~(b) Be real estate specific;~~

~~(c) Consist of topics that shall:~~

~~1. Enable the student to better understand the brokerage business; and~~

~~2. Serve the public.~~

~~(3) A course that is motivational or considered to be personal development in nature shall not be approved.~~

~~(4) All course approvals shall expire on December 31 of each calendar year.~~

~~(5) All primary or secondary providers wishing to offer online or other distance education courses, as outlined in 201 KAR 11:240, shall be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC) as to format and delivery systems of the program. The commission shall review the content to ensure that it meets the requirements outlined in 201 KAR 11:240.~~

~~Section 4. Continuing Education Course Provider Requirements. (1) An education course shall be sponsored by:~~

~~(a) An accredited institution;~~

~~(b) A school that has been given a certificate of approval by the Kentucky State Board of Proprietary Education;~~

~~(c) An appropriate governmental regulatory body; or~~

~~(d) An approved real estate school as defined in KRS 324.010(7)(b).~~

~~(2) To apply for approval of a continuing education course, a provider shall submit a:~~

~~(a) Completed Continuing Education Provider Application, which shall:~~

~~1. Include a completed Course Outline form, broken into fifteen (15) minute increments, to include learning objectives for the course, teaching methods, auxiliary aids, materials, and the policies of the provider; and~~

~~2. Be signed by the sponsor's administrator to indicate compliance with applicable law and the requirements of this administrative regulation;~~

~~(b) Copy of the Certificate of Approval from the Kentucky State Board for Proprietary Education, or the Kentucky Department of Education, unless the provider is an accredited college or university; or an approved real estate school as defined in KRS 324.010(7).~~

~~(c) Completed Real Estate Instructor Application for each instructor who will teach the course, as required by 201 KAR 11:175; and~~

~~(d) Copy of all advertising or brochures advertising the continuing education course.~~

~~(3) The course provider shall agree that all instructors shall abide by the Generally Accepted Principles of Education as~~

~~adopted by the Real Estate Educators Association and the commission as the standard for classroom performance and comply with the KREC Guidelines for Classroom Management.~~

~~(4) The commission education director shall submit the information to the commission for approval or rejection of the course at their regularly scheduled meeting.~~

~~(5) A course and instructor that have been previously approved within the calendar year may be conducted by another provider, upon the submission of a short form application and approval by the commission staff.~~

~~(6) A provider shall:~~

~~(a) At least thirty (30) days prior to the scheduling of a continuing education course, submit to the commission a completed Continuing Education Schedule that identifies the course provider, course title and number, instructor, date, time, and location of each class;~~

~~(b) Give to each attendee listed on the roster a completed Continuing Education Completion Certificate;~~

~~(c) Within ten (10) days of a continuing education course, submit to the commission:~~

~~1. A completed Continuing Education Attendance Roster, which shall include the full legal name, residence address, and other identifying information required by the commission, in alphabetical order;~~

~~2. Continuing Education Course Evaluation completed by each attendee listed on the roster; and~~

~~3. A completed CE Course Evaluation Transmittal Form;~~

~~(d) Permit monitoring of the courses and inspection of the records by the commission; and~~

~~(e) Make the course available to all licensed agents, subject only to space limitations.~~

~~(7) The providers' approval to conduct continuing education courses may be withdrawn by the commission for:~~

~~(a) A violation of the classroom management guidelines;~~

~~(b) Falsification of attendance information submitted to the commission;~~

~~(c) Allowing an instructor to solicit business or sell materials to students in the classroom;~~

~~(d) Failure to provide the commission the required materials in accordance with this administrative regulation; or;~~

~~(e) Conducting courses that were not approved prior to being offered.~~

~~Section 5. Instructor Requirements. (1) A course instructor shall:~~

~~(a) Have adequate education, knowledge and experience in the topic to be presented;~~

~~(b) Have prior teaching experience; and~~

~~(c) Be an "approved instructor" under the requirements established in 201 KAR 11:175.~~

~~(2) A licensee who teaches an approved continuing education course shall be entitled to credit on a hour-for-hour basis. To obtain continuing education credit, the instructor's name shall be added to the attendance roster for the course. However, the instructor shall not receive credit more than once in a calendar year for teaching a specific course.~~

~~(3) An instructor of an approved real estate course shall receive credit toward his or her continuing education requirements. The instructor's supervisor shall provide the commission with a written notice requesting teaching credit, to include the instructor's name, name of course, dates the course was conducted, and be signed by the approved school or institution's authorized representative.~~]

Section 4.[~~6.~~] Out-Of-State Continuing Education Requirements. A licensee who attends continuing education in another jurisdiction within the United States, its territories, and possessions[~~state~~] may receive approval for ***completed*** continuing education courses ***if[~~completed in another state provided~~]***:

(1) The real estate regulatory agency of the state[~~jurisdiction~~] where the[~~continuing education~~] course is held approved the course[~~accepts courses held in Kentucky~~] for real estate continuing education credit[~~in the jurisdiction~~];

(2) The focus of the course ***is not[~~shall not be~~]*** on the specific real estate laws of another state[~~The real estate regulatory agency of the state where the course is held approved the course for real estate continuing education credit~~];

(3) The course ***is[~~shall be~~]*** taken and completed during the calendar year for which continuing education credit is sought in Kentucky;

(4) The course enables the licensee to better understand the real estate brokerage business and meets the content criteria prescribed by the commission;

(5) The licensee submits proof of completion of the out-of-state course to the Kentucky Real Estate Commission through electronic or paper verification[~~a Course Completion Certificate~~] issued by the provider, and a completed[~~an~~] Out of State Continuing Education Compliance Form – Form E111[~~. The documentation shall provide the:~~

~~(a) Name and residence address of the licensee seeking continuing education credit and other identifying information as required by the commission;~~

~~(b) Name and date of the course for which credit is sought;~~

~~(c) Course number if one exists;~~

~~(d) Number of hours completed for which credit is sought;~~

~~(e) Continuing education provider's name;~~

~~(f) A signature from a representative of the continuing education provider documenting the licensee's course attendance;~~

~~(g) Regulatory jurisdiction where the course is approved for continuing education credit; and~~

~~(h) An outline of the course for which continuing education credit is sought if the outline is specifically requested by the commission~~];

(6) The provider's course verification, the Out-of-State Continuing Education Compliance form – Form E111,[~~completion documentation certificate~~] and other requested forms ***are[~~shall be~~]*** provided to the commission for review by December 31 of the calendar year for which the licensee is seeking credit[~~within fourteen (14) days of the licensee's receipt of the certificate from the approved education provider~~]; and

(7) ***[~~If~~]***After review of the materials submitted, the commission determines***, pursuant to subsections (1) through (4) of this section, that*** the course ***complies with[~~does not merit~~]*** continuing education credit ***requirements[~~, the commission may deny continuing education credit for the course~~]***.

Section 5. The commission shall notify the licensee of this denial and a brief explanation of the reasons for denial.

Section ***6.[~~5.~~]***[~~7.~~] Compliance and Delinquency. (1) The time requirements established in this administrative regulation ***shall[~~may~~]*** be extended by the commission if:

(a) A true hardship or other good cause***, such as extensive medical issues for the licensee or the licensee's immediate relative or if the licensee convenes active military duty,*** clearly warrants relief; and

(b) The request for extension and any required documentation[~~,~~] is received in writing on or before February 10[~~15~~] of the calendar year immediately following the year in which continuing education requirements were not fulfilled.

(2)***(a)*** If a licensee fails to comply with the provisions of this administrative regulation, the executive director or his representative shall notify the licensee as soon as practical on or after January 10[~~15~~] of the next calendar year of the failure to comply.

(b) If the licensee fulfilled the continuing education requirements in the previous year, proof of completion shall be forwarded to the commission on or before February 10[~~15~~].

(3) A license shall not be cancelled for nonfulfillment of the continuing education requirements if, by February 10, the licensee enters into a written delinquency plan, pays a $500 fine, and either[~~takes one (1) of the following steps by February 15~~]:

(a) Places the[~~his~~] license in escrow; or

(b) Agrees in the[~~writing to a~~] delinquency plan to complete[~~, which includes completion of~~] the delinquent continuing education requirements for the previous calendar year on or before June 15[~~;~~

~~and~~

~~(c) Submits a $500 fine which shall be assessed against each licensee who fails to complete the continuing education requirements outlined in KRS 324.085(1) by the end of the calendar year~~].

(4) A licensee who places his ***or her*** license in escrow under the provisions of this section shall not reactivate ***the***[~~***his***~~] license until[~~unless~~] he ***or she*** has:

(a) First completed the core course or the current year's mandatory continuing education requirements as ***established***[~~***outlined***~~] in Section 2(2) of this administrative regulation; and

(b) Satisfied the requirements of KRS 324.310[~~Paid the fees required by KRS 324.287 and under this administrative regulation~~].

(5) A licensee who fails to place his ***or her*** license in escrow or file the delinquency plan on or before February 10[~~15~~] immediately following the year in which continuing education requirements were not fulfilled, shall automatically have ***the***[~~***his***~~] license cancelled as of that date and shall not be eligible to renew.

(6) If a licensee fails to complete the requirements of the delinquency plan:

(a) The commission shall notify the licensee of the deficiency on or after July 1;

(b) The deficiency notice shall advise that the licensee may request a hearing for the commission to consider ***if***[~~***whether***~~] the license should be suspended for noncompliance with the delinquency plan; ***and***

(c) ~~***[Failure to request a hearing shall result in a default order of suspension; and***~~

~~***(d)]***~~Any suspension ordered by the commission for noncompliance with the continuing education delinquency plan shall be for a period of six (6) months.

(7) ***Failure to request a hearing shall result in a default order of suspension.***

(8) If the commission suspends the license as a result of a default order or after hearing, the licensee shall not be allowed to activate ***the***[~~***his***~~] license unless, within ninety (90) days following[~~of the~~] expiration of the suspension, the licensee:[~~;~~]

(a) First completes the current year's continuing education requirements;

(b) Submits the required documents to reinstate the license; and

(c) Pays all necessary renewal and transfer fees as required by KRS 324.287.

(9)[~~***(8)]***~~ If the licensee does not reinstate the license within ninety (90) days following the completion of the suspension period, the license shall be cancelled and the licensee shall meet the requirements for initial licensure, including retaking the examination.

[~~Section 8. Records Maintenance. (1) Each continuing education provider shall maintain the following records in a file for two (2) years following the end of each calendar year:~~

~~(a) A copy of the roster submitted to the commission of licensees attending the course;~~

~~(b) A copy of the Course Evaluation Transmittal form;~~

~~(c) The sign in sheet or registration list used by the provider to track attendance; and~~

~~(d) Any other documentation regarding student attendance.~~

~~(2) Records containing licensee information shall be destroyed by the provider.~~]

Section ***7.***[~~***6.]***~~[~~9.~~] Incorporation by Reference. (1) "Out-of-State Continuing Education Compliance Form – Form E111", 05/15 edition,[~~The following material~~] is incorporated by reference[~~:~~

~~(a) "Continuing Education Provider Application", 09/07 edition;~~

~~(b) "Course Outline", 09/07 edition;~~

~~(c) "Real Estate Instructor Application", 09/07 edition;~~

~~(d) "Continuing Education Schedule", 09/07 edition;~~

~~(e) "Continuing Education Attendance Roster", 09/07 edition;~~

~~(f) "CE Course Evaluation Transmittal Form", 09/07 edition;~~

~~(g) "Continuing Education Course Evaluation", 09/07 edition;~~

~~(h) "Kentucky Continuing Education Completion Certificate", 09/07 edition;~~

~~(i) "Continuing Education Short Form Application", 09/07 edition;~~

~~(j) "KREC Guidelines for Classroom Management", 09/07 edition;~~

~~(k) "Generally Accepted Principles of Education", as adopted by the Real Estate Educators Association and the Kentucky Real Estate Commission, 09/07 edition;~~

~~(l) "Kentucky Core Course Provider Application", 09/07 edition;~~

~~(m) "Kentucky Real Estate Commission Out-of-State Continuing Education Compliance Form", 09/07 edition~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM HUFF, Chairperson

APPROVED BY AGENCY: June 22, 2015

FILED WITH LRC: June 22, 2015 at 4 p.m.

CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:232. Continuing education provider requirements.

RELATES TO: KRS 324.010(7), (8), 324.046(5), 324.085(1), (2), 324.090, 324.160(1)(c), (4)(u), 324.281(7)

STATUTORY AUTHORITY: KRS 324.085(1), (4), 324.160(1)(c), (4)(u), 324.281(5), (7), (8), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.085(1) requires an actively-licensed agent, except an agent licensed prior to June 19, 1976, to successfully complete six (6) hours of mandatory continuing education each year as a condition of license renewal, and requires that three (3) of the six (6) hours pertain to the study of real estate law. KRS 324.085(1) also requires that a licensee ***who***[~~***that]***~~ receives an initial sales associate license ***shall***[~~***must]***~~ complete forty-eight (48) classroom or online hours of commission approved post-license education. This administrative regulation establishes the provider, course, and instructor requirements relating to real estate education.

Section 1. Continuing Education Course Criteria. (1) One (1) hour of continuing education shall be allowed for each fifty (50) minutes of actual instruction.

(2) To receive approval, ***each course***[~~***courses]***~~ shall:

(a) Be in hourly increments from one (1) to six (6) hours;

(b) Be real estate specific; and

(c) Consist of topics that shall:

1. Increase the student's knowledge of real estate laws and the brokerage business; and

2. Serve the public.

(3) A course that is ***solely*** motivational or considered to be personal development in nature shall not be approved.

(4) All course approvals shall expire on December 31 of each calendar year.

(5) All primary or secondary providers wishing to offer online or other distance education courses shall be approved in accordance with the provisions set forth in 201 KAR 11:240. The commission shall review and approve the content to ensure that it meets the requirements outlined in 201 KAR 11:240.

Section 2. Continuing Education Course Provider Requirements. (1) An education course shall be sponsored by:

(a) An accredited institution;

(b) A school that has been given a license from the Kentucky Commission on Proprietary Education;

(c) An appropriate governmental regulatory body; or

(d) An approved real estate school as defined ***by[~~in~~]*** KRS 324.010(7)(b).

(2) To apply for approval of a continuing education course, a provider shall submit:

(a) A completed Provider Application – Form E101, which shall:

1. Include a Course Outline Form – E105, broken into fifteen (15) minute increments, to include learning objectives for the course, teaching methods, auxiliary aids, materials, and the policies of the provider; and

2. Be signed by the sponsor's administrator to indicate compliance with applicable law and
the requirements of this administrative regulation;

(b) ***A*** copy of the license from the Kentucky Commission on Proprietary Education, unless the provider is an accredited college or university, an appropriate government regulatory body, or an approved real estate school as defined ***by[~~in~~]*** KRS 324.010(7);

(c) ***An*** Instructor Application – Form E100 for each instructor who will teach the course, as required by 201 KAR 11:175;

(d) ***An*** Education Course Application – Form E102, along with a processing fee of fifteen (15) dollars; and

(e) ***A*** copy of all advertising or brochures advertising the continuing education course.

(3) The course provider shall agree that all instructors shall abide by the Generally Accepted Principles of Education – Form E104 as adopted by the Real Estate Educators Association and the commission as the standard for classroom performance and comply with the KREC Guidelines for Classroom Management – Form E103.

(4) The commission education director shall submit the information to the commission for approval or rejection of the course at its regularly scheduled meeting.

(5) A course and instructor that have been previously approved within the calendar year may be conducted by another provider, upon the submission of an Education Course Application Form – E102 and approval by the commission staff.

(6) A provider shall:

(a) At least thirty (30) days prior to the scheduling of a continuing education course, submit to the commission an Education Schedule – Form E106;

(b) Give to each attendee listed on the roster an Education Completion Certificate – Form E110;

(c) Within ten (10) days of a continuing education course, submit to the commission:

1. An education attendance roster;

2. ***A*** Course Evaluation – Form E108 completed by each attendee listed on the roster; and

3. ***A*** Course Evaluation Transmittal – Form E109;

(d) Permit monitoring of the courses and inspection of the records by the commission; and

(e) Make the course available to all licensed agents, subject only to space limitations.

(7) A provider's approval to conduct continuing education courses ***shall[~~may~~]*** be withdrawn by the commission for:

(a) A violation of the KREC Guidelines for Classroom Management – Form E103;

(b) Falsification of attendance information submitted to the commission;

(c) Allowing an instructor to solicit business or sell materials to students in the classroom;

(d) Failure to provide the commission the required materials in accordance with this administrative regulation; or

(e) Conducting ***a course[~~courses that were~~]*** not approved prior to being offered.

Section 3. Instructor Requirements. (1) A course instructor shall:

(a) ***Pursuant to 201 KAR 11:175,*** have adequate education, knowledge, and experience in the topic to be presented;

(b) Have prior teaching experience ***in real estate***; and

(c) Be an approved instructor under the requirements established in 201 KAR 11:175.

(2) A licensee who teaches an approved continuing education course shall be entitled to credit on an hour-for-hour basis.

(a) To obtain continuing education credit, the instructor's name shall be added to the education attendance roster for the course.

(b) ***[~~However,~~]***The instructor shall not receive credit more than once in a calendar year for teaching a specific course.

(3) A licensee who is a pre-license instructor of an approved course shall receive credit toward his or her continuing education requirements. The instructor's supervisor shall provide the commission with a written notice requesting teaching credit ***that shall:***

(a)[~~, to~~] Include***:***

1. The instructor's name***;***

2. The[~~,~~] name of ***the*** course***;[~~,~~]*** and

3. The dates the course was conducted***;[~~,~~]*** and

(b) Be signed by the approved school or institution's authorized representative.

Section 4. Records Maintenance. (1) Each continuing education provider shall maintain the following records in a file for three (3) years following the end of each calendar year:

(a) A copy of the roster submitted to the commission of licensees attending the course;

(b) A copy of the Course Evaluation Transmittal – Form E109;

(c) The sign in sheet or registration list used by the provider to track attendance; and

(d) Any other documentation regarding student attendance.

(2) Records containing licensee information shall be destroyed by the provider ***after the three (3) years established in subsection (1) of this section***.

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

(a) "Instructor Application – Form E100", 05/15 edition;

(b) "Provider Application – Form E101", 05/15 edition;

(c) "Education Course Application – Form E102", **09/15[~~05/15~~]** edition;

(d) "KREC Guidelines to Classroom Management – Form E103", 05/15 edition;

(e) "Generally Accepted Principles of Education – Form E104", as adopted by the Real Estate Educators Association and the Kentucky Real Estate Commission, 05/15 edition;

(f) "Course Outline – Form E105", 05/15 edition;

(g) "Education Schedule – Form E106", 05/15 edition;

(h) "Course Evaluation – Form E108", 05/15 edition;

(i) "Course Evaluation Transmittal – Form E109", 05/15 edition; and

(j) "Education Completion Certificate – Form E110", 05/15 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

BOB ROBERTS, Chairperson

APPROVED BY AGENCY: September 14, 2015

FILED WITH LRC: September 14, 2015 at 4 p.m.

CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:235. Post-license education requirements.

RELATES TO: KRS 324.010, 324.046, 324.090, 324.160

STATUTORY AUTHORITY: KRS 324.085, 324.281, 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.085, 324.281, ***and*** 324.282 authorize the commission to promulgate

administrative regulations necessary to implement KRS Chapter 324. KRS 324.085 authorizes the commission to establish procedures for implementing the requirements for post-license education. This administrative regulation establishes procedures for implementing the requirements for post-license education.

Section 1. Definitions. (1) "Broker-affiliated training program" means one (1) or more post-license education course offered for post-license educational credit provided or sponsored by a licensed real estate principal broker.

(2) "Initial sales associate license" means the original Kentucky sales associate license issued by the commission.

Section 2. Post-license Education Course Provider Requirements. (1) A post-license education course shall be sponsored by:

(a) An accredited institution;

(b) A school that has been licensed by the Kentucky Commission on Proprietary Education;

(c) An appropriate governmental regulatory body;

(d) An approved real estate school as defined ***by[in]*** KRS 324.010(7); or

(e) ***A[An approved]*** broker-affiliated training program ***approved pursuant to this administrative regulation***.

(2) To apply for approval of a post-license education course, a provider shall submit:

(a) A completed Provider Application – Form E101, which shall:

1. Include a Course Outline – Form E105, broken into fifteen (15) minute increments, to include learning objectives for the course, teaching methods, auxiliary aids, materials, and the policies of the provider; and

2. Be signed by the sponsor's administrator to indicate compliance with applicable law and the requirements of this administrative regulation;

(b) A completed Education Course Application – Form E102***, and the fifteen (15) dollar fee***;

(c) A copy of the license from the Kentucky Commission on Proprietary Education, unless the provider is an accredited college or university, an appropriate governmental regulatory body, an approved real estate school as defined ***by KRS 324.010(7)(b)[in KRS 324.010(b)]***, or an approved broker-affiliated training program;

(d) A completed Instructor Application – Form E100 for each instructor who will teach the course, as required by 201 KAR 11:175; and

(e) A copy of all advertising or brochures advertising the post-license education course.

(3) The course provider shall agree that all instructors shall abide by the Generally Accepted Principles of Education – Form E104 as adopted by the Real Estate Educators Association and the commission as the standard for classroom performance, and comply with the KREC Guidelines for Classroom Management – Form E103.

(4) The commission education director shall submit the information to the commission for approval or rejection of the course at its regularly scheduled meeting.

(5) A course and instructor that has been previously approved within the calendar year may be sponsored by another provider, upon the submission of an Education Course Application – Form E102 and approval by the commission staff.

(6) A provider shall:

(a) At least thirty (30) days prior to the scheduling of a post-license education course, submit to the commission an Education Schedule – Form E106;

(b) Give each attendee who completes the course an Education Completion Certificate – Form E110;

(c) Within ten (10) days of conclusion of a post-license education course, submit to the commission a completed:

1. Roster that lists all attendees that completed the course;

2. Course Evaluation – Form E108 completed by each attendee listed on the roster; and

3. Course Evaluation Transmittal – Form E109; **and**

(d) Permit unannounced monitoring of the courses and inspection of the records by the commission**[; and**

(e) Make the course available to all licensed agents, subject only to space limitations].

(7) A provider's approval to conduct ***a*** post-license education ***course shall[courses may]*** be withdrawn by the commission for:

(a) A violation of the KREC Guidelines for Classroom Management – Form E103;

(b) Falsification of attendance information submitted to the commission;

(c) Allowing an instructor to solicit business or sell materials to students in the classroom;

(d) Failure to provide the commission the required materials in accordance with this
administrative regulation; or

(e) Conducting ***a course[courses that were]*** not approved prior to being offered.

Section 3. Instructor Requirements. (1) A post-license education course shall be taught by an instructor approved under the requirements established in 201 KAR 11:175 and subject to the requirements in 201 KAR 11:460.

(2) A licensee who teaches an approved post-license education course shall be entitled to continuing education credit on an hour-for-hour basis.

(a) To obtain continuing education credit, the instructor shall be included on the roster that lists all attendees that completed the course that is provided to the commission.

(b)[However,] The instructor shall not receive credit more than once in a calendar year for each specific course taught.

Section 4. Post-license Education Course Criteria and Requirements. (1) One (1) hour of post-license education shall be allowed for each fifty (50) minutes of actual instruction.

(2) Post-license education shall consist of ***thirty-two (32)[thirty (30)]*** hours from the courses ***established[specified]*** in paragraphs (a) and (b) of this subsection and ***sixteen (16)[eighteen (18)]*** hours as ***established[specified]*** in paragraph (c) of this subsection:

(a) The three (3) hour Commission Licensee Compliance course;

(b) The requirements in each of the following course topics:

1. Six (6) hours in Agency;
2. Six (6) hours in Contracts;
3. Three (3) hours in Finance;
4. Three (3) hours in Advertising;
5. Three (3) hours in Disclosure;
6. Three (3) hours in Fair Housing;***[and]***
7. Three (3) hours in Technology ***and[&]*** Data Security***; and***
8. Two (2) hours in Risk Management; and

(c) ***Sixteen (16)[Eighteen (18)]*** hours in elective topics chosen by the licensee from the electives listed in the Post-license Topics – Form E113.

(3) A licensee shall not receive post-license education credit for a duplicate course.

(4)***[No]*** More than nine (9) hours of post-license education ***shall not[may]*** be taken in a twenty-four (24) hour period.

(5) ***Each*** post-license education ***course shall consist of[courses shall meet the following standards]***:

(a)***[Consist of]*** Topics that are real estate specific, provide practical knowledge of the brokerage business, and protect the public interest; ***and***

(b) Course objectives and assessments ***that are[shall be]*** practicum based to allow application of knowledge from pre-license education to practical real estate brokerage scenarios**.**

(6)[; and

(c)] A course that is ***solely*** motivational or considered to be personal development in nature shall not be approved.

(7)[(6)] All course approvals shall expire on December 31 of each calendar year.

(8)[(7)] All primary or secondary providers wishing to offer online or other distance education courses shall be approved in accordance with the provisions set forth in 201 KAR 11:240. The commission shall review the content of ***each course[courses]*** to

ensure that it meets the requirements ***established[~~outlined~~]*** in this administrative regulation and in 201 KAR 11:240.

Section 5. Compliance and Delinquency. (1) The time requirements established in this administrative regulation ***shall[~~may~~]*** be extended by the commission for good cause shown***, such as extensive medical issues for the licensee or the licensee's immediate relative or if the licensee convenes active military duty***. A licensee's request for an extension of time for good cause shown shall be submitted to the commission within the two (2) year timeframe set forth in KRS 324.085.

(2) If a licensee fails to provide proof of completion of the post-license education
requirements within the allotted timeframe set forth in KRS 324.085, then the licensee's license
shall be automatically canceled.

(3) A canceled license shall not be reactivated until the licensee has completed all of his or her post-license education requirements, complied with all commission orders, and all other applicable licensing requirements.

Section 6. Records Maintenance. (1) Each post-license education provider shall maintain the following records in a file for three (3) years following the end of each calendar year:

(a) A copy of the roster submitted to the commission of licensees attending the course;

(b) A copy of the Course Evaluation Transmittal – Form E109;

(c) The sign-in sheet or registration list used by the provider to track attendance; and

(d) Any other documentation regarding student attendance.

(2) Records containing licensee information shall be destroyed by the provider ***after the three (3) years established in subsection (1) of this section***.

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

(a) "Instructor Application – Form E100", 05/15 edition;

(b) "Provider Application – Form E101", 05/15 edition;

(c) "Education Course Application – Form E102", **09/15[~~05/15~~]** edition;

(d) "KREC Guidelines for Classroom Management – Form E103", 05/15 edition;

(e) "Generally Accepted Principles of Education – Form E104", as adopted by the Real Estate Educators Association, 05/15 edition;

(f) "Course Outline – Form E105", 05/15 edition;

(g) "Education Schedule – Form E106", 05/15 edition;

(h) "Course Evaluation – Form E108", 05/15 edition;

(i) "Course Evaluation Transmittal – Form E109", 05/15 edition;

(j) "Education Completion Certificate – Form E110", 05/15 edition; and

(k) "Post-License Prescribed Topics – Form E113", 05/15 edition.

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BOB ROBERTS, Chairperson

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CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015)

201 KAR 11:240. Distance education requirements.

RELATES TO: KRS 324.046(5), 324.085(1), (2), 324.281(7)

STATUTORY AUTHORITY: KRS 324.085(1), (4), 324.281(5), (7), (8), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the Kentucky Real Estate Commission to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS Chapter 324. KRS 324.085(4) requires the commission to promulgate administrative regulations for implementing continuing education and post-education requirements and instructor approval. This administrative regulation establishes the requirements for courses offered through distance education.

Section 1. Definitions. (1) "Continuing education course" means a course approved pursuant to the requirements set forth in KRS 324.085(1) and 201 KAR 11:230[~~program of at least three (3) fifty (50) minute hours taken primarily to satisfy license renewal requirements for individuals holding a sales associate's license or a broker's license~~].

(2) "Distance education course" means a continuing or post-license education course or a pre-license course that***:***

(a) Is taught in a setting ***in which[~~where~~]*** the teacher and the student are in separate locations***;*** and

(b)[~~that~~] Uses instructional methods that include internet-based training, computer-based training (CBT), satellite transmission, or teleconferencing.

(3) "Post-license education course" means a course that satisfies the forty-eight (48) hours of education that is required within two (2) years of receiving or activating an initial sales associate license.

(4) "Pre-license[~~Prelicense~~] course" means a course that satisfies an education requirement to obtain a real estate sales associate's or broker's license, generally consisting of forty-eight (48) fifty (50) minute hours or more.

Section 2. Distance Education Standards for Approval[~~Process Course Requirements~~]. (1)(a) The design and format of all continuing education, post-license education, and pre-license[~~prelicense~~] courses offered through means of distance education shall satisfy the requirements of this administrative regulation and ***Distance Education*** Guidelines of the commission[~~shall be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC)~~].

(b) Continuing education, post-license education, and pre-license[~~prelicense~~] courses conducted for academic credit in an accredited college or university via interactive television shall be exempt from ***paragraph (a) of this subsection[~~this requirement~~]***, but shall satisfy the requirements established in Section 5 of this administrative regulation.

(2) A course shall be offered only in the delivery format in which it was approved[~~Any secondary provider, who obtains an ARELLO or IDECC certified course from a primary provider or course developer, shall obtain the certification as a secondary provider before the course may be offered to Kentucky licensees~~].

(3)(a) An instructor for a distance education course shall be approved by the commission pursuant to the requirements set out in 201 KAR 11:175[~~A course shall be offered only in the delivery format in which it was certified. Components of the course may not be added, deleted or altered by the provider in order to fulfill different licensing requirements for a particular jurisdiction.~~

~~(4)(a) An instructor for a distance education course shall be approved by the commission pursuant to the requirements set out in 201 KAR 11:175~~].

(b) Each course shall have an approved instructor available to answer questions from students.

(c) The individual applying for approval as an instructor shall complete the course before submitting the application to the commission for its approval and shall submit evidence of course completion with the application.

(4)(a) ***[~~The commission shall require approval of the~~]***Course content ***shall be approved*** as established in 201 KAR 11:170, 201 KAR 11:230, and 201 KAR 11:235.

(b) The content of the course shall be in a topic specifically

related to real estate.

(c) License law or regulations from other states and general skills computer classes shall not satisfy this course-content requirement.

(5)(a)[~~If the ARELLO or IDECC certification is discontinued for any reason, the provider shall immediately notify the commission.~~

~~(b) Approval of the course shall be suspended pending recertification.~~

~~(c) If the certification for a primary provider is discontinued for any reason, any approved secondary provider's approval shall also be suspended pending recertification of the primary provider.~~

~~(6)(a) The commission shall require approval of the course content as established in 201 KAR 11:170 and 201 KAR 11:230.~~

~~(b) The content of the course shall be in a topic specifically related to real estate.~~

~~(c) License law or regulations from other states and general skills computer classes shall not satisfy this course-content requirement.~~

~~(7)(a)~~] The provider shall be approved by the commission and meet all other requirements for education as ***established[outlined]*** in KRS Chapter 324 and its administrative regulations.

(b) A course shall be open to all licensees.

Section 3. Distance Education Course Requirements. ***[(1)]***A distance education course shall provide mastery of the material and be developed in accordance with ***this section.***

(1)[the following guidelines:

(a)] The material shall be divided into learning units, modules, or chapters***.[;***

(b)] Each unit shall contain learning objectives that are comprehensive enough to ensure that the course will likely be mastered by the student upon completion of the material***.***

(2)[;

(c)] The course shall provide a structured learning method designed to enable students to attain each objective***.***

(3)[;

(d)] The course shall***:***

(a) Provide a means to assess the student's performance on a regular basis during each unit of instruction and before proceeding to the next unit; and

(b)[(e)] Provide a method for tracking the length of time a student spends on the course[~~1. The course shall provide a method for tracking the length of time a student spends on the course~~].

(4)[2.] A student shall not be able to bypass the course materials and advance directly to the end-of-module quizzes or exercises that are included to assess the student's performance***.***

(5)[;

(f)] Security shall be provided to ensure that the student receiving credit is the one who actually completes the course***.***

(6)(a)[;

(g)1.] For a continuing and post-license education course, the student shall pass a final exam with a score of at least seventy-five (75) percent that shall be included as the last module of the course, in order to receive credit.

(b)[2.] No more than two (2) retakes[~~One (1) retake~~] of the final examination shall be allowed.

(c)[3.] Each course shall have an item bank from which the final examination questions shall be pulled.

(d)[4.] The bank shall contain multiple choice items and have forty (40)[~~thirty (30)~~] percent more questions than required on the final examination, so that retake exams will contain[~~have some~~] unique new questions.

(e)[5.] The final examination shall have a minimum of five (5) questions for each approved hour of education.[~~: a. Twenty-five (25) questions for a three (3) hour course;~~

~~b. Thirty (30) questions for a four (4) hour course; and~~

~~c. Fifty (50) questions for a six (6) hour course;~~]

(7)(a)[(h)1.] A pre-license[~~prelicense~~] distance education course shall contain a monitored final examination arranged for the student by the instructor for the course.

(b)[2.] The examination shall cover both the content area covered by the course and the applicable real estate laws and administrative regulations that[~~which~~] apply to those content areas.

(c)[3.] Each course shall have an item bank from which the final examination questions shall be pulled.

(d)[4.] The bank shall contain multiple choice items and have forty (40)[~~thirty (30)~~] percent more questions than required on the final examination, so that retake exams will have some unique new questions.

(e)[5.]a. A forty-eight (48) hour course shall contain a minimum of fifty (50)[:

~~a. Seventy-five (75)~~] items.[~~; and~~]

(f)[b.] A ninety-six (96) hour course shall contain at least 100 questions.

(g)[6. No] More than two (2) retakes of the[~~One (1) retake~~] exam shall ***not*** be allowed***.***

(h)[;

(i)]1. A pre-license[~~prelicense~~] final examination shall be monitored by the approved instructor for the course or another individual designated by the instructor who is not a relative or a business associate of the student.

2. The monitor may be:

a. A certified librarian;

b. A public school administrator;

c. A college professor;[~~or~~]

d. Other ***[approved]***real estate instructor ***[who may be]***associated with the school that offers the course; or

e. A monitor from a qualified online test monitoring service.

3. The monitor shall sign a statement that he or she is not affiliated with the student in any way.

4. The monitor shall:

a. Verify that the person taking the examination is the person registered for the course;

b. Observe the student taking the exam;

c. Assure that the student does not use aids of any kind;

d. Assure that a calculator is nonprogrammable;

e. Assure that ***[any time]***limitations on the final examination are not exceeded;

f. Certify to the provider that all requirements for the final examination have been met;[~~and~~]

g. Submit to the provider***[,]*** a signed and notarized statement to that effect; and

h. Assure that any student's mobile device, cell phone, or camera is shut down and put away, while at the test site.

(i)[(j)]1. Each student shall complete an affidavit that[~~which~~] certifies that he or she has personally completed all components of the course and the final exam with no assistance from persons other than the instructor.

2. The certification shall include the date of completion and the student's signature, which may be provided electronically.

3. Credit ***shall[may]*** be denied and disciplinary action taken if it is determined that a licensee received assistance on a distance education course or the final exam.

4.a.[~~(2)(a)~~] To obtain credit for a distance education course, a licensee shall complete the course within the time frame allotted by the school for pre-license[~~prelicense~~] courses or within the calendar year for continuing and post-license education, unless the licensee is completing the course to comply with a continuing education delinquency plan as outlined in 201 KAR 11:230, or to comply with an order of the commission.

b. The[~~(b)~~] completion date for all courses shall be the date the student completes the final examination with a passing score of at least seventy-five (75) percent, and submits the evaluation and the student affidavit.

Section 4. Distance Education Provider Requirements. (1)(a) A provider shall submit the appropriate application for approval and the Distance Education Checklist and Information Sheets – Form E114[~~a copy of the ARELLO or IDECC certification form and summary sheet~~].

(b) The application shall include:

1. A complete copy of the program on the medium that is to be used;

2. All hardware or software required to review the material;

3. A link to the internet site;

4. A copy of the final examination question bank and key for each course; and

5. A copy of any student materials.

(c) The application and other required documents shall be submitted at least sixty (60)[forty-five (45)] days prior to the commission's meeting date, to allow adequate time for review.

(2) The provider shall have reasonable oversight ***to monitor a student's work and electronic access[of a student's work]*** in order to ensure that the student completing the work is the one who is enrolled in the course.

(3)(a) The provider shall ensure that approved instructors are available to assist students who have questions regarding:

1. The technology used in the delivery;

2. The course content; or

3. The completion requirements.

(b) ***[The provider shall ensure that the approved instructor has knowledge of both the content and the technology required to complete the program.***

(c)]A student shall not be required to call more than one (1) person to obtain answers to questions about the course.

(4)(a) The provider shall include a complete description of the hardware and software or other technology required by the student in order to complete the course.

(b) The provider shall include an explanation of the safeguards against loss of data resulting from inadvertent hardware or software failure.

(5) The provider shall include a detailed explanation of how the course measures, documents and records the student completion of the material, and any activities or exercises required to achieve mastery of the material.

(6)(a) The provider shall obtain an evaluation from each student[on forms developed by and available from ARELLO or IDECC, whichever is applicable].

(b) An evaluation may be submitted to the provider electronically and a copy of each form shall be returned along with the attendance roster and other documents required by the commission for continuing education courses.

(c) Attendance rosters for each approved continuing and post-license education course shall be submitted on a semi-monthly basis and shall include:

1. Provider's name;

2. Course name and number assigned by the commission;

3. Total enrollment for the month;

4. Licensee's full legal name;

5. ***Licensee's*** residence address;

6. ***Licensee's*** identifying information; and

7. The date of completion for each student, so that compliance with various deadlines can be verified.

(d) A completion certificate shall be issued to the student upon completion of the course, submission of the evaluation, signing of the affidavit, and passing the final exam.

(7)(a) For a pre-license[prelicensure] course, a provider shall issue a completion certificate to the student. The document shall contain:

1. The provider's name;

2. Course name;

3. Number of hours earned;

4. Beginning and completion date for the course;

5. Student's full legal name; and

6. ***Licensee's*** residence address.

(b) This document shall be submitted with the student's license application.

Section 5. Interactive Television Requirements. ***(1)***[(1)] A course offered for academic credit via interactive television in an accredited college or university shall ***include[require the following]***[not be subject to the ARELLO or IDECC certification requirement, if the following criteria are met]:

(a)[(1)][(a)]***[There shall be]*** Two (2) way audio and video connections between the instructor and the student; ***and***

(b)[(2)][(b)] College personnel ***[shall be]***stationed at each remote site to handle technology problems that may arise and to monitor attendance of students during the class.

(2)[; and

(3)][(c)] The program shall be one that has been properly approved by the college accrediting body as fulfilling the requirements for academic credit[; and

(d) Documentation shall be supplied to the commission along with the application for approval which outlines the compliance with this criteria.

(e) The course or program shall be ARELLO or IDECC certified, if any of the requirements in paragraphs (a) through (d) are not met].

Section 6. Incorporation by Reference. (1) ***The following material is incorporated by reference:***

(a) "Distance Education Checklist and Information Sheets – Form E114[Information Sheet]", 06/15[09/07] edition, Kentucky Real Estate Commission***; and***

(b) "Distance Education Guidelines", 9/2015[, is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM HUFF, Chairperson

APPROVED BY AGENCY: June 22, 2015

FILED WITH LRC: June 29, 2015 at 11 a.m.

CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, October 13, 2015))

201 KAR 11:460. Minimum rating requirements for instructors.

RELATES TO: KRS 324.085

STATUTORY AUTHORITY: KRS 324.085, 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.085 ***authorizes[gives]*** the commission ***[authority]***to require a minimum rating of all instructors approved to teach continuing education courses. KRS 324.281(5) ***authorizes[gives]*** the commission ***[the authority]***to promulgate administrative regulations. This administrative regulation ***establishes[outlines]*** the minimum rating required of all instructors and the means of dealing with instructors who received ratings below the required minimum.

Section 1. ***Each[All]*** approved continuing and post-license education ***instructor[instructors]*** shall:

(1) Be approved by the Kentucky Real Estate Commission and be in compliance with the provisions of 201 KAR 11:175;

(2) Enforce the KREC Guidelines for Classroom Management – Form E103 as developed by the commission[as part of the continuing education program]; and

(3) Comply with the Generally-Accepted Principles of Education (GAPE) – Form E104 developed by the Real Estate Educators Association ***and[,]*** adopted by the Kentucky Real Estate Commission as the standard for classroom presentation***[, and incorporated by reference in this administrative regulation]***[201 KAR 11:450].

Section 2. Evaluation of Instructors. (1) Each[continuing] education provider shall distribute an[a continuing education] instructor evaluation form to each student and collect a Course Evaluation – Form E108[continuing education evaluation form] from each student at the end of the course.

(2) Within ten (10) days of course conclusion, the course

provider shall deliver all continuing education instructor evaluation forms to the commission education director.

(3) If a course provider fails to submit all forms completed by students and provided to the course provider, the commission ***shall[may]*** suspend the course provider's approval.

(4) All Course Evaluation – Form E108[~~continuing education evaluation~~] forms shall be reviewed by the commission.

(5) The commission education director shall review the course approval percentage rating for each instructor.

(6) An eighty-five (85) percent approval rating shall be required in ***each category[the categories]*** of "instructor knowledge" and "instructor presentation".

(7) The comments section of the Course Evaluation – Form E108[~~continuing education evaluation~~] forms shall be reviewed for other remarks concerning the instructor's performance.

(8) After a second rating lower than eighty-five (85) percent ***on a category***, the commission shall notify the instructor and the course provider of the deficiency.

(9) The next class taught by the instructor shall be monitored by a commission representative. The commission monitor shall submit a recommendation to the commission as to ***if[whether]*** the instructor shall[~~should~~] be allowed to continue to teach courses.

(10) Based on the recommendation of the monitor, the evaluation score, and the comments from the third class, a recommendation shall[~~will~~] be made to the commission to:

(a) Take no further action;

(b)[~~To~~] Suspend the approval of the instructor; or

(c)[~~To~~] Place the instructor on probation pending the evaluation and review of a future class.

(11) If[~~In the event~~] the commission issues a probationary order, the commission shall ***establish[outline]*** the length and terms of the probationary period as well as the date of the class to be monitored.

(12) At the conclusion of the probationary period, the commission education director shall recommend to the commission ***if[whether]*** the instructor's approval shall continue.

(13) The commission shall consider the education director's recommendations and determine ***if[whether]*** the instructor's approval shall continue or be removed.

(14) The commission shall notify the instructor and the school of its decision in writing.

(15) If probation has ended satisfactorily, the instructor's approval shall be reinstated.

(16) If the commission determines that instructor approval shall be suspended, the instructor shall not be allowed to teach any commission-approved education courses unless approval is reinstated.

(17) In any class with ten (10) or fewer participants for which the instructor receives at least one (1) evaluation below eighty-five (85) percent ***on a category***, the commission shall not consider the highest and lowest course approval percentage rating in order to ensure greater accuracy in the rating.

(18) The annual recertification of instructors and continuing and post-license education courses shall include an in-depth review of the evaluations completed by the students and those of any monitor that may have been present for the class.

(19)(a) Any instructor who has been suspended from teaching continuing and post-license education courses may apply for reinstatement by:

1. Submitting an application for approval to the commission;

2. If the deficiency is in presentation, the instructor ***attending[shall attend]*** an instructor development workshop approved by the commission upon request;

3. If the deficiency is in the subject matter, the instructor ***attending[shall attend]*** a prescribed number of credit hours in that subject approved by the commission upon request;

4. Submitting proof of attendance at the required course; ***and***

5. Providing written documentation of other steps taken to improve the instructor's knowledge and skills; and

(b) After submission of the above documents and consideration by the commission, the commission shall approve or deny the instructor's request for reinstatement***[in its discretion]***.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KREC Guidelines for Classroom Management – Form E103", 05/15 edition[~~October 2001~~];

(b) "Generally-Accepted Principles of Education (GAPE) – Form E104", 05/15 edition; and

(c) "Course Evaluation – Form E108", 05/15 edition[~~Continuing Education Instructor Evaluation Form, October 2001~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM HUFF, Chairperson

APPROVED BY AGENCY: June 2, 2015

FILED WITH LRC: June 22, 2015 at 4 p.m.

CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for Professional Engineers and Land Surveyors
(As Amended at ARRS, October 13, 2015)

201 KAR 18:104. Seals and signatures.

RELATES TO: KRS 322.290(13), 322.340

STATUTORY AUTHORITY: KRS ***[322.340,]*** 322.290(4), (13)***, 322.340***

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.340 and 322.290(13) require the board to promulgate administrative regulations regulating the design of seals and the use of seals and signatures in electronic transactions. This administrative regulation establishes the requirements for the use of seals and signatures in electronic transactions.

Section 1. Definitions. (1) "Digital signature" means a signature generated electronically***:***

(a) With an authentication process attached to or logically associated with an electronic document***; and***

(b) That carries[which shall carry] the same weight, authority, and effect as an original signature[~~"Document" means reports, specifications, drawings, plans or plats in physical form pertaining to engineering or land surveying which require certification by application of a seal or stamp, a signature and a date~~].

(2) "Document" means ***a report, specification, drawing, plan, or plat[reports, specifications, drawings, plans, or plats]*** in physical form pertaining to engineering or land surveying ***that requires[which require]*** certification by application of a seal or stamp, a signature, and a date[~~"Electronic document" means an electronic data file which is capable of being viewed by use of a computer and video monitor or converted into a document by use of a computer and printer or plotter~~].

(3) "Electronic document" means an electronic data file***[which is]*** capable of being viewed by use of a computer and video monitor or converted into a document by use of a computer and printer or plotter[~~signature" means a digital signature with an authentication process attached to or logically associated with an electronic document which shall carry the same weight, authority and effect as an original signature~~].

(4) "Electronic transmission" means the transmission of electronic data files from one (1) computer to another, and ***includes[shall include]*** the manual delivery of electronic data storage media from one (1) person or entity to another.

(5) "Licensee" means a person licensed as a professional engineer or professional land surveyor pursuant to KRS Chapter 322.

(6) ***"Original seal or stamp" means a rubber stamp or embossing seal meeting the design requirements established***

in Section 5 of this administrative regulation.

(7) "Original signature" means the handwritten name of a person applied to a document that identifies the person, serves as a means of authentication of the contents of the document, provides responsibility for the creation of the document and provides for accountability for the contents of the documents.

[(7) "Original seal or stamp" means a rubber stamp or embossing seal meeting the design requirements set out in Section 5 of this administrative regulation.]

(8) "Signature" means either original signature or digital[electronic] signature.

Section 2. (1) ***If a document will[When documents are to]*** be presented to a client or to a public or governmental entity, at least one (1) copy shall bear the licensee's original seal or stamp, original signature, and date.

(2) Any other copy of the ***document[documents]*** may contain a facsimile of the licensee's stamp, signature, and date applied manually by the use of stamps or by the use of a computer and printer or plotter.

Section 3. A digital[An electronic] signature shall be permitted in place of an original seal, signature, and date ***if[when the following criteria are met]***:

(1) ***The digital signature[It]*** is a unique identification of the licensee;

(2) ***The digital signature[It]*** is verifiable;

(3) ***The digital signature[It]*** is under the licensee's direct and exclusive control;

(4) ***The digital signature[It]*** is linked to the electronic document in***[such]*** a manner that causes changes to be easily determined and visually displayed if any data in the electronic document file is changed subsequent to the digital[electronic] signature having been affixed to the electronic document;

(5) An attempt to change the electronic document after the digital[electronic] signature is affixed shall cause the digital[electronic] signature to be removed or altered significantly enough to invalidate the digital[electronic] signature; and

(6) ***In the case of an[If the]*** electronic document ***[is]***to be electronically transmitted, the electronic document is converted to a read-only format.

Section 4. (1) A licensee may electronically transmit an electronic document without affixing a digital[an electronic] signature ***if[provided]*** there is inserted the following language in lieu of an image of a seal or stamp, signature, and date: "This shall not be considered a certified document."

(2) This language shall not be required for ***a document[documents]*** electronically transmitted to a commercial printer or blueprint service for the purpose of reproducing documents or to the licensee's employer or employees.

Section 5. Approved Stamps and Seals. The stamps and seals used by a licensee shall be similar in design and conform to the size restrictions established in ["]Approved Stamps and Seals,["{]1999[}]].

Section 6. Incorporation by Reference. (1) "Approved Stamps and Seals", [{]1999,[}] 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 Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

B. DAVID COX, Executive Director

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 12, 2015 at 3 p.m.

CONTACT PERSON: Jonathan Buckley, General Counsel, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, phone (502) 573-2680, fax (502) 573-6687.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for Professional Engineers and Land Surveyors
(As Amended at ARRS, October 13, 2015)

201 KAR 18:142. Code of professional practice and conduct.

RELATES TO: KRS ***322.060,*** 322.180(3), 322.290(11)

STATUTORY AUTHORITY: KRS 322.290(11)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(11) requires the board to promulgate a code of professional practice and conduct, which shall be binding upon persons licensed under KRS Chapter 322. This administrative regulation establishes a code of professional practice and conduct.

Section 1. Definitions. (1) "Conflict of interest" means any circumstance in which a licensee has a private or[licensee's] personal[or financial] interest sufficient to appear to influence***[,]*** or possibly influence***[,]*** the objective exercise of the licensee's professional duty to[is contrary to the interests of] the public, his or her employer, or current[or past] client***[; for the purposes of this definition,]*** The private or personal interests of the licensee ***[shall]***include the personal or business interests of the members of the licensee's family, his or her close relatives, or business associates.

(2) "Direct supervisory control" in the practice of engineering means that an engineer licensee directly supervises and takes responsibility for consultation, investigation, evaluation, planning, design, and certification of an engineering project and includes only that work performed by an employee as defined in subsection (4) of this section.

(3) "Direct supervisory control" in the practice of land surveying means that a surveyor licensee who certifies a work product directly supervises and takes responsibility for the survey and includes only that work performed by an employee as defined in subsection (4) of this section.

(4) "Employee"***:***

(a) Means a person who works for a licensee or his or her employer for wages or a salary and includes professional and technical support personnel contracted on a temporary or occasional basis, if the compensation is paid directly by the licensee or his or her employer***; and***

(b) Does not mean[. It does not include] a person who provides services to the licensee as an outside consultant or specialist.

(5) "Licensee" means any natural person licensed by the board to practice professional engineering or professional land surveying, or any business entity permitted under KRS 322.060.

(6) "Work product" means any engineering or land surveying plan, plat, document, or other deliverable requiring certification that is intended to represent activities conducted in the practice of engineering or land surveying.

Section 2. The engineer or land surveyor shall conduct his or her practice in order to protect the public health, safety, and welfare. ***[(1) The practice of professional engineering and land surveying is a privilege, and not a right.***

(2)] If a licensee's judgment is overruled and a licensee has reason to believe the public health, safety, or welfare may be endangered, the licensee shall inform his or her employer or client of the possible consequences and, if not resolved, notify appropriate authorities.

Section 3. A licensee shall issue all professional communications and work products in an objective and truthful manner. (1) A licensee shall be objective and truthful in all professional reports, statements, or testimony and shall include all material facts.

(2)***(a)*** If serving as an expert or technical witness before any tribunal, a licensee shall***:***

1. Express an opinion only if it is founded on adequate knowledge of the facts in issue, on the basis of technical

competence in the subject matter, and upon honest conviction of the accuracy and propriety of that testimony***; and***

2.[, and shall] Act with objectivity and impartiality.

(b) A licensee shall not ignore or suppress a material fact.

(3) A licensee shall not issue a statement or opinion on professional matters connected with public policy unless the licensee has***:***

(a) Identified himself or herself***;***

(b)[, has] Disclosed the identity of the party on whose behalf the licensee is speaking***; and***

(c)[, and has] Disclosed any pecuniary interest the licensee may have in the matter.

(4) A licensee shall not maliciously injure the professional reputation, prospect, practice***,*** or employment of another licensee.

(5) A licensee shall not accept a contingency fee for serving as an expert witness before any tribunal.

(6) A licensee shall maintain for a period of not less than five (5) years, calculations and documents necessary to support work products.

(7) A professional land surveyor shall maintain records for boundary surveys under 201 KAR 18:150, Section 10(2) and (3).

(8) The requirements of subsections (6) and (7) of this section shall be satisfied for the individual licensee employed by a business entity permitted by the board in conformance with KRS 322.060 by that permitted entity's compliance with subsections (6) and (7) of this section.

(9) A licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive, or unfair statement regarding the cost, quality, or extent of services to be performed.

(10) A licensee shall not misrepresent his or her professional qualifications or experience, or those of the licensee's associates.

Section 4. A licensee shall avoid conflicts of interest. ***A[The public, as well as a professional's employer and clients, have the expectation that the]*** professional engineer or land surveyor shall act objectively and independently.***[Conflicts of interest involve the abuse, actual or potential, of the trust people have in professional engineers and land surveyors.]*** (1) If a situation occurs in which a reasonable person would think that a licensee's professional judgment is likely to be compromised[possibility of a conflict of interest exists], a licensee shall promptly disclose the possibility of the conflict of interest to[notify] his or her employer, or client, and shall, if reasonably possible, withdraw from participation in the situation ***that[which]*** gave rise to the conflict of interest[or past client].

(2) A licensee shall not accept a valuable consideration from more than one (1) party for services pertaining to the same[identical] project, unless the circumstances are fully disclosed to all other principal parties directly involved in the project.

(3) A licensee shall not solicit or accept a valuable consideration from any vendor, contractor, or client, or their agents for acceptance, rejection, approval, or disapproval of any work performed by others, or[either] for specifying materials or equipment[, or from contractors, their agents or other parties dealing with a client or employer] in connection with work for which the licensee is responsible.

(4) A licensee serving as a member, advisor, or employee of a governmental body shall not, ***while[when]*** utilizing either his ***or her*** status as a licensed professional engineer or land surveyor, or his ***or her*** skill, experience, or knowledge as a licensed professional engineer or land surveyor, participate in decisions in which he or she has a private or personal interest, and shall not review or approve work that was performed by the licensee, or by others, on behalf of a business entity in which the licensee has any control, or private or personal interest[shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement regarding the cost, quality or extent of services to be performed.

(5) A licensee shall not misrepresent his or her professional qualifications or experience, or those of the licensee's associates.

(6) A licensee serving as a member, advisor, or employee of a governmental body shall not participate in decisions with respect to professional services offered or provided by him or her or by a business entity in which the licensee is a principal, officer or employee, to that governmental body].

Section 5. A licensee shall solicit or accept engineering or land surveying work only on the basis of his or her, or the licensee's firm's or associates' qualifications for the work offered. (1) A licensee shall not offer or accept any valuable consideration in order to secure specific work, exclusive of commissions paid by individual licensees for securing salaried positions through employment agencies. A licensee may participate in design-build projects.

(2) A licensee may advertise professional services if the advertising is not false or misleading.

Section 6. A licensee shall not knowingly associate with any person engaging in fraudulent, illegal***,*** or dishonest activities. (1) A licensee shall not permit the use of his or her, or the licensee's business entity's name by any person or business entity that he or she knows or has reason to believe is engaging in fraudulent, dishonest***,*** or illegal activities.

(2) A licensee shall not aid or abet the illegal practice of engineering or land surveying.

Section 7. A licensee shall perform his or her services only in the areas of his or her competence. (1) A licensee shall undertake to perform professional assignments only if qualified by education or experience in the specific technical field involved.

(2) A licensee may accept an assignment requiring education or experience outside his or her own field of competence, but only to the extent that his or her services are restricted to those parts of the project in which the licensee is competent. All other parts of the project shall be certified by licensed associates, consultants***,*** or employees.

(3) If a question of the competence of a licensee to perform a professional assignment in a specific technical field is an issue and cannot be otherwise resolved***[to the satisfaction of the board]***, the board, upon a majority vote or upon request by the licensee, may require the licensee to satisfactorily complete ***a relevant[an]*** examination***[the board deems appropriate and relevant]***.

Section 8. Except as provided by this section, a licensee shall not certify any work product dealing with subject matter in which he or she lacks competence by virtue of education or experience, or any work product not prepared by him or her under his or her direct supervisory control. (1) A professional engineer may review and certify the work product of another professional engineer if:

(a) The review and certification are made at the request of the other professional engineer;

(b) He or she does not remove or obliterate the identity of the other professional engineer;

(c) He or she performs and retains in his or her possession for not less than five (5) years all calculations and documents necessary to perform an adequate review; and

(d) He or she confirms that the other professional engineer was licensed when the work was created.

(2) If a professional engineer undertakes to review only a portion of the work product of another professional engineer, his or her certification shall clearly identify the portion reviewed.

(3) A professional engineer may modify the work product of another professional engineer, whether or not the project has been built, if he or she retains in his or her possession for not less than five (5) years a record of his or her modifications.

(4) If a professional engineer modifies the work product of another professional engineer, his or her certification shall clearly identify, by words or graphics, that portion that was modified.

(5) A professional engineer may incorporate in his or her work product the designs of manufactured or standard components developed by manufacturers, suppliers or professional or technical societies***,*** and associations.

(6) If, in the professional land surveyor's reasonable judgment, his or her personal participation is not required in performing a

particular aspect of a project, he or she may delegate those tasks to an employee, if all work is actually reviewed by the licensee.

(7) The need for a professional land surveyor to make a site visit shall be dictated by the nature, size and complexity of a project. ***[~~However,~~]***The failure to make a site visit in a substantial percentage of surveys ***shall[~~may~~]*** be construed as a failure to exercise direct supervisory control.

(8) While an employee may investigate the circumstances of a potential project, only a licensee may establish the scope of work to be performed.

Section 9. The professional engineer or professional land surveyor shall avoid conduct likely to discredit or reflect unfavorably upon the dignity or honor of his or her profession.

Section 10.***(1)*** If a licensee has knowledge or reason to believe that any person or other licensee is in violation of KRS Chapter 322 or ***201 KAR Chapter 18[~~any administrative regulation adopted by this board~~]***, the licensee shall ***submit[~~present that information~~]*** to the board in writing ***the relevant[~~and shall cooperate with the board in furnishing~~]*** information within his or her knowledge.

(2) A licensee, upon request by the board, shall cooperate with the board in an investigation, by providing any relevant information within his or her knowledge.

Section 11. (1) A licensee shall not, directly or indirectly, contact a board member concerning any ongoing disciplinary action, or any existing investigation being conducted by the board staff.

(2) Any communication by a licensee concerning an ongoing disciplinary action or an existing investigation shall be directed to a board staff member.

Section 12. A licensee who is in doubt about the ethical propriety of any professional act or omission contemplated by that licensee may request an informal opinion from the executive director of the board. ***(1)*** The request shall be in writing***[;]*** or ***by*** email with the subject line of "Request for Advisory Opinion Pursuant to 201 KAR 18:142."***[;]*** The request shall include the name and address of the licensee making the request, a phone number and email address at which the licensee can be contacted, and all relevant information.

(2) Based on the information provided in the request, the executive director shall respond in writing as to the ethical propriety of the act or course of conduct in question.

(3) A licensee shall not be disciplined for any professional act performed by that licensee in compliance with the written advisory opinion furnished by the executive director pursuant to the licensee's written request, if the licensee's written request clearly, fairly, accurately, and completely states the licensee's contemplated professional act and all relevant information.

B. DAVID COX, Executive director

APPROVED BY AGENCY: August 10, 2015

FILED WITH LRC: August 12, 2015 at 3 p.m.

CONTACT PERSON: Jonathan Buckley, General Counsel, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, phone (502) 573-2680, fax (502) 573-6687.

GENERAL GOVERNMENT CABINET
Applied Behavior Analysis Licensing Board
(As Amended at ARRS, October 13, 2015)

201 KAR 43:010. Application procedures for licensure.

RELATES TO: KRS 319C.070, 319C.080(1), (2)

STATUTORY AUTHORITY: KRS 319C.060(2)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a behavior analyst or assistant behavior analyst. This administrative regulation establishes the requirements for applicants for licensure.

Section 1. Application Procedures. (1) An Application for Licensure as a behavior analyst or assistant behavior analyst may be submitted after the requirements established in KRS 319C.080(1) and (2) are met.

(2) The application required by subsection (1) of this section shall be made by submitting a completed Form ABA-001, Application for Licensure, to the board. The application shall include:

(a) A certification by the applicant that the:

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

2. Applicant is aware that the board shall take disciplinary action in accordance with KRS 319C.070 if the application contains a misrepresentation or falsification; and

(b) An official transcript for all levels of education required for licensure.

Section 2. Licensure of Behavior Analysts. The applicant for licensure as a behavior analyst shall submit:

(1) A check or money order payable to the Kentucky State Treasurer for the application ***review*** fee ***and the licensure fee*** as required by 201 KAR 43:030;

(2) Proof of compliance with the educational, examination, and credentialing requirements established in KRS 319C.080(1); and

(3) Proof of completion of at least five (5) hours of training in:

(a) Adult abuse and neglect prevention;

(b) Child abuse, neglect, and dependency prevention; or

(c) A combination of paragraphs (a) and (b) of this subsection.

Section 3. Licensure of Assistant Behavior Analysts. The applicant for licensure as an assistant behavior analyst shall submit:

(1) A check or money order payable to the Kentucky State Treasurer for the application ***review*** fee ***and the licensure fee*** as required by 201 KAR 43:030;

(2) Proof of compliance with the educational, examination, and credentialing requirements established in KRS 319C.080(2); and

(3) Proof of completion of at least five (5) hours of training in:

(a) Adult abuse and neglect prevention;

(b) Child abuse, neglect, and dependency prevention; or

(c) A combination of paragraphs (a) and (b) of this subsection.

Section 4. Incorporation by Reference. (1) Form ABA-001, "Application for Licensure", ***October[~~July~~]*** 2015[~~May 2013 edition~~], is incorporated by reference.

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

DR. TAMMY HAMMOND-NATOF, PhD, BCBA

APPROVED BY AGENCY: August 13, 2015

FILED WITH LRC: August 13, 2015 at 2 p.m.

CONTACT PERSON: Lindsey Melton, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8809, fax (502) 696-4961.

GENERAL GOVERNMENT CABINET
Applied Behavior Analysis Licensing Board
(As Amended at ARRS, October 13, 2015)

201 KAR 43:020. Application procedures for temporary licensure.

RELATES TO: KRS 319C.080(3)

STATUTORY AUTHORITY: KRS 319C.060(2)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS

319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for temporary licensure as a behavior analyst or assistant behavior analyst. This administrative regulation establishes the requirements for applicants for temporary licensure.

Section 1. Application procedures. (1) An application for a temporary license as a behavior analyst or assistant behavior analyst may be submitted after the requirements established in KRS 319C.080(3) are met.

(2) The application required by subsection (1) of this section shall be made by submitting ***to the board*** a completed Form ABA-001, Application for Licensure, ***as incorporated by reference in 201 KAR 43:010[~~to the board~~]***.

(a) The application shall include a certification by the applicant that the:

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

2. Applicant is aware that the board may take disciplinary action in accordance with KRS 319C.070 if the application contains a misrepresentation or falsification; and

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

(b) If the applicant has completed the coursework through a ***BACB-approved[~~BCAB-approved~~]*** program, the application shall include an original, certified post-secondary transcript.

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

Section 2. Temporary Licensure of Behavior Analysts. The applicant for temporary licensure as a behavior analyst shall:

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

(2) Submit proof of compliance with the requirements established in KRS 319C.080(3); and

(3) Submit proof of completion of at least five (5) hours of training in:

(a) Adult abuse and neglect prevention; and

(b) Child abuse, neglect, and dependency prevention.

Section 3. Temporary Licensure of Assistant Behavior Analysts. The applicant for temporary licensure as an assistant behavior analyst shall:

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

(2) Submit proof of compliance with the requirements established in KRS 319C.080(3); and

(3) Submit proof of completion of at least five (5) hours of training in:

(a) Adult abuse and neglect prevention; and

(b) Child abuse, neglect, and dependency prevention.

[~~Section 4. Incorporation by Reference. (1) Form ABA-001, "Application for Licensure", October 2011 edition,, is incorporated by reference.~~

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

DR. TAMMY HAMMOND-NATOF, PhD, BCBA

APPROVED BY AGENCY: August 13, 2015

FILED WITH LRC: August 13, 2015 at 2 p.m.

CONTACT PERSON: Lindsey Melton, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8809, fax (502) 696-4961.

GENERAL GOVERNMENT CABINET
Applied Behavior Analysis Licensing Board
(As Amended at ARRS, October 13, 2015)

201 KAR 43:050. Requirements for supervision.

RELATES TO: KRS 319C.050(1) and 319C.060(2)(a)-(d)

STATUTORY AUTHORITY: KRS 319C.060(2)(a)-(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(a) requires the board to promulgate an administrative regulation governing the supervision of a licensed assistant behavior analyst, temporarily licensed behavior analyst, and temporarily licensed assistant behavior analyst. This administrative regulation establishes the requirements for supervision.

Section 1. Definitions. (1) "Direct supervision" means in-person interactions between the supervisor and the licensee under his or her supervision which includes direct observation of actual service provision to individuals.

(2) "General supervision" means interactions between the supervisor and the licensee under his or her supervision involving real time visual and auditory contact, conducted in-person or via electronic means.

Section 2. In order to provide supervision to a licensed assistant behavior analyst, a temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst, a licensed behavior analyst shall be currently certified by the Behavior Analyst Certification Board as a:

(1) Board Certified Behavior Analyst, BCBA; or

(2) Board Certified Behavior Analyst - Doctoral, BCBA-D.

Section 3. Supervisor Responsibilities. (1) Except as provided in Section 16 of this administrative regulation, a supervisory arrangement shall be submitted to the board using the Application for Licensure Form, ***as incorporated by reference in 201 KAR 43:010,*** with the supervisor and the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst petitioning the board in writing.

(2) The supervisor and licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst shall submit to the board the description of the supervisory arrangement or a change in the supervisory arrangement by submitting an updated Annual Supervisory Plan no later than thirty (30) days after a change in the effective date of the arrangement or change.

Section 4. (1) The supervisor shall ***assure[~~make all reasonable efforts to be assured~~]*** that the practice of each licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst is in compliance with this administrative regulation. The supervisor shall include ***in the Annual Supervisory Plan and keep in the record as required by subsection (6) of this section*** review, discussions, and recommendations and shall focus on:

(a) Case background information;

(b) Planned behavioral assessment procedures;

(c) Assessment outcomes;

(d) data collection procedures;

(e) Intervention procedures and materials;

(f) Intervention outcome data;

(g) Modifications of intervention procedures;

(h) Ethical issues associated with behavior change services or employment; and

(i) Professional development needs and opportunities.

(2) The supervisor shall report to the board an apparent violation of KRS Chapter 319C on the part of the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst.

(3) The supervisor shall inform the board immediately of a

change in the ability to supervise, or in the ability of a licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst to function in the practice as a licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst in a competent manner.

(4) The supervisor shall control, direct**,** or limit the behavior analytic duties performed by the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor***[as appropriate]*** to ***ensure[insure]*** that these duties are competently performed.

(5)(a) The supervisor of record shall be responsible for the behavior analytic duties of the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor.

(b) If the board initiates an investigation concerning a licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor, the investigation shall include the supervisor of record.

(6)(a) For each person supervised, the supervisor shall maintain a record of each supervisory session that shall include the type, place, and general content of the session.

(b) This record shall be maintained for a period of not fewer than six (6) years after the last date of supervision.

Section 5. (1) In calculating the amount of time spent in full-time practice while under supervision, 1,500 hours of satisfactory supervised practice shall be equivalent to one (1) year of experience.

(2) The board may require additional supervised practice if recommended by the supervisor on a licensee's Annual Supervisory Plan or Annual Report of Supervision.

(3)(a) The supervisor shall provide reports to the board of the supervision of each licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor as follows:

1. A licensed assistant behavior analyst with five (5) or more years of full-time practice, or its equivalent, shall submit a report every two (2) years on the anniversary of the date of licensure as a licensed assistant behavior analyst.

2. A licensed assistant behavior analyst with fewer than five (5) years of full-time practice, or its equivalent, shall submit a report annually on the anniversary of the date of licensure as a licensed assistant behavior analyst.

3. A temporarily licensed behavior analyst or temporarily licensed assistant behavior analyst shall submit a report annually on the anniversary of the date of licensure as a temporarily licensed behavior analyst or temporarily licensed assistant behavior analyst.

(b) The report shall be submitted on the Annual Report of Supervision which shall include:

1. A description of the frequency, format, and duration of supervision;

2. An assessment of the functioning of the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst, including the strengths and weaknesses; and

3. Any other information which the supervisor deems relevant to an adequate assessment of the practice of the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst.

Section 6. (1) If a licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst has more than one (1) board-approved supervisor, the supervisors shall be in direct contact with each other at least once every six (6) months, and they shall provide supervisory plans and reports to the board and copies to each other.

(2) A request to have more than two (2) supervisors at one (1) time shall be subject to board approval and shall be submitted by new applicants on the licensure application and the Annual Supervisory Plan and by existing licensees on the Annual Supervisory Plan, which shall include detailed information as to how the supervisors shall communicate and coordinate with each other in providing the required supervision.

Section 7. If a licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor is a behavior analyst with less than five (5) years of full-time, post-certification practice, or its equivalent, or a licensure candidate with temporary permission to practice, the supervisor of record shall:

(1) Read and countersign all assessments;

(2) Review treatment plans, notes and correspondence on an as-needed basis to assess the competency of the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst to render applied behavior analytic services;

(3) Jointly establish a supervisory plan with the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst, which shall be submitted to the board at the beginning of the supervisory relationship using the Annual Supervisory Plan. The plan shall:

(a) Be updated or revised and submitted to the board with the regular report of supervision;

(b) Include intended format, and goals to be accomplished through the supervisory process; and

(c) Include methods that the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor shall employ to evaluate the supervisory process;

(4) Have general supervision of the work performed by the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor at least twice per month;

(5) Have direct supervision of the work performed by the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor at least once every three (3) months;

(6) Have direct knowledge of the size and complexity of the caseload for each licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor;

(7) Limit and control the caseload as appropriate to the level of competence of each licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor;

(8) Have knowledge of the techniques being used by the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst; and

(9) Have knowledge of the physical and emotional well-being of each licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst practicing under the direction of the supervisor when it has a direct bearing on his or her competence to practice.

Section 8. If the licensed assistant behavior analyst or temporarily licensed behavior analyst is a behavior analyst with more than five (5) years of full-time, post-certification practice, or its equivalent, the supervisor of record shall:

(1) Review and countersign assessments as needed or appropriate;

(2) Review treatment plans, notes, and correspondence as needed or appropriate;

(3) Jointly establish a supervisory plan with each licensed assistant behavior analyst, or temporarily licensed behavior analyst practicing under the direction of the supervisor, which shall be submitted to the board at the beginning of the supervisory

relationship using the Annual Supervisory Plan. The plan shall:

(a) Be updated or revised and submitted to the board with the regular report of supervision;

(b) Include intended format, and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and licensed assistant behavior analyst, or temporarily licensed behavior analyst practicing under the direction of the supervisor shall employ to evaluate the supervisory process;

(4) Have general supervision of the work performed by each licensed assistant behavior analyst or temporarily licensed behavior analyst practicing under the direction of the supervisor at least once per month;

(5) Have direct supervision of the work performed by each licensed assistant behavior analyst or temporarily licensed behavior analyst practicing under the direction of the supervisor at least twice a year;

(6) Have direct knowledge of the size and complexity of the caseloads for each licensed assistant behavior analyst or temporarily licensed behavior analyst practicing under the direction of the supervisor;

(7) Limit and control the caseload as appropriate to the level of competence of each licensed assistant behavior analyst or temporarily licensed behavior analyst;

(8) Have knowledge of the techniques being used by each licensed assistant behavior analyst or temporarily licensed behavior analyst; and

(9) Have knowledge of the physical and emotional well-being of each licensed assistant behavior analyst or temporarily licensed behavior analyst practicing under the direction of the supervisor when it has a direct bearing on his or her competence to practice.

Section 9. Supervision Requirements. (1)(a) A licensed assistant behavior analyst shall meet these supervision requirements, even if he or she is not currently providing behavior analytic services.

(b) If the licensed assistant behavior analyst is not currently providing behavior analytic services, supervision may focus on guiding the development and maintenance of the licensed assistant behavior analyst's professional knowledge and skills and remaining current with the professional literature in the field.

(2) Upon resumption of practice, the licensed assistant behavior analyst shall document compliance with continuing education requirements and shall report on his or her activities and employment related to behavior analysis during the period in which the analyst did not practice.

Section 10. Supervision for Part-Time Practice. Supervision requirements for part-time practice may be modified ***by[at the discretion of]*** the board upon approval of the submitted plan. Additional modifications of the format, frequency, or duration of supervision may be submitted for approval by the board.

Section 11. Supervisory Changes. (1) Upon a change of supervisor, an updated Annual Supervisory Plan shall be submitted by the supervisor and licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst to the board for approval. This plan may require additional supervision than was previously approved by the board.

(2) Upon termination of the supervisory relationship, the final Annual Report of Supervision shall be submitted to the board within thirty (30) days of the termination.

Section 12. Responsibilities of the licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst. The licensed assistant behavior analyst, temporarily licensed behavior analyst, or temporarily licensed assistant behavior analyst shall:

(1) Keep the supervisor adequately informed at all times of his or her activities and ability to function;

(2) Seek supervision as needed in addition to a regularly scheduled supervisory session;

(3) Participate with the supervisor in establishing supervisory goals and in completing the regular supervisory reports;

(4) Be jointly responsible with the supervisor for ensuring that a supervisory report or plan has been sent to the board in accordance with the reporting schedule established in Section 5 of this administrative regulation; and

(5) Report to the board any apparent violation of KRS Chapter 319C on the part of the supervisor.

Section 13. Identification of Provider in Billing. The actual deliverer of a service shall be identified to the client. A billing for a rendered service shall identify which service was performed by the assistant behavior analyst, temporarily licensed behavior analyst, trainee, or other provider and supervised by the licensed behavior analyst.

Section 14. Disciplinary Procedures and Supervision of a Disciplined License Holder. (1) The board shall appoint an approved supervisor to supervise a disciplined license holder for the period of time defined by the final order or settlement agreement conferring the discipline.

(2) When specified by the final order or settlement agreement, the disciplined license holder shall be responsible for paying the costs of supervision.

(3) The supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;

(b) Meet with the disciplined license holder and the board liaison to:

1. Summarize the actions and concerns of the board;

2. Review the goals and expected outcomes of supervision submitted by the board liaison;

3. Develop a specific plan of supervision; and

4. Review the reporting requirements that shall be met during the period of supervision;

(c) Meet with the disciplined license holder at least weekly, on an individual face-to-face basis for a minimum of one (1) hour unless modified by the board;

(d) Submit a quarterly report to the board which reflects progress, problems, and other information relevant to the need for board-mandated supervision;

(e) ***Ensure[Make all reasonable efforts to insure]*** that the disciplined license holder's practice is in compliance with KRS Chapter 319C and 201 KAR Chapter 43;

(f) Report to the board any apparent violation of KRS Chapter 319C on the part of the disciplined license holder;

(g) Immediately report to the board, in writing, a change in the ability to supervise, or in the ability of the disciplined license holder to function in the practice of a licensed behavior analyst in a competent manner;

(h) Review and countersign assessments as needed or appropriate;

(i) Review treatment plans, notes, and correspondence as needed or appropriate;

(j) Have direct observation of the disciplined license holder's work on an as-needed basis;

(k) Have direct knowledge of the size and complexity of the disciplined license holder's caseload;

(l) Have knowledge of the therapeutic modalities and techniques being used by the disciplined license holder; and

(m) Have knowledge of the disciplined license holder's physical and emotional well-being when it has direct bearing on the disciplined license holder's competence to practice.

(4) The supervisor shall control, direct, or limit the disciplined license holder's practice***[as appropriate]*** to ensure that the disciplined license holder's practice is competent.

(5) The supervisor shall contact the board liaison with any concern or problem with the disciplined license holder, his or her practice, or the supervision process.

(6)(a) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the supervision.

(b) The meeting shall include the supervisor, disciplined

license holder, and board liaison.

(c) A written summary of the supervision shall be submitted by the supervisor to the board two (2) weeks following this meeting with a copy to the board liaison.

Section 15. Board Liaison for Disciplined License Holder. The board shall appoint a board member to serve as a liaison between the board and the approved supervisor. The board liaison shall:

(1) Recruit the supervising licensed behavior analyst from a list provided by the board;

(2) Provide the supervising licensed behavior analyst with the originating complaint, agreed order or findings of the hearing and supply other material relating to the disciplinary action***[as deemed appropriate by the liaison]***;

(3) Ensure that the supervising licensed behavior analyst is provided with the necessary documentation for liability purposes to clarify that he or she is acting as an agent of the board and has immunity commensurate with that of a board member;

(4) Provide the supervising licensed behavior analyst with a written description of the responsibilities of the supervisor and a copy of the responsibilities of the liaison;

(5) Ensure that the board has sent a written notification letter to the disciplined license holder. The notification letter shall:

(a) State the name of the supervising licensed behavior analyst; and

(b) Specify that the disciplined license holder shall meet with the supervising licensed behavior analyst and the liaison within thirty (30) days of the date of the notification letter;

(6) Meet with the supervising licensed behavior analyst and disciplined license holder within thirty (30) days of the date of the notification letter to summarize the actions of the board, review the applicable statutes and administrative regulations regarding supervision requirements for a disciplined license holder, and assist with the development of a plan of supervision. The plan of supervision shall be written at the first meeting;

(7) Submit the report of supervision to the board for approval.

(a) The liaison shall place the report of supervision on the agenda for review and approval at the next regularly scheduled board meeting.

(b) In the interim, the supervising licensed behavior analyst and disciplined license holder shall continue to meet;

(8) Remain available to the supervising licensed behavior analyst to provide assistance and information as needed;

(9) Report any problem or concern to the board regarding the supervision and communicate a directive of the board to the supervising licensed behavior analyst;

(10) Review the quarterly report of supervision and forward to the supervision committee of the board for approval; and

(11) Meet with the supervising licensed behavior analyst and the disciplined license holder at the end of the term of supervision to summarize the supervision.

Section 16. Graduate Training. Applied behavior analysis graduate students. Graduate-level applied behavior analysis students who are providing services in mental health care settings including independent practice settings shall:

(1) Be supervised by a behavior analyst licensed by the board in the state in which the training program exists, or by a licensed mental health professional approved by the training program who is affiliated with either the university training program or the practice setting;

(2) Be registered for credit in his or her course of study;

(3) Clearly identify his or her status as unlicensed trainees to all clients and payors;

(4) Give to all clients and payors the name of the licensed behavior analyst responsible for his or her work; and

(5) Not accept employment or placement to perform the same or similar activities following the completion of his or her university-sanctioned placement, regardless of the job title given, unless the student holds a license from the board.

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) ABA-003, "Annual Report of Supervision", July 2015[~~October 2012~~]; and

(b) ABA-002, "Annual Supervisory Plan", July 2015[~~October 2012~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. TAMMY HAMMOND-NATOF, PhD, BCBA, Chairperson

APPROVED BY AGENCY: August 13, 2015

FILED WITH LRC: August 13, 2015 at 2 p.m.

CONTACT PERSON: Lindsey Melton, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8809, fax (502) 696-4961.

GENERAL GOVERNMENT CABINET
Applied Behavior Analysis Licensing Board
(As Amended at ARRS, October 13, 2015)

201 KAR 43:080. Renewals.

RELATES TO: KRS 319C.050, 319C.060

STATUTORY AUTHORITY: KRS 319C.050, 319C.060(2), 319C.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060 authorizes the board to promulgate administrative regulations required to establish conditions for the renewal and reinstatement of licenses. This administrative regulation establishes procedures for the renewal of licenses.

Section 1. Renewal. A behavior analyst or assistant behavior analyst shall biennially, on or before the last day of the calendar month during which the license was issued:

(1) File a completed Application for Licensure Renewal; and

(2) Pay to the board the renewal fee established by 201 KAR 43:030.

Section 2. Late Renewal. A behavior analyst or assistant behavior analyst who fails to renew his or her license on or before the last day of the calendar month during which the license was issued may submit his or her application on or before the last day of the calendar month following the month in which the license was issued if accompanied by the appropriate late fee as required by 201 KAR 43:030.

Section 3. Expiration of License. (1) A license that is not renewed before the last day of the calendar month ***following the calendar month*** during which the license was issued shall be expired and lapsed for failure to renew.

(2) Upon expiration of the license for failure to renew, a behavior analyst or assistant behavior analyst shall not practice in the Commonwealth of Kentucky.

Section 4. Reinstatement. After the last day of the calendar month following the month in which the license was issued, a person whose license has expired for failure to renew shall submit, in order to have his or her license reinstatement request considered by the Board:

(1) Payment of the ***reinstatement*** fee established by 201 KAR 43:030;

(2) Completion of the Application for Licensure Renewal; and

(3) Documentation of employment from the time of expiration of employment until the present.

Section 5. Incorporation by Reference. (1) Form ABA-004, "Application for Licensure Renewal", July 2015[~~April 2013~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort,

Kentucky 40601, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. TAMMY HAMMOND-NATOF, PhD, BCBA, Chairperson
APPROVED BY AGENCY: August 13, 2015
FILED WITH LRC: August 13, 2015 at 2 p.m.
CONTACT PERSON: Lindsey Melton, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8809, fax (502) 696-4961.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:010. Definitions for 201 KAR Chapter 46.

RELATES TO: KRS 311B.020[~~211.890, 211.993~~]
STATUTORY AUTHORITY: KRS 311B.010, 311B.050 [~~194A.050, 211.090, 211.870~~]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.010 and 311B.050 ***require[~~authorize~~]*** the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to regulate medical imaging, radiation therapy, and related occupations[~~The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate an operator of a source of radiation other than a licensed practitioner of the healing arts, including but not limited to: the classification and licensure of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation; issuance, renewal, and revocation of licenses; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety~~]. This administrative regulation establishes definitions for[~~defines~~] terms used in 201 KAR Chapter 46.

Section 1. Definitions. (1) "Accredited educational program" means an educational program accredited by the Joint Review Committee on Education in Radiologic Technology (JRCERT) or the Joint Review Committee on Educational ***Programs[~~Program~~]*** in Nuclear Medicine Technology (JRCNMT).

(2) "Advanced imaging professional" means an individual who holds credentialing ***by the American Registry of Radiologic Technologists (AART) or by the Nuclear Medicine Technology Certification Board (NMTCB)*** as a ***registered*** radiologist assistant (R.R.A.) or nuclear medicine advanced associate (NMAA).

(3) "Alternate course of study" means an independent course of study that qualifies an individual to take an examination approved by the board.

(4)[~~(2)~~] "Authorized user" is defined by KRS 311B.020(4)[~~means a physician, dentist, or podiatrist identified on a radioactive materials license issued by the board, by the U.S. Nuclear Regulatory Commission, or by another U.S. Nuclear Regulatory Commission agreement state, that authorizes the medical use of radioactive materials~~].

(5)[~~(3)~~] "Board" is defined by KRS 311B.020(5).

(6)[~~(4)~~] "Clinical education" means the component of the educational program that provides for supervised, competency-based, clinical education and experience.

(7) ***"Computed tomography" or "CT" means the process of using specialized radiation producing equipment to create cross-sectional images of any part of the body.***

(8) **"Computed[~~Computerized~~]** tomography technologist" or "CT technologist" means an individual who has obtained a post-primary certification in computerized tomography from the American Registry of Radiologic Technologists (ARRT).

(9)[~~(8)~~][~~(5)~~] "Continuing education" ***is defined by KRS 311B.020(7)[~~means a learning activity that is planned, organized, and administered to enhance the professional knowledge and skills that a licensee uses to provide services for patients, the public, or the medical profession. In order to qualify as continuing education an approval request form or proof of approval by a Recognized Continuing Education Evaluation Mechanism (RCEEM) shall be submitted to the board along with form Kentucky CEU-001, Continuing Education Approval Request Radiation Operator Certification Program~~]***.

(10)[~~(9)~~] "Continuing education unit" or "CEU" means fifty (50) contact minutes of participation in a continuing education experience completed by:

(a) Attendance at a professional meeting;

(b) Documenting completed, approved independent study; or

(c) Documenting completed academic courses applicable to health care, medical imaging, radiation therapy, or related courses.

(11)[~~(10)~~][~~(6)~~] "Contrast procedure" means a diagnostic or therapeutic [~~radiation~~] procedure performed while administering contrast[~~radiopaque~~] media into the human body to visualize anatomy not otherwise demonstrated on an image receptor.

(12)[~~(11)~~][~~(7)~~] "Course of study" means a [~~basic~~]curriculum in radiologic technology, nuclear medicine technology, ***the*** advanced imaging profession, limited x-ray machine operation, or radiation therapy approved by the board.

(13)[~~(12)~~][~~(8)~~] "Didactic education" means the component of the educational program that provides formal instruction with specific objectives and methods for assessing the student's [~~cognitive~~]progress for entry-level competency.

(14)[~~(13)~~] "Direct supervision" means supervised by, and in the physical presence of, a licensed practitioner of the healing arts or a licensee.

(15)[~~(14)~~] "Educational program" means a board-approved, accredited educational program or limited x-ray machine operator program.

(16)[~~(15)~~] "Facility" means a hospital, outpatient department, clinic, radiology practice, mobile unit, or office of a physician or portion thereof, in which medical imaging or radiation therapy are performed.

(17)[~~(16)~~] "Independent study course" means a form of education offered by the board in partnership with an employer to provide limited scope radiography, podiatry, or bone densitometry education to fulfill the requirements established in 201 KAR 46:081, Section ***8[~~7~~]***.

(18)[~~(17)~~] "Indirect supervision" means supervised by a licensed practitioner of the healing arts or licensee who is immediately available in the individual's place of employment or sponsoring institution.

(19)[~~(18)~~] "License" means the document issued to a licensee to work as ***an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist,[~~a medical imaging technologist, radiation therapist, advanced imaging professional.~~]*** or ***a*** limited x-ray machine operator in Kentucky.

(20) "Licensed practitioner" or "licensed practitioner of the healing arts" is defined by KRS 311B.020(8).

(21) "Licensee" means an individual licensed to perform the duties of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator.

(22)[~~(19)~~][~~(9) "General license" means a license issued by the board authorizing an individual to perform diagnostic radiographic, nuclear medicine, or radiation therapy procedures.~~

~~(10) "General radiation licensee" means a radiographer, a nuclear medicine technologist, a radiation therapist, or a radiologist assistant who has completed an accredited educational program and administers ionizing radiation.~~

~~(a) Only an individual license as a general radiation licensee shall be employed as an operator of a source of radiation at a facility where contrast studies, fluoroscopic, nuclear medicine, or radiation therapy procedures are performed.~~

~~(b) Categories for a general radiation licensee practice shall include:~~

~~1. Radiographer who shall be authorized to:~~

a. Perform a comprehensive scope of diagnostic radiologic procedures using external ionizing radiation equipment;

b. Exercise responsibility for the operation of radiation-generating equipment, shielding the patient and staff from unnecessary radiation and the appropriate exposure of radiographs or other procedures which contribute to the site or dosage of ionizing radiation to which a patient is exposed; and

c. Provide patient care resulting in radiographic or digital images.

2. Nuclear medicine technologist who compounds, calibrates, dispenses, and administers radiopharmaceuticals, pharmaceuticals, and radionuclides under the direction of an authorized user for benefit of performing a comprehensive scope of nuclear medicine procedures for diagnostic and therapeutic purposes.

3. Radiation therapist who shall be authorized to utilize ionizing radiation-generating equipment and sources of radiation for the planning and delivery of therapeutic procedures on human beings.

4. Radiologist assistant is an individual certified by the American Registry of Radiologic Technologists (ARRT) as a Registered Radiologist Assistant (R.R.A.) who works under the supervision of a radiologist, in accordance with supervision guidelines jointly established by the American College of Radiology (ACR), the American Society of Radiologic Technologists (ASRT), and the ARRT to enhance patient care by assisting the radiologist in the medical imaging environment.

(11)]***["Licensee" means an individual]***[who shall be]***[licensed]***[pursuant to the provisions of this administrative regulation]***[to perform the duties of a radiographer, nuclear medicine technologist, advanced imaging professional, limited x-ray machine operator, or radiation therapist.]***

[(20)][(12)]***["Licensed practitioner" or "licensed practitioner of the healing arts" is defined by KRS 311B.020(8)]***[means a physician licensed in Kentucky to practice medicine, osteopathy, dentistry, chiropractic, podiatry, or veterinary medicine]***[.***

(21)][(13)] "Licensure" means the process by which a license is issued by the board pursuant to 201 KAR Chapter 46 and in accordance with KRS Chapter 311B[335B.020].

(23) "Limited radiographic procedures" means the following procedures:

(a) Routine chest and thorax;

(b) Cranium;

(c) Extremity;

(d) Podiatric;

(e) Vertebral column radiography; and

(f) Bone densitometry procedures.

(24) "Limited x-ray machine operator" is defined by KRS 311B.020(9).

(25) [(22)][(14) "Limited license" means a license issued by the board authorizing an individual to perform limited radiographic procedures in his specific field of practice or operation.

(15)]***["Limited x-ray machine operator" is defined by KRS 311B.020(9)]***[means an individual who:

(a) Has completed an educational program approved by the board;

(b) Is certified by the board as a:

1. Limited x-ray machine operator;

2. Limited podiatry x-ray machine operator; or

3. Limited bone densitometry x-ray machine operator; and

(c) Performs limited radiographic procedures]***[.***

(23)][(16)]***["Limited radiographic procedures" means the following procedures:***

(a) Routine chest and thorax;

(b) Cranium;

(c) Extremity;

(d) Podiatric;

(e) Vertebral column radiography; and

(f) Bone densitometry procedures.

(24)] "Medical imaging technologist" is defined by KRS 311B.020(10).***[Limited x-ray machine operators are defined separately and are not permitted to work as medical imaging technologists.]***

(26)][(25)][(17)] "National organization" is defined by KRS 311B.020 (11)[means:

(a) The American Society of Radiologic Technologists;

(b) The American Registry of Radiologic Technologists;

(c) the Joint Review Committee on Education in Radiologic Technology; or

(d) The American College of Radiology].

(27)][(26)] "Nuclear medicine advanced associate" means an individual certified by the Nuclear Medicine ***Technology[Technologist]*** Certification Board (NMTCB) as a nuclear medicine advanced associate (NMAA) who works under the supervision of a radiologist or nuclear medicine physician, in accordance with ***practice[professional]*** standards.

(28)][(27)] "Nuclear medicine technologist" is defined by KRS 311B.020(12).

(29)][(28)][(18)] "Nuclear medicine technology" means technology applied by a nuclear medicine technologist utilizing radioactive material and with the nuclear medicine technologist being under the supervision of an authorized user.

(30)][(29)] "PET" means the positron emission tomography.

(31)][(30)] "Positron emission tomography" means the utilization of positron-emitting radioactive material for medical imaging under the supervision of an authorized user.

(32)][(31)] "Practice standards" means the standards established by board-approved professional organizations that define the practice expectations of individuals within the professions.

(33)][(32)] "Primary discipline" means radiography, nuclear medicine, and radiation therapy.

(34)][(33)][in compliance with 201 KAR Chapter 46 which pertains to the:

(a) Utilization of radiopharmaceuticals or radioactive materials in the diagnosis and treatment of disease in humans;

(b) Preparation of radiopharmaceutical agents;

(c) Administration of diagnostic or therapeutic radiopharmaceuticals to patients or human research subjects; and

(d) Calibration and use of radiation detecting equipment to obtain clinical information.

(19) "Operator" or "operator of sources of radiation" means an individual, other than a licensed practitioner of the healing arts, who is licensed by the board to:

(a) Technically manipulate or administer a source of radiation; and

(b) Accurately position the patient to receive the radiation or manipulate the patient within the imaging or active radiation field.

(20)] "Professional educational guidelines" means curriculum and educational standards established by national organizations and approved by the board.

(35)][(34)][(21)] "Program director" means an individual designated by a sponsoring institution to assure that the educational programs[training program] for ***an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator[medical imaging, limited x-ray machine operator, radiation therapy, and advanced imaging professionals]*** are[operators of sources of radiation shall be] properly conducted.

(36)][(35)][(22)] "Provisional nuclear medicine technology license" means a license issued by the board to an individual participating in the alternate nuclear medicine course of study approved by the board.

(37)][(36)] "Provisional training license" means a license issued to a nuclear medicine technologist or a radiation therapist pursuing post-primary certification in computed tomography or a license issued to a radiographer or radiation therapist pursuing post-primary certification in PET.

(38)][(37)][(23)] "Radiation safety officer" means an individual [in the field of radiation protection or a licensed practitioner of the healing arts] who has the training, knowledge, and responsibility to apply appropriate radiation safety practices.

(39)][(38)] "Radiation therapist" is defined by KRS 311B.020(15).

(40)][(39)][(24)] "Radiation therapy" means the therapeutic administration of ionizing radiation by a radiation therapist[to

~~destroy lesions while sparing normal surrounding tissue~~].

(41)[(40)][(~~25~~)] "Radioactive materials" means a solid, liquid, or gas that emits ionizing radiation spontaneously.

(42) "Radiographer" is defined by KRS 311B.020(16).

(43) "Radiography" means the utilization and administration of ionizing radiation to produce medically relevant images for the diagnosis of injury or disease and shall include a comprehensive scope of diagnostic-radiologic procedures.

(44) "Radiologist assistant" means an individual certified by the American Registry of Radiologic Technologists (ARRT) as a registered radiologist assistant (R.R.A.) who works under the supervision of a radiologist, in accordance with supervision guidelines jointly established by the American College of Radiology (ACR), the American Society of Radiologic Technologists (ASRT), and the ARRT.

(45) [(41)][(~~26~~)] "Radionuclide" means a radioactive element or a radioactive isotope.

(46)[(~~27~~)] "Radiopharmaceuticals" means radioactive drugs used for the diagnosis and treatment of disease.

[(43) "Radiographer" is defined by KRS 311B.020(16).

(44)][(~~28~~)]***["Radiography" means the utilization and administration of]***[external]***[ionizing radiation to produce medically relevant images for the diagnosis of injury or disease and shall include a comprehensive scope of diagnostic-radiologic procedures.***

(45)][(~~29~~)]***["Radiologist assistant" means an individual certified by the American Registry of Radiologic Technologists (ARRT) as a registered radiologist assistant (R.R.A.) who works under the supervision of a radiologist, in accordance with supervision guidelines jointly established by the American College of Radiology (ACR), the American Society of Radiologic Technologists (ASRT), and the ARRT, ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities and the American College of Radiology (ACR) and the American Association of Physicists in Medicine (AAPM) titled ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures and incorporated by reference.]***

(47)[(46)][(~~30~~)] "Scope of practice" means the parameter of the specific practice[~~standards established by the American Society of Radiologic Technologists that delineate what the profession does and confines the breadth of functions persons within a profession may perform~~].

(48)[(47)][(~~31~~)] "Source of radiation" means a radioactive material, device, or equipment emitting or capable of producing ionizing radiation.

(49)[(48)][(~~32~~)] "Sponsoring institution" means an institution recognized[~~approved~~] by the board to provide a post-secondary educational program in medical imaging, limited x-ray machine operation, radiation therapy, or advanced imaging professions[~~the radiological sciences~~].

(50)[(49)][(~~33~~)] "Student" means an individual enrolled in a board-recognized educational program [~~an approved course of study for operators of sources of radiation~~].

(51)[(50)][(~~34~~)] "Supervision of students" means supervised by a licensed practitioner of the healing arts or a licensee in the appropriate field of practice who directs the activity of students.

(52)[(51)][~~(a) "Direct supervision" means supervised by, and in the physical presence of, a licensed practitioner of the healing arts or a licensee.~~

~~(b) "Indirect supervision" means supervised by a licensed practitioner of the healing arts or licensee who is immediately available in the individual's place of employment or sponsoring institution.~~

(~~35~~)] "Temporary license" means a nonrenewable license [~~written authorization~~]issued by the board as established in 201 KAR Chapter 46[~~cabinet~~] permitting an individual to practice for a specified period of time[~~who has completed an appropriate course of study to perform diagnostic or therapeutic radiation procedures while awaiting the results of his examination~~].

[Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", dated May 2003; and

(b) "ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures", revised 2013 (Resolution 44)]**[Form "KY CEU-001, Continuing Education Approval Request Radiation Operator Certification Program", edition 3/07, is incorporated by reference]*****[.***

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place][Cabinet for Health and Family Services, 275 East Main Street]***[, Frankfort, Kentucky 40601]***[40621]***[, Monday through Friday, 8 a.m. to 4:30 p.m.]***

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: July 13, 2015

FILED WITH LRC: July 15, 2015 at 9 a.m.

CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (859) 782-5687, fax (859) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:020. Fees[~~General requirements~~].

RELATES TO: KRS 311B.050, 311B.100(2), ***311B.110,*** 311B.120, ***311B.130, 311B.140,*** 311B.180, 311B.190[~~211.870, 211.890, 211.993~~]

STATUTORY AUTHORITY: KRS 311B.010, 311B.050,***[311B.100(2),]*** 311B.120,***[311B.180, 311B.190]***[~~13B.170, 194A.050(3), 211.090, 211.870, 211.890~~]

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.010 and 311B.050 require the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to regulate medical imaging, radiation therapy, and related occupations. KRS 311B.120 requires the board to promulgate administrative regulations to establish fees and penalties[The Board of Medical Imaging and Radiation Therapy is authorized by KRS Chapter 311B]***[~~211.870, 311B.010 to 311B.190~~]***[to regulate an individual]***[~~operator of a source of radiation~~]***[other than a licensed practitioner of the healing arts]***. This administrative regulation establishes fees for the licensure of ***an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator[medical imaging technologists, radiation therapists, advanced imaging professionals, and limited x-ray machine operators]***[~~uniform general requirements for the licensure of operators of sources of radiation~~].

Section 1. Initial Application and License Fee. A non-refundable initial application and license fee shall be $100.

Section 2. Renewal License Fee. A non-refundable renewal fee shall be fifty (50) dollars per year.

Section 3. Temporary Application and License Fee. A non-refundable fee for a temporary license shall be $100.

Section 4. Provisional Training License Fee. A non-refundable fee for a provisional training license ***for a radiation therapist and a nuclear medicine technologist*** shall be fifty (50) dollars per twenty-four (24) month training period.

Section 5. Temporary Limited X-ray Machine Operator Application and License Fee. A non-refundable, non-transferrable fee for a license shall be $100.

Section 6. Duplicate License Fee. A non-refundable fee for a duplicate license shall be twenty (20) dollars.

Section 7. Reinstatement Fee. A reinstatement fee shall be $100.

Section 8. Name Change Fee. A non-refundable fee for a new printed license with a name change shall be twenty (20) dollars.

Section 9. Limited X-ray Machine Operator Examination Fee. A non-refundable fee for the limited x-ray machine operator examination shall be $150.

Section 10. ***Home[~~Independent~~]*** Study***[~~Program~~]*** Course Fee. A non-refundable administrative fee for the independent study course for ***a*** limited ***x-ray machine operator[~~radiography~~]*** shall be $500.

Section 11. Insufficient Funds Fee. A fee for returned check or denied online banking (ACH) payment shall be fifty (50) dollars.

Section 12. Written Verification ***of Qualifications[~~Documents~~]*** Fee. The fee for completion of written verification documents shall be twenty-five (25) dollars per document.

Section 13. Continuing Education Approval Fee. (1) Individual continuing education program fee shall be ten (10) dollars.

(2) Annual sponsoring institution fee shall be $100.

[~~Section 14. This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.~~][~~Regulated Entities. (1) 201 KAR Chapter 46 establishes requirements for the licensure of an operator of a source of radiation, other than a licensed practitioner of the healing arts.~~

~~(2) The regulation of a source of ionizing or electronic product radiation and the handling and disposal of radioactive waste shall not be covered by 201 KAR Chapter 46.~~

~~(3) This administrative regulation shall not require the certification of:~~

~~(a) A student enrolled in an approved course of instruction in the healing arts or allied health sciences; or~~

~~(b) An employee of the federal government, while engaged in the performance of official duties within this state.~~

~~Section 2. Application for Licensure. (1) An application for a general or limited license shall be filed with the Board of Medical Imaging and Radiation Therapy on "Form KR-300", incorporated by reference.~~

~~(2) A license, either general or limited, shall expire on the last day of the month, two (2) years after the date of issuance.~~

~~(3) A temporary license shall:~~

~~(a) Expire on the last day of the month, one (1) year after the date of issuance; and~~

~~(b) Not be renewable.~~

~~Section 3. Examinations. (1) A general or limited license shall be issued to a person who passes an appropriate examination, approved by the cabinet, in the field of practice or operation for which licensure is sought.~~

~~(a) An examination shall be divided into appropriate sections and a minimum grade of seventy-five (75) percent shall be required for passage.~~

~~(b) A person shall not be allowed to retake the limited examination more than three (3) times within a calendar quarter.~~

~~(2) An examination shall not be required by the board if an applicant submits a valid certificate from:~~

~~(a) A national organization acceptable to the board, if the holder:~~

~~1. Is otherwise qualified for a license; and~~

~~2. Has earned the license by passing an appropriate examination; and~~

~~(b) Another state or political subdivision acceptable to the board, if the holder:~~

~~1. Is otherwise qualified for a license; and~~

~~2. Has earned the license by passing an appropriate examination.~~

~~(3) Acceptance of an examination from a national organization, state or political subdivision shall be contingent on:~~

~~(a) An annual review of the examination together with an outline by subject; and~~

~~(b) An item analysis of each examination section.~~

~~(4) The board shall hold the examination information confidential and shall make its contents available only to an authorized representative of the board.~~

~~Section 4. Fee Schedule. A fee, as established in this section, shall be paid in connection with the licensure of an operator of a source of radiation, other than a licensed practitioner of the healing arts:~~

~~(1) Application for a license (nonrefundable) - twenty-five (25) dollars.~~

~~(2) Issuance of a general or limited license - thirty-five (35) dollars.~~

~~(3) Issuance of a temporary or provisional license - twenty-five (25) dollars.~~

~~(4) Renewal of a general or limited license - thirty-five (35) dollars.~~

~~(5) Duplicate license - fifteen (15) dollars.~~

~~(6) Limited examination - seventy (70) dollars.~~

~~Section 5. Continuing Education Requirements for Renewal. (1) A general or limited license shall not be renewed if the holder has not completed the continuing education requirement required for his or her class of license.~~

~~(2) A general license holder shall, during each twenty-four (24) month period that an operator holds a license, obtain a minimum of twenty-four (24) clock hours of continuing education approved by the board.~~

~~(3) A limited licensee shall, during each twenty-four (24) month period that an operator holds a license, obtain a minimum of twelve (12) clock hours of continuing education approved by the board.~~

~~(4) A licensee attending or participating in continuing education related to the licensee's field of practice or operation shall send documented evidence of attendance or participation to the board within forty-five (45) days. The evidence shall include:~~

~~(a) The licensee's name and license number;~~

~~(b) Subject title;~~

~~(c) Date attended;~~

~~(d) Clock hours of instruction; and~~

~~(e) The instructor's name and title.~~

~~(5) If a licensee presents a program of instruction approved for continuing education credit, the licensee shall receive up to six (6) clock hours credit, on an hour-for-hour basis, toward license renewal.~~

~~(6) Continuing education clock hours may be accrued by attending a seminar, lecture, or course relating to the licensee's field of practice or operation.~~

~~Section 6. General Requirements. (1) It shall be the responsibility of each employer to insure that an employee operating a source of radiation is licensed, as provided in 201 KAR Chapter 46.~~

~~(2) Only a person holding a general license shall be employed as an operator of a source of radiation at a facility where a contrast study is performed.~~

~~(3) A licensee shall notify the board within sixty (60) days regarding a change of name or address.~~

~~(4) A licensee shall display or have available his or her license, or a photocopy, at the location where the source of radiation is operated.~~

~~Section 7. Incorporated by Reference. (1) Form KR-300, Board of Medical Imaging and Radiation Therapy, September 1997 edition, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

SHERYL L. ABERCROMBIE, Chair
APPROVED BY AGENCY: April 13, 2015
FILED WITH LRC: April 15, 2015 at 11 a.m.
CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:030. Education for medical imaging technologists, advanced imaging professionals, *nuclear medicine technologists, radiographers*, and radiation therapists[~~and training~~].

RELATES TO: KRS ***311B.020, 311B.050, 311B.080[311B.100]***[~~211.890, 211.993~~]
STATUTORY AUTHORITY: KRS 311B.050***(2), (5), 311B.080[331B.080, 311B.100, 311B.110]***[~~194A.050, 211.090, 211.870~~]
NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050(2) requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.050(6) requires the board to approve accredited educational programs and monitor compliance with educational standards established by the individual disciplines and recognized by the board. KRS 311B.080 requires the board to recognize and enforce national standards[The Board of Medical Imaging and Radiation Therapy is authorized by KRS Chapter 311B]***[~~211.870 and 211.890~~]***[to regulate licensees]***[~~operators of sources of radiation~~]***[other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of individuals]***[~~operators~~]***[; examinations; standards of training and experience; curricula standards for institutions teaching persons to utilize]***[~~operate~~]***[sources of radiation; issuance, renewal, and revocation of licenses; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, licenses, and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety]***. This administrative regulation establishes uniform curricula standards for postsecondary educational institutions[~~teaching persons to operate sources of radiation~~].

Section 1. Curricular Standards for Medical Imaging, Radiation Therapy***, Radiography, Nuclear Medicine,*** and Advanced Imaging ***Programs[Professionals]***. Educational programs shall ensure:
(1) Radiography and radiation therapy ***programs*** meet the curricular standards established by the American Society of Radiologic Technologists (ASRT);
(2) Nuclear medicine programs meet the curricular standards established by the Society of Nuclear Medicine and Molecular Imaging Technologists Section (SNMMITS); **and**
(3) Programs maintain[~~**continuous**~~] accreditation by the Joint Review Committee on Education in Radiologic Technology, the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, or another agency that specifically evaluates the imaging or radiation therapy program based upon equivalent standards[~~; and~~]
~~**(4) The programs permit site inspections by a representative of the board**~~][~~Applicability. (1) This administrative regulation shall apply to institutions offering a postsecondary course of study for operators of sources of radiation.~~
~~(2) An institution that offers a program of study for operators of sources of radiation shall ensure:~~
~~(a) Its program meets the standards established by the American Society of Radiologic Technologists (ASRT); and~~
~~(b) Its program is accredited by the Joint Review Committee on Education in Radiologic Technology.~~
~~(3) Educational programs may be established in:~~
~~(a) Community and junior colleges;~~
~~(b) Senior colleges and universities;~~
~~(c) Hospitals;~~
~~(d) Medical schools;~~
~~(e) Postsecondary vocational/technical schools and institutions;~~
~~(f) Military/governmental facilities;~~
~~(g) Proprietary schools; and~~
~~(h) Consortia.~~
~~(4) Consortia shall be structured to recognize and perform the responsibilities and functions of a sponsoring institution.~~

~~Section 2. Curricula Standards. Sponsoring institutions offering a course of study for operators of sources of radiation shall:~~
~~(1) Apply to the Joint Review Committee on Education in Radiologic Technology;~~
~~(2) Supply data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum;~~
~~(3) Provide a structured curriculum with clearly written course descriptions, lesson plans, and objectives;~~
~~(4) Provide an adequate faculty, which shall be qualified through academic preparation or experience to teach the subjects assigned;~~
~~(5) Have a program director appropriate for the certification offered as follows:~~
~~(a) General licensure- a general licensee who shall meet the requirement of the professional educational guidelines and standards in the appropriate field of practice; or~~
~~(b) Limited licensure- a general licensee who shall have a minimum of three (3) years of clinical or teaching experience or a combination of clinical and teaching experience in the appropriate field of practice;~~
~~(6) Provide a licensee-to-student ratio consistent with professional educational guidelines in the appropriate field of practice;~~
~~(7) Provide appropriate facilities, sufficient volume, and a variety of diagnostic or therapeutic procedures to properly conduct the course of study;~~
~~(8) Prohibit students from applying radiation to human beings for diagnostic or therapeutic purposes until they have obtained practical experience and have had their performance evaluated as satisfactory by the program faculty;~~
~~(9) Provide supervision by a licensed practitioner of the healing arts or a licensee in the appropriate field of practice;~~
~~(10) Prohibit students from being placed in a situation where they would be required to apply radiation or radiopharmaceuticals to a human being while not under supervision consistent with professional educational guidelines in the appropriate field of practice;~~
~~(11) Maintain records of each student's attendance, grades, clinical competency, and subjects completed;~~
~~(12) Designate a radiation safety officer;~~
~~(13) Maintain accreditation by the Joint Review Committee on Education in Radiologic Technology (JRCERT) an approved programmatic accrediting body for educational programs leading to general licensure and permit site inspections by the board's representative; and~~
~~(14) Permit site inspections by the cabinet's representative for educational programs leading to limited licensure~~].

Section 2.[~~3.~~] Student Employment Outside the Academic Clinical Setting. A student shall not ***be employed[engage or attempt to engage]*** in the operation of radiation-producing equipment or the administration of ionizing radiation for the purpose of medical imaging or radiation therapy in

Kentucky***[unless licensed by the board]***.

[Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Radiography revised June 16, 2013;

(b) Nuclear Medicine Technologist Scope of Practice and Performance Standards revised June 7, 2013;

(c) Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards revised January 26, 2013;

(d) Scope of Practice for the Nuclear Medicine Advanced Associate created 2009; and

(e) Radiation Therapy revised June 19, 2011.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at:

(a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, http://www.asrt.org/main/standards-regulations/practice-standards; or

(b) Society for Nuclear Medicine and Molecular Imaging, 1850 Samuel Morse Drive Reston, Virginia 20190, or http://www.snmmi.org]|(1) Educational programs shall develop a policy governing employment of students to perform diagnostic radiologic procedures outside the academic setting.

(2) Educational programs that elect to permit student employment shall develop criteria and guidelines for students employed to perform diagnostic radiologic procedures outside the academic setting.

(3) At a minimum, students must have completed fifty (50) percent of their course of study and have had their didactic and clinical performance evaluated and recorded as satisfactory by the program director.

(4) Students shall be under the indirect supervision of a licensed practitioner of the healing arts or a licensee.

(5) The program director shall submit documentation to the employer and to the board verifying the student has permission to work as a student radiographer.

Section 4. An Institution's Curriculum and Requirements. (1) Radiography course of study. The radiography curriculum offered by an approved institution shall consist of a minimum of two (2) academic years of full-time study or its equivalent that includes the following subjects:

(a) Human structure and function;
(b) Principles of radiation protection;
(c) Radiation biology;
(d) Pathology;
(e) Medical terminology;
(f) Medical ethics and law;
(g) Equipment operation and maintenance;
(h) Image production and evaluation;
(i) Radiographic procedures;
(j) Computers in radiologic sciences;
(k) Radiologic physics;
(l) Pharmacology and drug administration;
(m) Patient positioning;
(n) Patient assessment, management, and education; and
(o) Clinical education.

(2) Nuclear medicine course of study. The nuclear medicine technology curriculum offered by an approved institution shall consist of a minimum of twelve (12) months of full-time study for graduates of an accredited radiography program or a minimum of two (2) academic years of full-time study or its equivalent for other individuals, which includes the following subjects:

(a) Human structure and function;
(b) Radionuclide chemistry;
(c) Radiopharmacology;
(d) Nuclear instrumentation;
(e) Diagnostic and therapeutic procedures;
(f) Radiation biology;
(g) Nuclear medicine in vivo and in vitro procedures;
(h) Nuclear medicine physics;
(i) Applied math and statistics;
(j) Radiation safety and protection;
(k) Patient positioning;
(l) Patient assessment, management, and education;
(m) Computer applications for nuclear medicine;
(n) Records and administrative procedures;
(o) Medical ethics and law; and
(p) Clinical correlation of nuclear medicine procedures.

(3) Alternate course of study in nuclear medicine. The approved alternate course of study in nuclear medicine shall consist of:

(a) Completion of a minimum of fifteen (15) hours of course work approved by the board in each of the following areas:

1. Radiopharmacy;
2. Nuclear medicine instrumentation; and
3. Radiation safety.

(b) A minimum of four (4) years or 8,000 hours of clinical education in nuclear medicine technology under the supervision of an authorized user as named on a radioactive materials license issued by the cabinet, by another U.S. Nuclear Regulatory Commission agreement state, or by the U.S. Nuclear Regulatory Commission.

1. The employer shall be responsible for providing or arranging for the required clinical education and providing appropriate supervision of the student by an authorized user.

2. Clinical education shall be documented annually by the authorized user with the renewal of the provisional nuclear medicine technology license.

(c) A maximum of six (6) years shall be permitted to complete the alternate course of study.

(4) Radiation therapy course of study. The radiation therapy curriculum offered by an approved institution shall consist of a minimum of twelve (12) months of full-time study for graduates of an accredited radiography program or a minimum of two (2) academic years of full-time study or its equivalent for other individuals that includes the following subjects:

(a) Human structure and function;
(b) Oncologic pathology;
(c) Radiation protection and quality assurance;
(d) Equipment operation;
(e) Clinical and technical oncology;
(f) Medical terminology;
(g) Radiation biology;
(h) Mathematics;
(i) Radiation therapy physics;
(j) Radiation protection;
(k) Patient assessment, management, and education;
(l) Medical imaging and processing;
(m) Clinical dosimetry;
(n) Medical ethics and law; and
(o) Clinical education.

(5) Radiologist assistant course of study.

(a) The educational program for the radiologist assistant shall culminate in the award of a baccalaureate degree, master's degree, or postbaccalaureate certificate from an institution that:

1. Is recognized by the American Registry of Radiologic Technologists;

2. Incorporates a radiologist-directed clinical preceptorship; and

3. Meets the eligibility requirements for certification by the American Registry of Radiologic Technologists.

(b) The radiologist assistant curriculum offered by an approved institution shall include the following subjects:

1. Patient assessment, education, and management;
2. Medical terminology;
3. Anesthetics;
4. General medications;
5. Contrast media;
6. Anatomy, physiology, and pathophysiology;
7. Radiologic procedures;
8. Radiation safety;
9. Radiation biology;
10. Fluoroscopic operation;
11. Medical-legal, professional, and governmental standards; and

~~12. A radiologist-directed clinical preceptorship.~~

~~(6) Limited x-ray machine operator course of study. The limited x-ray machine operator curriculum offered by an approved institution shall consist of:~~

~~(a) A minimum of 240 hours of classroom work in the following subjects:~~

~~1. Human structure and function;~~

~~2. Medical terminology;~~

~~3. Radiation protection;~~

~~4. Radiation biology;~~

~~5. Medical ethics and law;~~

~~6. Equipment operation and maintenance;~~

~~7. Image production and evaluation;~~

~~8. Radiographic processing technique;~~

~~9. Radiographic procedures;~~

~~10. Patient positioning; and~~

~~11. Patient care; and~~

~~(b) A minimum of 360 hours of clinical education consisting of:~~

~~1. Demonstrations;~~

~~2. Discussions; and~~

~~3. Supervised practice.~~

~~(7) Limited x-ray machine operator independent course of study. The limited x-ray machine operator independent course of study shall:~~

~~(a) Be completed within twelve (12) months;~~

~~(b) Include the following subjects:~~

~~1. Human structure and function;~~

~~2. Medical terminology;~~

~~3. Radiation protection;~~

~~4. Radiation biology;~~

~~5. Medical ethics and law;~~

~~6. Equipment operation and maintenance;~~

~~7. Image production and evaluation;~~

~~8. Radiographic processing technique;~~

~~9. Radiographic procedures;~~

~~10. Patient positioning; and~~

~~11. Patient care; and~~

~~(c) Include clinical education consisting of a minimum of fifty (50) radiographic procedures in each of the following areas:~~

~~1. Chest;~~

~~2. Extremities; and~~

~~3. Musculoskeletal.~~

~~(8) The limited podiatry x-ray machine operator independent course of study shall:~~

~~(a) Be completed within twelve (12) months;~~

~~(b) Include the following subjects:~~

~~1. Human structure and function;~~

~~2. Medical terminology;~~

~~3. Radiation safety and protection;~~

~~4. Radiation biology;~~

~~5. Medical ethics and law;~~

~~6. Equipment operation and maintenance;~~

~~7. Image production and evaluation;~~

~~8. Radiographic processing technique;~~

~~9. Radiographic procedures;~~

~~10. Patient positioning; and~~

~~11. Patient care; and~~

~~(c) Include clinical education consisting of a minimum of fifty (50) radiographic procedures of the feet and ankles.~~

~~(9) The limited bone densitometry x-ray machine operator independent course of study shall:~~

~~(a) Be completed within twelve (12) months;~~

~~(b) Include the following subjects;~~

~~1. Human structure and function;~~

~~2. Medical terminology;~~

~~3. Radiation safety and protection;~~

~~4. Radiation biology;~~

~~5. Medical ethics and law;~~

~~6. Equipment operation and maintenance;~~

~~7. Image production and evaluation;~~

~~8. Radiographic processing technique;~~

~~9. Radiographic procedures;~~

~~10. Patient positioning;~~

~~11. Patient care; and~~

~~12. Manufacturer's training in accordance with 201 KAR 46:081; and~~

~~(c) Include clinical education consisting of a minimum of fifty (50) bone densitometry procedures~~***[.]***

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: July 13, 2015

FILED WITH LRC: July 15, 2015 at 9 a.m.

CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (859) 782-5687, fax (859) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, *radiographer, nuclear medicine technologist,* and radiation therapist licenses[~~General radiation operator requirements~~].

RELATES TO: KRS ***311B.020,*** 311B.050, ***311B.080,*** 311B.100(2), ***311B.110,*** 311B.120, 311B.180, 311B.190[~~211.890, 211.993~~]

STATUTORY AUTHORITY: KRS***[~~311B.010,~~]*** 311B.050, ***311B.080,*** 311B.100(2), ***311B.110[~~311B.120, 311B.180, 311B.190~~]***[194.050, 211.090, 211.870]

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist. KRS 311B.080 requires the board to recognize and enforce national practice standards and scopes of practice[~~The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B~~]***[211.870 and 211.890]***[~~to regulate individuals~~]***[an operator of a source of radiation]***[~~other than a licensed practitioner of the healing arts, including but not limited to: the~~]***[classification and]***[~~licensure of medical imaging technologists, advanced imaging professionals and radiation therapists; approval of accredited educational programs of medical imaging or radiation therapy and the monitoring of compliance with the educational standards established by the individual disciplines, as recognized by the board~~]***[operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation]***[~~; issuance, renewal, suspension, and revocation of licenses; the fixing of a reasonable schedule of fees and charges to be paid by applicants for~~]***[examinations,]***[~~licenses~~]***[,]***[~~and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety~~]***. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy[operate sources of radiation] for[~~human~~] diagnostic and therapeutic purposes while under the supervision of a[~~medical, osteopathic, or chiropractic~~] licensed practitioner of the healing arts.

Section 1. Applicability. This administrative regulation shall apply to individuals who perform medical imaging or radiation therapy[operate sources of radiation] for[~~human~~] diagnostic medical imaging[~~radiologic~~] or therapeutic purposes while under the ***direct or indirect*** supervision of a[~~medical, osteopathic, or chiropractic~~] licensed practitioner of the healing arts **as specified *by practice standards, by scope of practice, and* in the ACR-AAPM Technical Standard For The Management Of The Use Of Radiation In Fluoroscopic Procedures *as listed in Section 11 of this administrative regulation*[~~, revised 2013 (Resolution 44)~~]**

and incorporated by reference].

Section 2.[~~General License Required to Perform Contrast Procedures. Only individuals holding a general license shall operate sources of radiation at facilities where contrast studies, fluoroscopic, nuclear medicine or radiation therapy procedures are performed.~~

~~Section 3.~~] Eligibility for ***an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist[a ~~Medical Imaging Technologist, Radiation Therapist or Advanced Imaging Professional~~]***[~~General~~] License. No person shall be eligible for a[~~general~~] license pursuant to this administrative regulation[~~as an operator of a source of radiation~~] for[~~human~~] diagnostic imaging[~~radiologic~~] or therapeutic purposes unless the person has:

(1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists ***or[~~and/or~~]*** the Nuclear Medicine ***Technology[~~Technologist~~]*** Certification Board examination[~~completed a course of study in radiography, nuclear medicine technology, radiation therapy, or radiologist assistant approved by the board as described in 201 KAR 46:030~~]; and

(2) Satisfactorily completed a program in radiography, nuclear medicine technology, radiation therapy, or advanced imaging practice that has achieved and maintained programmatic accreditation recognized by the board as described in 201 KAR 46:030[~~Satisfactorily passed an examination approved by the cabinet as prescribed in 201 KAR 46:020, Section 3~~].

Section 3. Application for Initial License. ***(1)*** An applicant shall submit:

(a) A[~~(1)~~] completed and signed application KBMIRT Form 1;

(b) A[~~(2)~~] non-refundable initial application and license fee as established by 201 KAR 46:020***, Section 1***;

(c) The[~~(3)~~] results of ***a*** criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(d) A[~~(4)~~] copy of a government-issued photo ID;

(e)[~~(5)~~] Documentation of active registration or certification with the ARRT or NMTCB; and

(f)[~~(6)~~] Verification of graduation from a program accredited by the Joint Review Committee on Education in Radiologic Technology or the Joint Review Committee on Educational Programs in Nuclear Medicine Technology.

(2) Notwithstanding subsection (1)(f) of this section, if a student enters a program not under probation, and the majority of the education program is completed under the accreditation required under 201 KAR 46:030, then the board may waive the accreditation standard as long as the graduate passes the American Registry of Radiologic Technologists (ARRT) examination on the first attempt.

Section 4. The issued license shall identify the licensee as ***an advanced imaging professional,*** a medical imaging technologist, ***a radiographer, a*** radiation therapist, or ***a nuclear medicine technologist[~~advanced imaging professional~~]***. The medical imaging technologist license shall also identify any ARRT or NMTCB disciplines awarded to the licensee.

Section 5. The license shall expire annually on the last day of the licensee's birth month.

Section 6. Renewal of License. To renew a license, the licensee shall submit:

(1) KBMIRT Form 2;

(2) Verification of current active status ***with the[~~of~~]*** ARRT or NMTCB; and

(3) ***The*** renewal license fee ***as established by 201 KAR 46:020, Section 2***.

Section 7. Reinstatement of Lapsed License. (1) A licensee who has allowed the license to lapse ***for more[~~greater~~]*** than one (1) month but less than twelve (12) months is eligible to be reinstated upon submission of ***KBMIRT Form 2[~~the renewal application~~]***, documentation of twenty-four (24) hours of approved continuing education biennially, and ***the payment of*** reinstatement and renewal fees ***as established by 201 KAR 46:020, Sections 2 and 7***.

(2) A licensee whose license has lapsed for more than twelve (12) months shall submit:

(a) Verification of current active status ***with the[~~of~~]*** ARRT or NMTCB;

(b) KBMIRT Form 1;

(c) Continuing education KBMIRT Form 8***, as incorporated by reference in 201 KAR 46:060,*** that documents twenty-four (24) hours of approved continuing education;

(d) ***The*** non-refundable initial application and license fee as established by 201 KAR 46:020, Section 1;

(e) ***The*** results of ***a*** criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(f) ***A*** copy of a government-issued photo ID.

Section 8.[~~4.~~] Temporary License. The board may, upon ***completion of Form KBMIRT 3, as incorporated by reference in 201 KAR 46:045,[~~proper application~~]*** and payment of the***[~~appropriate~~]*** fee ***established in 201 KAR 46:020, Section 3***, issue a temporary license to an applicant who has successfully completed an approved course of study in radiography, nuclear medicine technology,[~~or~~] radiation therapy, or an advanced imaging profession and meets the other requirements of ***201 KAR 46:045[~~these administrative regulations~~]*** other than having taken the required examination. Temporary licenses shall be effective for one (1) year only and are not renewable.

Section 9. Continuing Education Audit Process. (1) The board shall select a sample of ***licensees[~~licenses~~]*** to audit for ***continuing education[~~CE~~]*** compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain ***his or her[~~their~~]*** personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall provide the board with a copy of ***his or her[~~their~~]*** certificate or records of completion.

(5) Failure to comply with an audit may result in non-renewal, suspension, or revocation of license.

Section 10. Contrast Procedures. Only individuals holding a license pursuant to this administrative regulation shall perform diagnostic imaging or radiation therapy procedures regulated by KRS ***Chapter*** 311B at facilities where contrast studies are performed.

Section 11.[~~5.~~] Practice Standards[~~for General Licensee~~]. Individuals licensed pursuant to this administrative regulation[~~General licensees~~] shall perform according to practice standards of the discipline for which they hold credentials, as established by the American Society of Radiologic Technologists (ASRT)***, the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM),*** and the Society of Nuclear Medicine and Molecular Imaging (SNMMI) and incorporated by reference. ***These standards include the:***

(1) Radiography Practice Standards;

(2) Nuclear Medicine Technologist Scope of Practice and Performance Standards;

(3) Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards;

(4) Scope of Practice for the Nuclear Medicine Advanced Associate;

(5) Radiation Therapy Practice Standards;

(6) Bone Densitometry Practice Standards;

(7) Cardiovascular Interventional Technology Practice Standards;

(8) Computed Tomography Practice Standards;

(9) Limited X-ray Machine Operator Practice Standards;

(10) Mammography Practice Standards;

(11) Radiologist Assistant Practice Standards;

(12) ACR ASRT Joint-Policy Statement-Radiologist Assistant: Roles and Responsibilities; and

(13) ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures.

Section 12. CT Training for Nuclear Medicine Technologists and Radiation Therapists. Individuals who are licensed in the primary discipline of nuclear medicine or radiation therapy, are certified by the ARRT or NMTCB, and are seeking post-primary certification in computed tomography (CT) may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in CT shall submit ***a Provisional License Application, as incorporated by reference in 201 KAR 46:050,[~~an application for a provisional license~~]*** which shall expire twenty-four (24) months from the date of issuance.

Section 13. PET Training for Radiographers and Radiation Therapists. Individuals who are licensed in the primary discipline of radiography or radiation therapy, are certified by the ARRT, and are seeking post-primary certification in positron emission tomography (PET) may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit ***a Provisional License Application, as incorporated by reference in 201 KAR 46:050,[~~an application for a provisional license~~]*** which shall expire twenty-four (24) months from the date of issuance.

Section 14. ***Applications for licensure shall be filed with the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601.***

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

(a) "Radiography ***Practice Standards***", revised June 16, 2013;

(b) "Nuclear Medicine Technologist Scope of Practice and Performance Standards", revised June 7, 2013;

(c) "Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards", revised January 26, 2013;

(d) "Scope of Practice for the Nuclear Medicine Advanced Associate", created 2009;**[~~and~~]**

(e) "Radiation Therapy ***Practice Standards*** ", revised June 19, 2011;***[~~and~~]***

(f) ***"Bone Densitometry Practice Standards", revised June 19, 2011;***

(g) "Cardiovascular Interventional Technology Practice Standards", revised June 16, 2013;

(h) "Computed Tomography Practice Standards", revised June 16, 2013;

(i) "Limited X-ray Machine Operator Practice Standards", revised June 16, 2013;

(j) "Mammography Practice Standards", revised July 1, 2012;

(k) "Radiologist Assistant Practice Standards", revised July 29, 2014;

(l) "ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", May 2003;

(m) **"ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures", revised 2013** ***(Resolution 44);***

(n) KBMIRT Form 1, "License Application-Medical Imaging or Radiation Therapy", March 2015; and

(o) KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy", March 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at:

(a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, http://www.asrt.org/main/standards-regulations/practice-standards; ***[~~or~~]***

(b) Society for Nuclear Medicine and Molecular Imaging, 1850 Samuel Morse Drive Reston, Virginia 20190, http://www.snmmi.org***; or***

(c) The Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.[~~including the following:~~

~~(1) Radiography standards. The radiographer shall:~~

~~(a) Apply knowledge of the principles of radiation protection for the patient, self, and others;~~

~~(b) Apply knowledge of anatomy, positioning, and radiographic techniques to accurately demonstrate anatomical structures in medical imaging;~~

~~(c) Determine exposure factors to achieve optimum radiographic technique with a minimum of radiation exposures to the patient;~~

~~(d) Examine radiographs for the purpose of evaluating technique, positioning, and other pertinent technical qualities;~~

~~(e) Exercises discretion and judgment in the performance of medical imaging procedures;~~

~~(f) Provide patient care essential to radiologic procedures; and~~

~~(g) Recognize emergency patient conditions and initiate lifesaving first aid.~~

~~(2) Nuclear medicine technology standards. The nuclear medicine technologist shall:~~

~~(a) Apply knowledge of the principles of radiation protection for the patient, self, and others;~~

~~(b) Apply knowledge of radio pharmacy, instrumentation, patient examination protocols to produce accurate metabolic and image data;~~

~~(c) Provide patient care essential to nuclear medicine procedures;~~

~~(d) Maintain patient records;~~

~~(e) Participate in the quality assurance program;~~

~~(f) Prepare, calculate, identify, administer, and dispose of radiopharmaceuticals;~~

~~(g) Exercise discretion and judgment in the performance of medical imaging and therapeutic procedures; and~~

~~(h) Recognize emergency patient conditions and initiate lifesaving first aid.~~

~~(3) Radiation therapist standards. The radiation therapist shall:~~

~~(a) Apply knowledge of the principles of radiation protection for the patient, self, and others;~~

~~(b) Demonstrate knowledge of human structure, function, and pathology;~~

~~(c) Maintain the records of treatment administration;~~

~~(d) Deliver a planned course of radiation therapy;~~

~~(e) Produce and utilize immobilization and beam directional devices;~~

~~(f) Prepare commonly used brach therapy sources;~~

~~(g) Demonstrate knowledge of methods of calibration of equipment, and quality assurance;~~

~~(h) Prepare isodose summations;~~

~~(i) Detect malfunctioning equipment;~~

~~(j) Apply wedge and compensating filters;~~

~~(k) Exercise discretion and judgment in the performance of therapy procedures; and~~

~~(l) Recognize emergency patient conditions and initiate lifesaving first aid.~~

~~(4) Radiologist assistant standards. The radiologist assistant, if ordered to do so by the supervising radiologist, shall:~~

~~(a) Perform selected procedures including static and dynamic fluoroscopic procedures;~~

~~(b) Assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures;~~

~~(c) Participate in patient management including acquisition of additional imaging for completion of the examination and record documentation in medical records;~~

~~(d) Evaluate image quality, make initial image observations, and communicate observations to the supervising radiologist;~~

~~(e) Administer intravenous contrast media or other prescribed medications; and~~

~~(f) Follow the established standards listed in subsections (1)(a) through (g) of this section.~~

~~Section 6. Requirements for the Nuclear Medicine Technologist. (1) An individual holding a license as a nuclear~~

~~medicine technologist may:~~

~~(a) Conduct in-vivo and in-vitro measurements of radioactivity and administer radiopharmaceuticals to human beings for diagnostic and therapeutic purposes; and~~

~~(b) Administer x-radiation from a combination nuclear medicine-computed tomography device if:~~

~~1. The radiation is administered as an integral part of a nuclear medicine procedure that uses an automated computed tomography protocol for the purposes of attenuation correction and anatomical localization; and~~

~~2. The technologist has received device-specific training on the combination device.~~

~~Section 7. Requirements for the Radiologist Assistant. In addition to the requirements of Section 5(1)(a) through (g) and through (e) of this administrative regulation, an individual holding a license as a radiologist assistant shall comply with the following requirements:~~

~~(1) The individual is a general licensed radiographer in this state;~~

~~(2) The individual has satisfactorily completed an advanced academic program encompassing a nationally recognized radiologist assistant curriculum culminating in a baccalaureate degree, post baccalaureate certificate, or master's degree that incorporates a radiologist-directed clinical preceptorship and meets the eligibility requirements for certification by the American Registry of Radiologic Technologists;~~

~~(3) The individual is certified in advanced cardiac life support (ACLS);~~

~~(4) The radiologist assistant shall not interpret images, make diagnoses, or prescribe medications or therapies; and~~

~~(5) The radiologist assistant shall comply with the Standards of Ethics of the American Registry of Radiologic Technologists as well as the standards, policies, and procedures regarding the standard of care of patients, established by the American Society of Radiologic Technologists (ASRT), and the institution employing the radiologist assistant.~~

~~Section 8. Licensure in Nuclear Medicine Technology or Radiation Therapy. The board may issue a license pursuant to the following conditions:~~

~~(1) The applicant shall be currently employed full-time as a nuclear medicine technologist or radiation therapist and have held the position for twenty-four (24) months prior to May 31, 2006; and~~

~~(2) The applicant shall satisfactorily demonstrate through employer documentation that he or she has clinical experience in nuclear medicine technology or radiation therapy. The employer and the licensed practitioner shall be responsible for documentation of the required clinical experience and supervision~~].

[Section 15.][9.]***[Applications for licensure]***[in nuclear ~~medicine technology and radiation therapy~~]***[shall be filed with the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601]***[~~275 East Main Street, Mailstop HS 1C-A, Frankfort, Kentucky 40621~~]***[.]***

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: July 13, 2015

FILED WITH LRC: July 15, 2015 at 9 a.m.

CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (859) 782-5687, fax (859) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:045. Temporary license application for medical imaging technologists, advanced imaging professionals, *radiographers, nuclear medicine technologists,* and radiation therapists.

RELATES TO: KRS 311B.050, 311B.100(2), 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.100(2)***[, 311B.120, 311B.180, 311B.190]***

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050 requires*** the Board of Medical Imaging and Radiation Therapy ***to promulgate administrative regulations to administer and enforce[is authorized by]*** KRS Chapter 311B ***and*** to regulate the licensure of medical imaging technologists, advanced imaging professionals, ***radiographers, nuclear medicine technologists,*** and radiation therapists other than a licensed practitioner of the healing arts. ***KRS 311B.100(2) requires the board to establish licensure qualifications.*** This administrative regulation establishes procedures for the temporary licensure of medical imaging technologists, advanced imaging professionals, and radiation therapists who are eligible to apply for the appropriate national board exam.

Section 1. Application for Temporary License. An applicant shall submit:

(1) Completed and signed ***Temporary License*** Application***-Medical Imaging and Radiation Therapy,*** Form KBMIRT 3;

(2) Non-refundable temporary application and license fee as established by 201 KAR 46:020, Section 3;

(3) Results of criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(4) Copy of a government issued photo ID; and

(5) Verification of successful completion of **a program in radiography, nuclear medicine technology, or radiation therapy, that has achieved and maintained programmatic accreditation recognized by the board as described in 201 KAR 46:030[~~appropriate educational program~~]**.

Section 2. Upon certification by ***the American Registry of Radiologic Technologists (***ARRT***)*** or ***the Nuclear Medicine Technology Certification Board (***NMTCB***)***, a temporary license shall be converted to a regular license upon submission of:

(1) Completed and signed updated ***Temporary License*** Application***-Medical Imaging and Radiation Therapy,*** Form KBMIRT 3; and

(2) Documentation of ***the*** ARRT or ***the*** NMTCB certification.

Section 3. If a temporary licensee has not submitted documentation of ***the*** ARRT or ***the*** NMTCB certification during the twelve (12) month period, the license shall not be renewed; and ***the individual[individuals]*** shall follow the procedure for initial license application ***pursuant to 201 KAR 46:040*** and pay the initial application and license fee mandated in 201 KAR 46:020.

Section 4. Incorporation by Reference. (1) ***"Temporary License Application-Medical Imaging and Radiation Therapy",*** Form KBMIRT 3, ***3/2015[Temporary License Application, Medical Imaging or Radiation Therapy]***, is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: July 13, 2105

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CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:050. Provisional training license for medical imaging technologists*, radiographers, nuclear medicine technologists,* and radiation therapists.

RELATES TO: KRS 311B.050, 311B.100(2), 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.100(2)*[~~, 311B.120, 311B.180, 311B.190~~]*

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050 requires*** the Board of Medical Imaging and Radiation Therapy ***to promulgate administrative regulations to administer and enforce[~~is authorized by~~]*** KRS Chapter 311B ***and*** to regulate the licensure of medical imaging technologists, advanced imaging professionals, and radiation therapists other than a licensed practitioner of the healing arts. ***KRS 311B.100(2) requires the board to establish licensure qualifications.*** This administrative regulation establishes procedures for the provisional licensure of nuclear medicine technologists and radiation therapists who are seeking post-primary certification in computed tomography (CT) and radiographers or radiation therapists who are seeking post-primary certification in positron emission tomography (PET) to gain clinical competency.

Section 1. Eligibility for Provisional CT Training License. An individual who is licensed in a primary discipline of nuclear medicine or radiation therapy, certified by the ***American Registry of Radiologic Technologists (***ARRT***)*** or ***the Nuclear Medicine Technology Certification Board (***NMTCB***)***, and ***who*** is seeking post-primary ***computed tomography[~~CT~~]*** certification may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in ***computed tomography[~~CT~~]*** shall submit ***a Provisional License[~~an~~]*** Application***.[~~for~~]*** A provisional license***[~~which~~]*** shall expire twenty-four (24) months from the date of issuance.

Section 2. Eligibility for Provisional PET Training License. An individual who is licensed in a primary discipline of radiography or radiation therapy, certified by the ARRT, and ***who*** is seeking post-primary PET certification may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit ***a Provisional License[~~an~~]*** Application***.[~~for~~]*** A provisional license***[~~which~~]*** shall expire twenty-four (24) months from the date of issuance.

Section 3. Application for Provisional Training License. A licensee shall submit ***a***:

(1) Completed and signed Provisional ***License Application[~~training KBMIRT form 7~~]***; and

(2) Non-refundable provisional training***[~~application and~~]*** license fee as mandated in 201 KAR 46:020***, Section 4***.

Section 4. Upon completion of post-primary ARRT ***computed tomography[~~(CT)~~]*** or NMTCB (PET) certification, a provisional licensee shall submit documentation of registry or certification and shall receive an updated license.

Section 5. If a provisional training licensee has not submitted documentation of appropriate registry or certification prior to expiration of the provisional license, the licensee shall reapply for a new provisional license pursuant to the process established in this administrative regulation and pay the non-refundable provisional ***training*** license fee ***mandated in 201 KAR 46:020, Section 4***. A provisional license may be renewed once.

Section 6. Incorporation by Reference. (1) ***"Provisional License Application",*** KBMIRT Form 7,***[~~Provisional License Application,~~]*** April 2015, is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: April 13, 2015

FILED WITH LRC: April 15, 2015 at 11 a.m.

CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:060. Continuing education requirements.

RELATES TO: KRS 311B.050***, 311B.110***

STATUTORY AUTHORITY: KRS 311B.050***(2),*** (4)***, 311B.110(6)***

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050(2) requires*** the Board of Medical Imaging and Radiation Therapy ***to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.050(4) and 311B.110(6) require the board to determine and enforce continuing education requirements and establish guidelines for the approval of continuing education. The board*** is authorized by KRS 311B.110***(3)*** to require that all licensees obtain continuing education for ongoing knowledge of current practices in radiation safety and clinical procedures prior to licensure renewal. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the approval of continuing education courses.

Section 1. Mandatory Continuing Education Units. (1) Medical imaging ***technologists***, advanced imaging professionals, ***radiographers, nuclear medicine technologists,*** and radiation therapists shall obtain a minimum of twenty-four (24) continuing education units per biennium.

(2) Limited X-Ray machine operators shall obtain a minimum of twelve (12) continuing education units per biennium.

(3) A continuing education unit shall be earned by participating in fifty (50) contact minutes in an approved continuing education program.

Section 2. Methods of Acquiring Continuing Education. ***(1)*** Continuing education units applicable to the renewal of a license shall be directly relevant to the professional growth and development of the medical imaging ***technologist***, radiation ***therapist[~~therapy~~]***, advanced imaging professional, ***radiographer, nuclear medicine technologist,*** or limited x-ray machine operator.

(2) Continuing education units may be earned by completing any of the following educational activities:

[~~(1)~~](a) Academic courses relevant to the radiologic sciences ***or[~~and/or~~]*** patient care and is offered by a post-secondary educational institution accredited by a mechanism recognized by the ***American Registry of Radiologic Technologists (***ARRT***)*** or the ***Nuclear Medicine Technologist Certification Board (***NMTCB***)***. Relevant courses in the biologic sciences, physical sciences, radiologic sciences, health and medical sciences, social sciences, communication (verbal and written), mathematics, computers, management, or education methodology shall be accepted. Some subject areas that shall not be applicable include courses in astronomy, fine arts, geology, geography, history, music, philosophy, and religion;

(b)***[~~Academic course credit equivalency for continuing education units shall be based on one (1) credit hour is equal to fifteen (15) continuing education units;~~]***

~~(2)~~] Continuing education units approved by a ***professional organization recognized by the board and designated as a*** Recognized Continuing Education Evaluation Mechanism (RCEEM); or

(c)[~~(3)~~] Continuing education units offered by other individuals, organizations, or institutions that have been approved by the board.

(3) Academic course credit equivalency for continuing education units shall be based on one (1) credit hour is equal to fifteen (15) continuing education units.

(4) A presenter may earn ***for the development of a continuing education presentation*** a maximum of twice the continuing education units ***awarded for the delivery of the presentation. The presenter shall also receive the continuing education approved for attendance at the presentation[~~for the development of the initial presentation and earn credit for presenting~~]***.

(5) Credit shall not be issued for repeated instruction of the same course within the biennium.

Section 3. Procedure for Preapproval of Continuing Education Programs. ***(1)*** A continuing education program may be approved by two (2) mechanisms:

(a)[~~(1)~~] By applying and receiving approval from a RCEEM; or

(b)[~~(2)~~] By applying and receiving approval from the board.

(2)[~~(3)~~] For board approval of continuing education programs***, a person, agency, or company shall***:

(a) Submit KBMIRT Form ***9, Continuing Education Program Approval Request Form[~~10~~]*** at least twenty (20) business days in advance of the date of the offering; and

(b) Submit the continuing education approval fee as established by 201 KAR 46:020***, Section 13***.

(3)[~~(c)~~] A continuing education activity shall be approved if the board determines that the activity is appropriate. ***The criteria as established in paragraphs (a) through (d) of this subsection shall be used by the board to determine the preapproval of a continuing education program.***

(a) The activity shall enhance knowledge and skills associated with professional performance.

(b) It shall pertain to services provided to patients, the public, or medical profession by an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator.

(c) The presenter shall submit a curriculum vitae, an abstract, the objectives, and an outline of the presentation.

(d) The objectives shall be obtainable for the time frame, outline, and scope of the presentation.

Section 4. Responsibilities and Reporting Requirements of Licensee. A licensee shall be responsible for obtaining required continuing education units and submit documents only if requested by the board. Each licensee shall maintain all documentation verifying successful completion of continuing education units for the current and prior biennium. Documentation shall include:

(1) Official transcripts for completed academic courses;

(2) A copy of the program showing an individual as a presenter of an approved continuing education program; or

(3) Completion certificates or cards for continuing education programs.

Section 5. Audit Procedures. (1) The board shall audit a random selection of licensees per year and notify the randomly-selected licensees.

(2) Each licensee selected for audit shall furnish documentation of completed continuing education units ***on KBMIRT Form 8, Licensee Continuing Education Documentation Form,*** for the identified time frame.

Section 6. Temporary Licensees. Continuing education requirements shall not apply to the holders of a temporary license.

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

(a) KBMIRT Form 9, ***"Continuing Education[~~CEU~~]*** Program ***[~~Request/~~]***Approval ***Request*** Form***"***, ***March[~~April~~]*** 2015; and

(b) KBMIRT Form 8, ***"Licensee Continuing Education[~~CEU~~]*** Documentation Form***"***, ***March[~~April~~]*** 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: April 13, 2015

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CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:070. Violations and enforcement.

RELATES TO: KRS 311B.100, 311B.120, ***311B.150, 311B.160, 311B.170,*** 311B.180, 311B.190[~~13B.170, 194A.030~~]

STATUTORY AUTHORITY: KRS 311B.050, 311B.120, 311B.180, 311B.190[~~194A.050(1), 211.090(3), 211.870~~]

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B.*** KRS 311B.120[~~211.870~~] ***and 311B.190 require[~~authorizes~~]*** the board***[~~of Medical Imaging and Radiation Therapy~~]*** to promulgate administrative regulations ***to establish appropriate fees and penalties for violations. KRS 311B.180 requires the board to assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license[~~relating to medical imaging technologists, radiation therapists, nuclear medicine technologists, advanced imaging professionals, and limited x-ray machine operators~~]***[~~of sources of radiation~~]***[~~other than practitioners of the healing arts. KRS 311B.120 authorizes imposition of fees and~~]***[~~monetary~~]***[~~penalties for violations of KRS 311B.180, 311B.190, and related administrative regulations~~]***. This administrative regulation establishes uniform enforcement procedures regarding the licensure of ***an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator[~~medical imaging technologists, radiation therapists, nuclear medicine technologists, advanced imaging professionals, and limited x-ray machine operators~~]***[~~of sources of radiation~~] and penalties for violation of licensure requirements.

Section 1. Denial, Revocation, and Suspension of Licenses. ***(1)*** The board may deny, revoke***,*** or suspend the license of a licensee ***in accordance with KRS 311B.160.***

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

(3) An order of the board in subsection (2) of this section shall include items such as discovery orders, requests for information, subpoenas, requests for attendance before the board, and responses to complaints[~~an operator of a source of radiation~~]***[~~who:~~]***

[~~(1) Has engaged in conduct relating to his profession that is likely to deceive, defraud, or harm the public;~~]

[~~(2) Has engaged in alcohol and other drug abuse as defined in KRS 222.005(12);~~]

[~~(3) Develops a physical or mental disability or other condition that makes continued practice or performance of his duties potentially dangerous to patients or the public; or~~]

[~~(4) Performs procedures under, or represents as valid to~~]

any person:

(a) A license not issued by the board;

(b) A license containing unauthorized alterations; or

(c) A license containing changes that are inconsistent with board records regarding its issuance;

(5) Has been convicted of a crime that is a felony under the laws of this state or convicted of a felony in a federal court, unless such individual has had all civil rights restored;

(6) Exhibits significant or repeated failure in the performance of professional duties;][or]

[(7) Fails to comply with any administrative regulation of the board relating to][the]***[licensure; or***

(8) Fails to obey an order of the board][of an operator of a source of radiation].

Section 2. Hearings. (1) The board shall ***notify[furnish]*** the licensee ***in accordance with KRS 311B.170(1) and (2)[with written notice of sufficient detail to reasonably apprise a person of the nature, time and place of the offense charged]***.

(2) A licensee to whom a notice or order is directed shall comply ***with KRS 311B.170(3) to avoid license revocation[immediately]***.

(3) The board shall issue the licensee a notice of proposed action in accordance with 201 KAR 46:090.

(4) A licensee may request a conference and appeal the board's action in accordance with ***KRS 311B.170(5) and*** 201 KAR 46:090.

Section 3. Penalties. (1) The board shall assess civil penalties in accordance with KRS 311B.180 and 311B.190 against an individual or licensee who performs diagnostic or therapeutic procedures without valid licensure.

(2)***[Prior to assessing civil penalties, the board shall confirm the violation of the requirements by any of the following:***

(a) Observation of the violation;

(b) Obtaining records, documents, or other physical evidence;

(c) Obtaining statements from either the employer or the employee which confirm the existence of the violation; or

(d) Obtaining statements from third parties, such as][,]***[patients or co-workers, that corroborate the allegation that a violation has occurred.***

(3)] Civil penalties shall be assessed against individuals who perform diagnostic or therapeutic procedures without valid licensure as follows:

(a) Failure to apply for initial licensure by an individual who is fully qualified for licensure at the time the violation is discovered***, or failure to apply for renewal by an individual who would be eligible for renewal of a license, but who would not currently qualify due to insufficient continuing education at the time the violation is discovered*** shall be assessed a civil penalty of twenty-five (25)[no less than ten (10)] dollars per day until the application has been approved [by the board].

(b) ***Failure of*** a licensee ***to renew[who has not renewed]*** the license by the expiration date shall be assessed a ***late fee[civil penalty]*** according to the following schedule ***based upon the expiration date***:

1. One (1) to five (5) days late – no penalty;

2. Six (6) to fifteen (15) days late – Ten (10) dollars per calendar day; or

3. Sixteen (16) to thirty (30) days late – Twenty (20) dollars per calendar day.

(c) A licensee who has not renewed after thirty (30) days shall***:***

1. Pay a civil penalty of $750***;***

2.[and] Submit an initial application for license***, as incorporated by reference in 201 KAR 46:040;*** and

3. Pay the new application fee***, as established in 201 KAR 46:020***[Failure to apply for renewal by an individual who would be eligible for renewal of a license but would not currently qualify due to insufficient continuing education at the time the violation is discovered shall be assessed a civil penalty of no less than twenty (20) dollars per day until the application has been approved by the board].

(d)[(c)] Performance of a diagnostic or therapeutic procedure requiring a license by an individual who is not qualified for licensure at the time the violation is discovered shall be assessed a civil penalty of***[no less than]*** $100 per day until the application has been approved[by the board].

(3)[(4)] Civil penalties ***double the amount assessed against the licensee or individual*** shall***[also]*** be assessed against the employer of the individual without ***a*** valid license***[double the amount assessed against the licensee or individual]***[licensure] pursuant to KRS 311B.180 and subsection (3) of this section.

(4)[(5)] Any person assessed a civil penalty may request a hearing as specified in Section 2 of this administrative regulation and 201 KAR 46:090.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: April 13, 2015

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CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(As Amended at ARRS, October 13, 2015)

201 KAR 46:081. Limited X-Ray machine operator.

RELATES TO: KRS ***311B.020, 311B.150,*** 311B.100(2), ***311B.110,*** 311B.120, 311B.180, 311B.190[211.890, 211.993]

STATUTORY AUTHORITY: KRS ***311B.050,*** 311B.100***(2), 311B.110***[211.090(3), 211.870]

NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for a limited x-ray machine operator. This administrative regulation establishes the requirements for the licensure of a limited x-ray machine operator[The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.100(f) to regulate an operator of a source of radiation other than a licensed practitioner of the healing arts, including but not limited to: the classification and licensure of limited x-ray machine operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to perform limited diagnostic imaging]***[operate sources of radiation]***[; issuance, renewal, and revocation of licenses; and to set other standards as may be appropriate for the protection of health and safety. The purpose of this administrative regulation is to establish uniform requirements for the licensure of limited licensees]***.

Section 1. Applicability. (1) This administrative regulation shall apply to individuals who perform limited[human] diagnostic radiography while under the ***direct supervision while training and indirect supervision thereafter[supervision]*** of a licensed practitioner of the healing arts, a licensed limited x-ray machine operator, or a licensed radiographer[medical, osteopathic, or chiropractic licensed practitioner, or a licensed radiation operator].

(2) Limited [human] diagnostic radiography shall include routine chest and thorax, cranium, extremity, podiatric, vertebral column radiography, and bone densitometry procedures.

Section 2. Limited Licensee Employment Prohibition[Prohibitation]. An individual who holds a limited license shall not be employed as an operator of a source of radiation at a facility where contrast studies, fluoroscopy, mammography, computed tomography, magnetic resonance imaging, bedside radiography, nuclear medicine, positron emission tomography, or

radiation therapy procedures are performed.

Section 3. Pathways to the Limited X-ray Machine Operator License. An applicant shall complete an approved postsecondary educational program that meets the ***American Society of Radiologic Technologists (***ASRT***)*** Limited X-Ray Machine Operator Curriculum requirements. Individuals shall complete this requirement by either:

(1) ***A*** formal education program for limited x-ray machine operators approved by the board; or

(2) ***An*** independent study program for limited x-ray machine operators approved by the board.***[~~An applicant shall meet the requirements for a temporary limited machine operator license~~]***[~~Eligibility for a Limited X-ray Machine Operator License. (1) No person shall be eligible for a limited x-ray machine operator license for human diagnostic radiographic purposes unless the individual has:~~

~~(a) Completed a four (4) year course of study in a secondary school or passed a standard equivalency test;~~

~~(b) Completed a course of study in limited x-ray machine operations approved by the board from a postsecondary institution or an approved independent study course; and~~

~~(c) Passed an examination conducted or approved by the board.~~

~~(2) The approved postsecondary course of study shall meet the requirements for the limited x-ray machine operator course of study in 201 KAR 46:030, Section 4(6).~~

~~(3) An approved independent study course shall be completed within twelve (12) months and shall meet the requirements for the limited x-ray machine operator independent course of study in 201 KAR 46:030, Section 4(7).~~

~~(4) The clinical education required by 201 KAR 46:030, Section 4(7) shall be obtained at the student's place of employment, an alternate facility, or a combination. The employer shall be responsible for providing or arranging for the required clinical education and for providing the appropriate supervision of the student by a licensed practitioner of the healing arts or a licensed radiation operator. Clinical education shall begin only after the student has successfully completed the first six (6) chapters in the provided textbook and has received an authorization letter issued by the board. Course requirements shall be completed within one (1) year from date of enrollment~~]***[.]***

Section 4. Application for Temporary Limited X-ray Machine Operator License. Issuance of a temporary limited license shall be dependent upon the educational pathway selected by the applicant.

(1) An applicant who has completed a formal educational program shall submit:

(a) ***A*** completed and signed application Form KBMIRT Form 5;

(b) ***A*** non-refundable, non-transferrable temporary limited x-ray machine operator application and license fee as mandated in 201 KAR 46:020***, Section 5***;

(c) ***The*** satisfactory results of ***a*** criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(d) ***A*** copy of a government-issued photo ID.

(2) An applicant selecting the independent study program pathway shall receive a temporary license upon completion of the required coursework. As part of the application process for the independent study pathway, an applicant shall submit:

(a) ***A*** completed and signed application KBMIRT Form 5;

(b) ***A*** completed and signed application KBMIRT Form 5A;

(c) ***A*** non-refundable, non-transferrable temporary limited x-ray machine operator application and license fee as mandated in 201 KAR 46:020***, Section 5***;

(d) ***The*** satisfactory results of ***a*** criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(e) ***A*** copy of a government-issued photo ID;***[~~and~~]***

(f)***[~~Individuals enrolling in the independent study program shall also submit:~~***

~~1.~~] A copy of the Cabinet for Health and Family Services radiation producing-machine registration card of their employer;

(g)[~~and~~

~~2.~~] A copy of his or her high school diploma or equivalent***; and***

(h) A home study course fee for an independent study course as mandated by 201 KAR 46:020, Section 10.

(3) The temporary limited x-ray machine operator license shall expire:

(a) Two (2) years from the date of enrollment in the independent study program;

(b) One (1) year from date of issuance for graduates of formal educational programs.

(4) Upon completion of the limited x-ray machine operator training program, individuals shall:

(a) Apply for the limited scope radiography exam; and

(b) Submit the non-refundable, non-transferrable limited x-ray machine operator examination fee as mandated in 201 KAR 46:020***, Section 9***.

(5) If a temporary licensee has not successfully passed the ***American Registry of Radiologic Technologists (***ARRT***)*** administered limited scope radiography exam prior to the expiration date of the temporary license, the licensee shall cease to perform radiographic procedures. The licensee remains eligible to sit for the exam, however, the individual shall not perform radiographic procedures. Upon successful completion of the exam, the individual shall submit:

(a) A limited x-ray machine operator license application using KBMIRT Form 4; and

(b) An initial application and license fee as mandated in 201 KAR 46:020***, Section 1***.

(6) If a temporary licensee has successfully passed the ARRT administered limited scope radiography exam prior to the expiration date of the temporary license for the selected educational pathway, the licensee shall be issued a limited x-ray machine operator license which shall expire on the last day of the licensee's birth month[~~Eligibility for a Limited Podiatry X-ray Machine Operator License. (1) No person shall be eligible for a limited podiatry x-ray machine operator license for human diagnostic radiographic purposes unless the individual has:~~

~~(a) Completed a four (4) year course of study in a secondary school or passed a standard equivalency test;~~

~~(b) Completed an independent course of study in limited podiatric radiography approved by the board; and~~

~~(c) Passed an examination conducted or approved by the board.~~

~~(2) The approved independent study course shall be completed within twelve (12) months and shall meet the requirements for the limited podiatry x-ray machine operator independent course of study in 201 KAR 46:030, Section 4(8).~~

~~(b) The clinical education required by 201 KAR 46:030, Section 4(8) shall be obtained at the student's place of employment. The employer shall be responsible for providing or arranging for the required clinical education and for providing the appropriate supervision of the student by a licensed practitioner of the healing arts or a licensed operator. Clinical education shall begin only after the student has successfully completed the first six (6) chapters in the textbook and has received an authorization letter issued by the board. Course requirements shall be completed within one (1) year from date of enrollment~~].

Section 5. The issued license shall identify the licensee as a limited x-ray machine operator. The license shall also identify the category as general, bone densitometry, or podiatry[~~Eligibility for a Limited Bone Densitometry X-ray Machine Operator License. (1) No person shall be eligible for a limited bone densitometry x-ray machine operator license for human diagnostic radiographic purposes unless the individual has:~~

~~(a) Completed a four (4) year course of study in a secondary school or passed a standard equivalency test;~~

~~(b) Completed an independent course of study in limited bone densitometry approved by the board; and~~

~~(c) Passed an examination conducted or approved by the~~

~~board.~~

~~(2) The approved independent study course shall be completed within twelve (12) months and shall meet the requirements for the limited bone densitometry x-ray machine operator independent course of study in 201 KAR 46:030, Section 4(9).~~

~~(b) The clinical education required by 201 KAR 46:030, Section 4(9) shall be obtained at the student's place of employment. The employer shall be responsible for providing or arranging for the required clinical education and for providing the appropriate supervision of the student by a licensed practitioner of the healing arts or a certified radiation operator. Clinical education shall begin only after the student has successfully completed the first six (6) chapters in the textbook and has received an authorization letter issued by the board. Course requirements shall be completed within one (1) year from date of enrollment.~~

~~(c) The approved independent study course shall include manufacturer's training.~~

~~1. Manufacturer's training will be conducted by a representative of the company who produces the x-ray machine used for bone densitometry.~~

~~2. Training shall include the proper techniques for operation and safety~~].

Section 6. Employer Responsibility for Students Enrolled in the Independent Study Program for Limited X-Ray Machine Operators. Pursuant to Section 8 of this administrative regulation, clinical education shall be obtained at the student's place of employment, an alternate facility, or a combination. The employer shall be responsible for providing or arranging for the required clinical education and for providing the ***direct or indirect[~~appropriate~~]*** supervision of the student by a licensed practitioner of the healing arts, a licensed limited x-ray machine operator, or a licensed radiographer ***as required by the student's level of competency***. Clinical education shall begin only after the student has successfully completed the required coursework of the textbook and has received a temporary license issued by the board[~~Temporary License. (1) The board may, upon application and payment of the appropriate fees, issue a temporary license to an applicant who has completed an approved course of instruction in limited medical radiography, limited podiatric radiography, or limited bone densitometry, and who meets the requirements of this administrative regulation, but has not taken the required examination.~~

~~(2) Applications for licensure shall be filed with the Cabinet for Health and Family Services on Form KR-300, Radiation Operator Certification Diagnostic X-Ray Application Form.~~

~~(3) Temporary licenses for all certifications shall expire on the last day of the month, one (1) year after the date of issuance and shall not be renewable~~].

Section 7. Curricular Standards for Formal Educational Program. This administrative regulation applies to institutions offering a postsecondary program for limited x-ray machine operators. Programs shall:

(1) Meet the curricular standards established by the American Society of Radiologic Technologists (ASRT);

(2) Include a minimum of 240 classroom hours of didactic instruction and 360 clinical hours of education which shall include supervised practice and demonstration of clinical competency;

(3) Supply data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum;

(4) Provide a structured curriculum with clearly written course descriptions, lesson plans, and objectives;

(5) Provide an adequate faculty, which shall be qualified through academic preparation or experience to teach the subjects assigned;

(6) Have a program director who is a licensed radiographer with a minimum of three (3) years of clinical or teaching experience or a combination of clinical and teaching experience;

(7) Provide a licensee-to-student ratio consistent with professional educational guidelines in the appropriate field of practice;

(8) Provide appropriate facilities, sufficient volume, and a variety of diagnostic exams to properly conduct the educational program;

(9) Prohibit students from applying radiation to human beings for diagnostic purposes until they have obtained practical experience and have had their performance evaluated as satisfactory by the program faculty;

(10) Provide ***direct or indirect*** supervision by a licensed practitioner of the healing arts or a licensee ***as required by the student's level of competency***;

(11) Prohibit students from administering radiation to a human being unless ***under direct or indirect supervision as required by the student's level of competency[~~appropriately supervised~~]***;

(12) Maintain records of each student's attendance, grades, clinical competency, and subjects completed;

(13) Designate a radiation safety officer; and

(14) Permit site inspections by the board's representative.

Section 8. Curricular Standards for Independent Study Program. (1) The general limited x-ray machine operator independent study program shall:

(a) Be completed within twenty-four (24) months;

(b) Include the following subjects:

1. Human structure and function;
2. Medical terminology;
3. Radiation protection;
4. Radiation biology;
5. Medical ethics and law;
6. Equipment operation and maintenance;
7. Image production and evaluation;
8. Image processing;
9. Radiographic procedures;
10. Patient positioning; and
11. Patient care; and

(c) Include clinical education consisting of a minimum of fifty (50) radiographic procedures in each of the following areas:

1. Chest;
2. Extremities; and
3. Musculoskeletal.

(2) The limited podiatry x-ray machine operator independent study program shall:

(a) Be completed within twenty-four (24) months;

(b) Include the following subjects:

1. Human structure and function;
2. Medical terminology;
3. Radiation protection;
4. Radiation biology;
5. Medical ethics and law;
6. Equipment operation and maintenance;
7. Image production and evaluation;
8. Image processing;
9. Radiographic procedures;
10. Patient positioning; and
11. Patient care; and

(c) Include clinical education consisting of a minimum of fifty (50) radiographic procedures of the feet and ankles.

(3) The limited bone densitometry x-ray machine operator independent course of study shall:

(a) Be completed within twenty-four (24) months;

(b) Include the following subjects;

1. Human structure and function;
2. Medical terminology;
3. Radiation protection;
4. Radiation biology;
5. Medical ethics and law;
6. Equipment operation and maintenance;
7. Image production and evaluation;
8. Image processing;
9. Radiographic procedures;
10. Patient positioning;
11. Patient care; and

12. Equipment Specific training; and

(c) Include clinical education consisting of a minimum of fifty (50) bone densitometry procedures.

Section 9. Approved Radiographic Procedures for the Limited X-ray Machine Operator. An individual who holds a limited license is limited to performing the procedures authorized for his or her license as described in ***subsections (1), (2), and (3) of*** this section***[:]***

(1) An individual holding a general limited x-ray machine operator license shall perform only the following[procedures]:

(a) Radiography of the thorax, lungs and ribs;

(b) Radiography of the skull and facial structures;

(c) Radiography of the upper and lower extremities, including the pectoral girdle and the hips and pelvis; and

(d) Radiography of the cervical, thoracic, and lumbar spines.

(2) An individual holding a limited podiatry x-ray machine operator license shall perform radiographic procedures on the foot and ankle only.

(3) An individual holding a limited bone densitometry x-ray machine operator license shall perform bone densitometry radiographic procedures only.

(4) A limited x-ray machine operator shall comply with the Limited X-ray Machine Operator Practice Standards as incorporated by reference in 201 KAR 46:040, Section 15.

Section 10. Continuing Education Requirements. Licensees shall complete and document twelve (12) hours of continuing education biennually ***as required by 201 KAR 46:060***. A minimum of six (6) hours shall be related to radiation safety ***or[and/or]*** medical imaging.

Section 11. Continuing Education Audit Process. (1) The board shall select a sample of ***licensees[licenses]*** to audit for ***continuing education[CE]*** compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain ***his or her[their]*** personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) ***A licensee[Licensees]*** selected for audit shall ***complete KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, and*** provide the board with a copy of his or her certificates or records of completion.

(5) Failure to comply with an audit may result in non-renewal, suspension or revocation of license.

Section 12. Renewal of License. A licensee shall renew annually prior to the expiration of ***his or her[their]*** current license, which is the last day of ***the licensee's[their]*** birth month, by:

(1) Completing KBMIRT Form 6; and

(2) Submitting the Renewal License Fee in accordance with 201 KAR 46:020***, Section 2***.

Section 13. Reinstatement of Lapsed License. A licensee who has allowed the license to lapse for more than one (1) month but less than twelve (12) months is eligible to be reinstated upon submission of ***KBMIRT Form 6[the renewal application]***, documentation of twelve (12) hours of continuing education, and ***the payment of*** reinstatement and renewal fees ***pursuant to 201 KAR 46:020, Sections 2 and 7***. A licensee whose license has lapsed for more than twelve (12) months shall:

(1) Successfully pass the ARRT limited scope radiography examination;

(2) Submit a completed and signed application KBMIRT Form 4;

(3) Submit ***a*** non-refundable initial application and license fee as mandated in 201 KAR 46:020***, Section 1***;

(4) Submit satisfactory results of ***a*** criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(5) Submit a copy of a government-issued photo ID.

Section 14.[8.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) KBMIRT Form 4, "Limited X-ray Machine Operator License Application", April 2015;

(b) ***KBMIRT*** Form 5, "Limited X-ray Machine Operator Temporary License Application", April 2015;

(c) ***KBMIRT*** Form 5A, "Limited X-ray Machine Operator Independent Study Course Application", April 2015; and

(d) ***KBMIRT*** Form 6, "Limited X-ray Machine Operator Renewal***[License]*** Application", March 2015[(1) Form "KR-300, Radiation Operator Certification Diagnostic X-Ray Application Form", edition 7/97, is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place[275 East Main Street], Frankfort, Kentucky 40601[40621], Monday through Friday, 8 a.m. to 4:30 p.m.

SHERYL L. ABERCROMBIE, Chair

APPROVED BY AGENCY: April 13, 2015

FILED WITH LRC: April 15, 2015 at 11 a.m.

CONTACT PERSON: Vanessa Breeding, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495.

JUSTICE AND PUBLIC SAFETY CABINET
Parole Board
(As Amended at ARRS, October 13, 2015)

501 KAR 1:080. Parole Board policies and procedures.

RELATES TO: KRS 439.310 – 439.440, 532.040 - 532.060, 532.400.

STATUTORY AUTHORITY: KRS 439.340(3)(b).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 439.340(3)(b) requires the Parole Board to promulgate administrative regulations with respect to the conduct of parole and parole revocation hearings and other matters that come before the board, and conditions to be imposed upon parolees. This administrative regulation establishes the policies and procedures for the Parole Board.

Section 1. Incorporation by Reference. (1) "Kentucky Parole Board Policies and Procedures", ***October[February]*** 13, 2015[December 6, 2011], are incorporated by reference. Kentucky Parole Board Policies and Procedures include:

KYPB 10-00	Parole Board Hearing Process (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 10-01	Parole Release Hearings (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 11-00	Conditions of Parole (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 12-00	Final Discharge of Parole and Payment of Restitution (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 13-00	Revocation of Parole: Issuance of Warrants (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 13-01	Revocation of Parole: Preliminary Hearings (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 13-02	Revocation of Parole: Final Hearings and Dispositions (Amended ***10/13/2015[02/13/2015]***[12/6/2011])
KYPB 13-03	Revocation: Youthful Offenders (Amended 2/14/2011)
KYPB 13-04	Revocation of Parole: Good Cause Hearings (Amended 12/6/2011)
KYPB 14-00	Public and Legislative Relations (Amended 2/14/2011)
KYPB 20-00	Mandatory Reentry Supervision Orders

(Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 21-00 Conditions of Mandatory Reentry Supervision (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 22-00 Final Discharge from Mandatory Reentry Supervision (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 23-00 Revocation of Mandatory Reentry Supervision: Issuance of Warrants (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 23-01 Revocation of Mandatory Reentry Supervision: Preliminary Hearings (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 23-02 Revocation of Mandatory Reentry Supervision: Final Hearings (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 30-00 Revocation of Postincarceration Supervision: Issuance of Warrants (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 30-01 Revocation of Postincarceration Supervision: Preliminary Hearings (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

KYPB 30-02 Revocation of Postincarceration Supervision: Final Hearings (Amended ***10/13/2015[02/13/2015]***[~~12/6/2011~~])

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J. SHANNON JONES, Chair

APPROVED BY AGENCY: February 13, 2015

FILED WITH LRC: February 13, 2015 at noon

CONTACT PERSON: John Cummings, Counsel for the Kentucky Parole Board, Justice and Public Safety Cabinet, Office of Legal Services, 275 E. Main Street, Frankfort, Kentucky 40601, phone (502) 564-3620, fax (502) 564-8995.

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council
(As Amended at ARRS, October 13, 2015)

503 KAR 1:140. Peace officer, telecommunicator, and court security officer professional standards.

RELATES TO: KRS Chapter 13B, 15.330(1)(f), 15.330(1)(h), 15.380, 15.382, 15.384(1), 15.392, 15.394(1), 15.396(1), 15.3971, 15.400(1), 15.540, 15.565, 15.580

STATUTORY AUTHORITY: KRS 15.330(1)(f), 15.330(1)(h), ***15.382,*** 15.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.330(1)(f) and (h) and 15.590 authorize the Kentucky Law Enforcement Council to promulgate reasonable administrative regulations to accomplish the purposes of KRS 15.310 to 15.404 and to approve law enforcement officers, telecommunicators, and other persons having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.592. This administrative regulation establishes the guidelines and procedures necessary to implement and administer peace officer, telecommunicator, and court security officer certification.

Section 1. Approval of Agency's Validated Job Task Analysis and Associated Agency Testing. (1) Application. If an agency desires to use its own job task analysis and any associated agency testing, the agency shall submit to the KLEC office completed KLEC Forms J and Q, and a copy of the proposed job task analysis. The agency shall supply:

(a) The name of the entity that completed the analysis;

(b) The date on which the analysis was completed;

(c) A curricula vitae, resume, or company profile of the entity that completed the analysis; and

(d) A listing of all job task analyses previously completed by the person or entity, including the dates of the analyses.

(2) Criteria for assessment. The submitted job task analysis shall be assessed based upon the following criteria:

(a) Credentials and history of the entity conducting the analysis.

1. Education, with a preference given to degrees in law enforcement, statistics, or a related area.

2. Work experience, with a preference given to emphasis in law enforcement, statistics, or a related area.

3. Number and quality of job task analyses completed.

(b) Methodological approach.

1. Reasonable, standardized format of the study and the report.

2. Relative reliability and validity of the study's sampling techniques and practice.

3. Other considerations that reflect sound practice of the scientific method.

4. Specificity of the analysis. The job task analysis shall establish minimum entry qualifications, specific training requirements, and description of duties of officers.

(3) Initial review.

(a) Within five (5) business days of receipt of the application, the KLEC office shall mail a notification to the agency that either:

1. The application has been received and is complete; or

2. The application is incomplete and the specific information which shall be supplemented in order to process the application. The KLEC office shall receive the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application shall be considered abandoned, and the agency shall resubmit an application for consideration of their job task analysis and associated agency testing.

(b) The KLEC office Recommendation. Within thirty (30) days of their receipt of the completed application, the KLEC office shall forward the application to KLEC along with a recommendation to approve or reject the job task analysis and associated agency tests, and the specific reasons supporting a recommendation to reject.

(c) KLEC Review. The KLEC Professional Standards Committee shall review the application and recommendation of the KLEC office and forward their recommendation to KLEC for final review. Within sixty (60) days of their receipt of the application KLEC shall issue written notice to the agency indicating whether the application has been approved or found to be insufficient or erroneous.

(d) If an application is found to be insufficient or erroneous, the KLEC shall notify the agency of:

1. The reasons for the finding; and

2. The requirement that the council file a declaratory action in accordance with KRS 15.394(1).

Section 2. Agency Testing Procedures. (1) The KLEC office shall receive completed KLEC Form Q or KLEC ***Form tele-Q[~~TeleForm Q~~]*** from each agency participating in certification as of December 1, 1998 prior to any applicant testing. If an agency initiates participation in certification after December 1, 1998, KLEC Form Q shall be submitted to the KLEC office. The KLEC office shall be notified of any changes in the Form Q process within ten (10) days.

(2) Initial review. Within fifteen (15) business days of receipt of KLEC Form Q, the KLEC office shall mail a notification to the agency that either:

(a) The form has been received and is complete; or

(b) The form is incomplete and the specific information which shall be supplemented in order to process the form. The KLEC office shall receive the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. Applicants shall not be tested or certified by KLEC until the form is complete.

(3) The KLEC office review of requests for agency testing. Within thirty (30) days of receipt of the completed form, the KLEC office shall review requests for agency testing from those agencies without a validated job task analysis to determine if the proposed

tests are consistent with the minimum standards for KLEC testing as established in Section 4 of this administrative regulation. The KLEC office shall mail a notice to the agency if the proposed testing is acceptable. If the KLEC office determines that the minimum standards are not met, it shall forward the form to KLEC, along with the specific reasons supporting a recommendation to reject the agency testing.

(4) KLEC Review. The KLEC Peace Officer Professional Standards Committee shall review the form and the recommendation of the KLEC office and forward their recommendation to KLEC for final review. Within sixty (60) days of their receipt of the form KLEC shall issue written notice to the agency indicating whether the request for agency testing has been approved or rejected, and the specific reasons supporting the rejection.

(5)(a) An agency may appeal a decision made by KLEC to reject an agency test by filing a written notice of appeal:

1. With the Secretary of the Justice and Public Safety Cabinet; and

2. Within thirty (30) days of receipt of the notice of rejection.

(b) The notice of appeal shall be submitted:

1. On KLEC Form S; and

2. With a copy of the notice of rejection of agency testing attached.

(c) A copy of the notice of appeal shall be mailed to the KLEC office by certified mail.

(d) The Secretary of the Justice and Public Safety Cabinet shall schedule a hearing within thirty (30) days of receipt of the notice of appeal.

(e) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 3. Certification of peace officers, telecommunicators, and court security officers. (1) Officers exempted from certification requirements pursuant to KRS 15.380(5) who are requesting certification shall submit KLEC Form E to the KLEC office.

(2) State peace officers employed pursuant to KRS Chapter 18A who have had certification requirements adopted pursuant to KRS 15.380(2) shall submit KLEC Form E to the KLEC office.

(3) An agency may request that peace officers identified in KRS 15.380(4), who have completed law enforcement basic training, and part-time telecommunicators, who have completed the Telecommunications Academy, participate in certification by submitting KLEC Form E to the KLEC office.

(4) Peace officers, telecommunicators, and court security officers entitled to certified status pursuant to the grandfather provision of KRS 15.400(1), 15.3971, 15.560, or 15.565 shall submit KLEC Form C.

(5) An agency may request certification for a peace officer that has completed a non-DOCJT law enforcement basic training by submitting KLEC Form B - Basic Training ***Previously*** Completed (non-DOCJT) to the KLEC Office.

Section 4. Suitability Minimum Requirements: The***[~~following~~]*** minimum requirements and procedures***[~~are~~]*** established for KLEC testing ***by this section shall be followed.[~~:~~]***

(1) The background investigation as specified in KRS 15.382(12) and ***15.3971(1)(k)[~~15.3971(k)~~]*** shall consist of the following minimum requirements, utilizing the KLEC Form H-1 Background Investigation and Form H-2 Personal History Statement:

(a) Biographical history;

(b) Family history;

(c) Education;

(d) Employment history;

(e) Interview with the applicant's references;

(f) Criminal history including domestic violence protective orders; and

(g) Credit history.

(2) Fingerprinting. An applicant shall be fingerprinted and a criminal background check shall be conducted as specified in KRS 15.382(5), 15.3971(1)(e), and 15.540(1)(c) through the***[~~following~~]*** procedure ***established by this subsection.[~~:~~]***

(a) The agency shall submit one (1) completed FD 258 FBI Fingerprint Card to the Kentucky State Police, who shall input the fingerprints into the AFIS System and complete a state records check. The fingerprints shall also be sent to the FBI for a records check.

(b) The KSP shall forward the results of state and FBI records check to the employing agency.

(c) Final certification shall not be issued until results consistent with certification requirements and acceptable to the agency are received from the FBI.

(d) The agency may employ the peace officer, telecommunicator, or court security officer contingent upon the pending FBI results.

(3) Psychological screening as specified in KRS 15.382(15), 15.3971(1)(m), and 15.540(1)(d) shall consist of the***[~~following~~]*** minimum requirements ***established by this subsection.[~~:~~]***

(a) Screening shall measure a broad spectrum of abilities which are relevant to job related duties, including:

1. Cognitive abilities;

2. Personality characteristics; and

3. Related constructs, including:

a. Integrity;

b. Conscientiousness; and

c. Vocational preference;

(b) Screening shall contain a minimum of two (2) independent and objectively scored psychometric measures which shall be constructed and validated in accordance with the "Standards for Educational and Psychological Testing", Part IV - Standards for Administrative Procedures, (1985 Edition), American Psychological Association;

(c)1. Assessment results and predictions shall include a recommendation and summary statement regarding the applicant's overall suitability for employment as a peace officer, telecommunicator, or court security officer;

2. The summary statement shall classify applicants as:

a. "Suitable";

b. "Not suitable"; or

c. Borderline; and

3. If an applicant is classified as borderline or not suitable, the report shall contain specific concerns and negative indicators for investigation and reconciliation by the employing agency; and

(d) Screening shall be administered in accordance with the "Standards for Educational and Psychological Testing", Part IV - Standards for Administrative Procedures, (1985 Edition), American Psychological Association.

(4) Physical ability testing as specified in KRS 15.382(16) shall consist of the***[~~following~~]*** minimum requirements ***established by this subsection.[~~:~~]***

(a) Precertification status.

1. To obtain precertification status under KRS 15.386(1), the applicant shall successfully complete each of the events in the following order as instructed and evaluated by KLEC personnel who shall administer the test in conformity with the KLEC Physical ***Fitness*** Testing Protocols:

a. Bench press;

b. Sit-ups;

c. 300 meter run;

d. Push-ups; and

e. One and five-tenths (1.5) mile run.

2. An applicant shall pass the physical ability test for precertification status if he or she achieves a score of fifty (50) points or more, based upon the following scoring of the physical training events listed in subparagraph 1 of this paragraph:

a. Bench press, based upon a percentage of the recruit's body weight:

(i) 9 points - Recruit shall bench press at least fifty-five and three-tenths (55.3) percent of body weight;

(ii) 9.5 points - Recruit shall bench press at least fifty-nine and seven-tenths (59.7) percent of body weight;

(iii) 10 points - Recruit shall bench press at least sixty-four (64) percent of body weight;

(iv) 10.5 points - Recruit shall bench press at least sixty-eight and five-tenths (68.5) percent of body weight; and

(v) 11 points - Recruit shall bench press at least seventy-three (73) percent or more of body weight;

b. Sit-ups:

(i) 9 points - Recruit shall complete at least thirteen (13) repetitions in one (1) minute;

(ii) 9.5 points - Recruit shall complete at least sixteen (16) repetitions in one (1) minute;

(iii) 10 points - Recruit shall complete at least eighteen (18) repetitions in one (1) minute; and

(iv) 11 points - Recruit shall complete nineteen (19) repetitions or more in one (1) minute;

c. 300 meter run:

(i) 9 points - Recruit shall complete in sixty-eight (68) seconds or less;

(ii) 9.5 points - Recruit shall complete in sixty-seven (67) seconds or less;

(iii) 10 points - Recruit shall complete in sixty-five (65) seconds; and

(iv) 11 points - Recruit shall complete in less than sixty-five (65) seconds;

d. Push-ups:

(i) 9 points - Recruit shall complete at least fourteen (14) repetitions in two (2) minutes;

(ii) 9.5 points - Recruit shall complete at least seventeen (17) repetitions in two (2) minutes;

(iii) 10 points - Recruit shall complete at least twenty (20) repetitions in two (2) minutes;

(iv) 10.5 points - Recruit shall complete at least twenty-three (23) repetitions in two (2) minutes; and

(v) 11 points - Recruit shall complete twenty-five (25) repetitions or more in two (2) minutes; and

e. One and five-tenths (1.5) mile run:

(i) 9 points - Recruit shall complete in 1,076 seconds (17:56) or less;

(ii) 9.5 points - Recruit shall complete in 1,054 seconds (17:34) or less;

(iii) 10 points - Recruit shall complete in 1,032 seconds (17:12) or less;

(iv) 10.5 points - Recruit shall complete in at least 1,004 seconds (16:44) or less; and

(v) 11 points - Recruit shall complete in less than 975 (16:15) seconds.

3. An applicant shall not be awarded more than eleven (11) points in any one (1) of the five (5) physical ability events.

4. An applicant shall fail the physical ability test for precertification status if he or she does not achieve at least nine (9) points on each physical training event.

5. At the sole discretion of the hiring agency, an applicant that fails to meet the lowest performance level in a test event, thus earning a zero point value for that event, shall be granted a retest opportunity in that event without having to retest in the other events for which a point value was obtained, subject to the ***conditions established by this subparagraph.[~~following:~~]***

a. A retest shall not be granted unless the maximum value of eleven (11) points would allow the applicant to meet the required overall fifty (50) point minimum***.[~~; and~~]***

b. A retest shall not occur any sooner than forty-eight (48) hours or any later than sixty (60) days from the date of the initial test attempt.

6. If an applicant obtains a point value for each event, but does not obtain an overall score of fifty (50), the examinee may attempt the test battery again, in its entirety. This shall be considered a second test administration and not be considered a retest.

7. An applicant may participate in the physical ability test for precertification status in its entirety, four (4) times in a one (1) year period, which shall be calculated from the first date of testing.

8. An applicant may participate in one (1) physical ability retest for each physical ability test taken for precertification status in its entirety.

(b) Certification status.

1. To obtain certification status under KRS 15.386(2), the applicant shall successfully complete each of the following physical ability requirements within five (5) days of graduation from law enforcement basic training, which, except for the precertification test score requirements, shall be administered in the same order and in conformity with the KLEC Physical Fitness Testing Protocols:

a. Bench press. One (1) repetition of maximum (RM) bench press equal to seventy-three (73) percent of the applicant's body weight;

b. Sit-ups. Eighteen (18) sit-ups in one (1) minute;

c. 300 meter run in sixty-five (65) seconds;

d. Push-ups. Twenty-five (25) push-ups; and

e. One and five-tenths (1.5) mile run in sixteen (16) minutes, fifteen (15) seconds.

2. If an applicant passes all events when participating in the physical ability test in its entirety, the applicant shall have met the physical ability minimum requirements for certification status.

3. Retest. If an applicant fails to pass all events when participating in the physical ability test for certification status: training graduation test:

a. The applicant shall not retest in the failed events earlier than forty-eight (48) hours after the date the test is originally administered;

b. All failed events shall be retested on the same date; and

c. If the applicant passes all previously failed events on the date of the retest, the applicant shall have met the physical ability test requirements for certification status.

(5) Medical screening as specified in KRS 15.382(10) shall consist of the***[~~following~~]*** minimum requirements ***established by this subsection.[~~:~~]***

(a) The applicant shall complete KLEC Form G-2, Medical History Statement, which along with KLEC Form G-3, Medical ***Screening*** Guidelines Implementation Manual, shall be provided to the physician or physician's assistant, duly licensed to practice in the Commonwealth of Kentucky, who shall examine the applicant in conformity with the guidelines.

(b) The agency shall provide the examining physician or physician's assistant with a copy of the KLEC Form T-1a, Physician's Medical Release Form.

(c) The physician or physician's assistant shall complete KLEC Form G-1, Medical Examination Report, and forward it to the employing agency.

(6) Drug screening as specified in KRS 15.382(11), 15.3971(1)(j), and 15.540(1)(f) shall consist of the***[~~following~~]*** minimum requirements ***established by this subsection.[~~:~~]***

(a) The applicant shall execute KLEC Form K-1 and submit a urine sample that shall be screened using gas chromatography/mass spectrometry (G.C.M.S.) for the following drugs and thresholds for positive indications:

1. THC (marijuana), 20 ng/ML, 5 GC/MS;

2. Amphetamines, to include Methamphetamine and Methylenedioxymethamphetamine, 300 ng/ML, 100 GC/MS;

3. Cocaine, 150 ng/ML, 50 GC/MS;

4. Opiates, 300 ng/ML, 150 GC/MS;

5. Barbiturates, 200 ng/ML, 100 GC/MS;

6. Phencyclidine (PCP), 25 ng/ML, 25 GC/MS;

7. Methadone, 300 ng/ML, 100 GC/MS;

8. Oxycodone (Oxycontin), 100 ng/ML, 100 GC/MS;

9. Benzodiazepines, 200 ng/ML, 100 GC/MS; ***and***

10. Propoxyphene, 300 ng/ML, 200 GC/MS;

(b) The integrity of the urine sample shall be documented on KLEC Form K-2, Drug Screening ***through Urinalysis*** Chain of Custody.

(7) ***For the*** polygraph examination as specified in KRS 15.382(17), 15.3971(1)(n), and 15.540(1)(e)***,[~~shall consist of the following minimum requirements:~~]*** the applicant shall complete KLEC Form I-1, ***Consent for Pre-employment Polygraph Examination[~~Polygraph Waiver~~]***, and KLEC Form I-2, ***Pre-employment*** Polygraph***[~~Applicant~~]*** Questionnaire, which shall be provided to the polygraph examiner, duly licensed in the commonwealth of Kentucky, who shall perform a polygraph examination of the applicant, utilizing the questions in the KLEC Form I-3, ***Pre-employment Polygraph Background/Criminal Questions[~~Polygraph Test Questions~~]***.

(8) The agency shall ensure that the applicant receives and

has read KLEC Form L-1, Code of Ethics and KLEC Form L-2, Canon of Ethics.

(9) High school diploma.

(a) The high school graduate requirement of KRS 15.382(3), 15.3971(1)(c), or 15.540(1)(b) shall be met by:

1. Submission of a copy of a diploma or transcript from a public high school; or

2. Submission of a diploma or transcript from a private high school that:

a. Is certified by or recognized by the Kentucky Department of Education; or

b. Has complied with all provisions of Kentucky law relating to private secondary schools, including days and hours of attendance and course curriculum. The applicant shall submit documentary proof of compliance upon request of the KLEC.

(b) A document purporting to be a high school or college diploma and obtained through the internet or by mail order shall not satisfy the requirement of KRS 15.382(3), 15.3971(1)(c), or 15.540(1)(b).

Section 5. KLEC Administered Testing Procedures. (1) An applicant shall execute all releases required for KLEC testing, including:

(a) KLEC Form I-1 - Consent for ***Pre-employment[~~Preemployment~~]*** Polygraph Examination;

(b) KLEC Form K-1 - Drug Screening ***through Urinalysis*** Applicant Consent Form;

(c) KLEC Form T-1 - Medical Release - Phase I Testing; and

(d) KLEC Form T-2 - ***Liability Waiver[~~Health Confirmation~~]*** - Phase I Testing.

(2) Testing schedule.

(a) The KLEC office shall mail to all law enforcement and telecommunications agencies in the commonwealth a list of sites and dates for KLEC administered testing.

(b) Testing sites shall be statewide and accommodations shall be made where reasonable to ensure testing sites are accessible based upon need.

(c) Advance notice of the schedule shall be made public prior to the testing.

(d) The KLEC office shall reschedule testing if cancellation is necessary due to inclement weather or other unforeseen circumstances. Emergency testing shall be made available if possible at the Department of Criminal Justice Training as needed.

(3) Registration for KLEC administered testing. The KLEC office shall receive KLEC Form A from the employing agency at least five (5) business days prior to testing.

(a) Applicants shall provide current photographic identification when the testing is administered.

(b) The KLEC office shall receive the completed polygraph questionnaire KLEC Form I-2 when the testing is administered.

Section 6. Test Reporting by KLEC. (1) Results of tests provided by or through the KLEC office shall be forwarded to the employing agency head.

(2) The agency shall certify that the applicant has met all suitability requirements by submitting KLEC Form D. The information from the completed form shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund and training authorization purposes.

(3) Length of test result validity.

(a) Physical ability for precertification status: results shall be considered current and valid one (1) year from the passing date of the test.

(b) Suitability screening: results shall be considered current and valid for one (1) year from the date of the screening. If the applicant experiences a significant life change during the one (1) year period, for example, a divorce or the death of a close family member or friend, the applicant shall notify the employing agency who shall schedule a new suitability screening for the applicant.

(c) Polygraph examination: results shall be considered current and valid for a period of one (1) year from the date of the examination. If the applicant experiences a significant life change during the one (1) year period, for example, a divorce or the death of a close family member or friend, the applicant shall notify the employing agency who shall schedule a new polygraph examination for the applicant.

(d) Drug screening: results shall be considered current and valid only for the agency that requested or performed the test and only during that employment process. An applicant that leaves and reenters the testing process for preselection screening shall submit to another drug screening.

(4) Updating test results. The employing agency shall update test results if necessary by submitting KLEC Form D to the KLEC office.

(5) Agency access to prior test results.

(a) It shall be at the applicant and individual agency's discretion to allow another employing agency access and use of the initial agency's certification testing which is still current and valid.

(b) If agencies enter into an agreement with the written permission of the applicant, the new employing agency shall receive the medical, suitability, and polygraph results directly from the agency that initially requested testing of the applicant.

(c) Costs incurred for duplicate KLEC test results shall be the responsibility of the agency obtaining the results.

Section 7. Test Reporting by Agency. (1) An agency that performs physical ability testing based upon the requirements in Section 4 of this administrative regulation shall report all test results by submitting a ***POPS*** Form PT-1, Physical ***Agility[~~Ability~~]*** Test Session Report, to the KLEC within ten (10) days of administering the test.

(2) An agency that performs physical ability testing based upon its own validated job task analysis in accordance with KRS 15.382(16), shall report the test results of every applicant tested in writing to the KLEC office within ten (10) days of administering the test.

(3) Physical ability test results shall be reported to the KLEC office regardless of whether the applicant:

(a) Passes or fails the test; or

(b) Performs or completes every component of the physical ability test.

Section 8. KLEC Administered Testing Costs. (1) The employing agency shall reimburse KLEC within sixty (60) days of receipt of the invoice for the cost of KLEC administered testing provided at the agency's request as follows:

(a) Sixty-five (65) dollars for each psychological screening;

(b) $100 for each polygraph examination; and

(c) Sixteen (16) dollars for each drug screening.

(2) If an agency has scheduled KLEC testing for an applicant who fails to appear or complete the testing, the agency shall be responsible for fifty (50) percent of the cost of the test had it been completed.

(3) Financial hardship.

(a) Application. An employing agency may apply for a waiver of costs for KLEC testing pursuant to KRS 15.384(1) by demonstrating undue financial hardship. The agency shall submit to the KLEC office:

1. The actual approved budget of the governmental unit for the current and the preceding year;

2. The number of certification applicants for the current and preceding year;

3. The actual revenue receipts of the governmental unit for the current and the preceding year; and

4. A detailed explanation of why the governmental unit cannot meet the cost of providing the testing, including the reason that adequate funding was not budgeted to cover the cost of testing.

(b) Initial review. Within five (5) business days of receipt of the application the KLEC office shall mail a notification to the agency that either:

1. The application has been received and is complete; or

2. The application is incomplete and the specific information which shall be supplemented in order to process the application. The KLEC office shall receive the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary

information within the specified time period, the application shall be considered abandoned and the agency shall resubmit an application for financial hardship.

(c) Recommendation. Within thirty (30) days of their receipt of the completed application, the KLEC office shall forward the application to KLEC, along with a recommendation to approve or reject the application for financial hardship, and the specific reasons supporting a recommendation to reject.

(d) KLEC review.

1. The KLEC Committee on Certification shall review the application and the recommendation of the KLEC office and forward their recommendation to KLEC for final review.

2. Within sixty (60) days of their receipt of the application KLEC shall issue written notice to the agency indicating whether the application has been approved or rejected, and the specific reasons supporting the rejection.

(e) Appeal.

1. An agency may appeal a decision made by KLEC to reject an agency's application for financial hardship by filing a written notice of appeal to the Secretary of the Justice and Public Safety Cabinet.

2.The notice shall be filed within thirty (30) days of receipt of the notice of rejection.

3. The notice of appeal shall be submitted on KLEC POPS Form S with a copy of the notice of rejection of financial hardship attached.

4. A copy of the notice of appeal shall be delivered to the KLEC office by certified mail, to the following address, Kentucky Law Enforcement Council, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102.

5. The Secretary of the Justice and Public Safety Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

(4) If an agency knowingly employs or appoints a person who fails to meet minimum certification standards pursuant to KRS 15.396(1) the KLEC office shall immediately notify DOCJT.

Section 9. Employment Changes. (1) Pursuant to KRS 15.392 and 15.580 if a certified peace officer, telecommunicator, or court security officer leaves an agency, the agency shall submit KLEC Form F.

(2) If the peace officer, telecommunicator, or court security officer is reemployed by another agency the employing agency shall submit KLEC Form F within five (5) business days of the employment or appointment. ***Additionally, the agency shall submit KLEC Form D-1 for returning peace officers or court security officers.***

(3) Information from completed KLEC Forms F shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund and training authorization purposes.

Section 10. Out-of-state, military, and federal law enforcement and telecommunications basic training. (1) An applicant to a Kentucky law enforcement or telecommunications agency who has graduated from a basic training course or academy in another state may be certified by the KLEC if:

(a) The basic training course or academy was equal to or exceeded the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers when the course was completed by the applicant, as determined by the executive director of the KLEC;

(b) The basic training course or academy is a single, stand alone course;***[~~and~~]***

(c) The peace officer, telecommunicator, or court security officer has been employed in a full-time capacity in the state of graduation for a period of at least one (1) year before applying with the Kentucky agency; and

(d) The peace officer completes the following courses presented by the Department of Criminal Justice Training within one (1) year of his or her hiring by the Kentucky law enforcement agency. For purposes of meeting the hourly requirement in paragraph (a) of this subsection, the number of hours of these courses shall be added to the number of hours taken in the out-of-state basic training course:

1. The twenty-four (24) hour legal update Penal Code course;

2. The sixteen (16) hour legal update constitutional procedure course;

3. On-line Federal Emergency Management Agency ICS 100, ICS 200, and IS 700 courses (or current equivalent). A Certificate of Completion or official transcript shall satisfy this requirement[~~The forty (40) hour Homeland Security Course~~]; and

4. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:

a. Basic officer skills;

b. Orientation for new police chiefs; or

c. Mandatory duties of the sheriff.

(2) An applicant to a Kentucky law enforcement or telecommunications agency who has graduated from a law enforcement or telecommunications basic training course or academy while serving in the United States military may be certified by the KLEC if:

(a) The basic training course or academy corresponded with or exceeded the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers at the time the course was completed by the applicant, as determined by the Executive Director of the KLEC; and

(b) The basic training course or academy was a single, stand-alone course.

(3) An applicant to a Kentucky law enforcement agency who has graduated from one (1) of the following Federal law enforcement basic training courses may be certified by the KLEC:

(a) Federal Bureau of Investigation;

(b) Bureau of Alcohol, Tobacco, and Firearms;

(c) Drug Enforcement Administration; or

(d) United States Secret Service.

(4) The KLEC shall not approve a basic training course or academy that consists of two (2) or more courses added together to meet the minimum number of basic training hours for a Kentucky peace officer, telecommunicator, or court security officer.

(5) An agency may request certification for a peace officer that has completed an out-of-state law enforcement basic training by submitting KLEC Form B, Basic Training ***Previously*** Completed (non-DOCJT), to the KLEC Office.

Section 11. Records. (1) Records retention. The KLEC office shall retain all certification records in electronic or original medium consistent with the Records Retention Schedule established by the Kentucky Department of Library and Archives, pursuant to 725 KAR 1:030.

(2) Security. The KLEC office and employing agencies shall maintain records in a manner to ensure their security. In order to properly maintain the confidentiality of certification records as required by KRS 15.400(3) and 15.540(2), a law enforcement or telecommunications agency shall:

(a) Keep all records relating to certification in a file separate from any personnel file maintained by the hiring authority; and

(b) For KLEC audit purposes, an agency that has a separate human resources or personnel department may complete and maintain in the agency file a KLEC FORM POPS P, Certification of Peace Officer Professional Standards Testing Procedures, ***KLEC Form Q-3 – Drug Screening Approval, KLEC Form Q-4 – Polygraph Approval, and KLEC Form Q-5 – Psychological Examination Approval,*** indicating that the following testing procedures have been completed:

1. Polygraph;

2. Suitability screening;

3. Drug screen; and

4. Medical examination or history statement.

(3) Agencies shall retain all documentation pertaining to certification for five (5) years following the cessation of certification of the peace officer, telecommunicator, or court security officer regardless of where the certified peace officer, telecommunicator, or court security officer is employed in the commonwealth.

(4) An agency that knowingly discloses confidential information in violation of KRS 15.400(3) and 15.540(2) may be denied participation in KLEC polygraph examinations and psychological examinations.

Section 12. Applicant Conduct and Behavior. (1) An applicant who has engaged in behavior constituting dishonesty, cheating, falsification of documents, or any other fraudulent behavior for the purpose of wrongfully receiving certification shall be removed from the testing process and, subject to an administrative hearing in accordance with KRS Chapter 13B, may be barred from further consideration for certification.

(2) Use of alcohol or other intoxicants.

(a) An applicant shall not possess, consume, nor be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while participating in the testing process.

(b) An applicant shall advise the KLEC test administrator in writing of the use of a controlled substance or medication whether or not it has been prescribed by a physician.

(c) An applicant shall not participate in physical ability testing if:

1. The applicant has taken:

a. A controlled substance as prescribed by a physician; or

b. Any other medication, whether prescribed or not; and

2. The applicant is under the influence of the controlled substance or medication to the extent that the applicant may be impaired or is a danger to self or others.

(3) Termination of a dangerous or disruptive situation. If the conduct or condition of an applicant constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of, or is an immediate threat to be disruptive of testing, a KLEC staff member may take all reasonable steps necessary to terminate the situation, including removal of the applicant from testing.

(4) A copy of KLEC Form R shall be mailed to the applicant and the employing agency within five (5) days following the removal stating that the applicant has been removed or barred from testing, the supporting reasons and circumstances of the removal, and whether the agency may reschedule testing.

Section 13. Compliance. (1) Inspection. Test results, testing procedures, and all other certification documentation shall be retained by the agency and be available for inspection and audit at any time by agents authorized by KLEC.

(2) KLEC may initiate an inspection and audit of an agency's certification documentation randomly to assure routine compliance or to investigate a specific complaint.

(3) KLEC shall have access to the services of the DOCJT Compliance and Audit Section, as coordinated through the DOCJT Commissioner, in order to audit specific applicants and agencies to ensure compliance with certification requirements.

(4) If during the course of an audit conducted by the DOCJT Compliance and Audit Section a violation of certification is detected, the DOCJT Compliance and Audit Section shall report the possible violation to KLEC.

(5) Denial of participation in Kentucky Law Enforcement Foundation Program Fund (KLEFPF). If KLEC determines that an agency has knowingly employed or appointed a person who fails to meet minimum certification standards, KLEC shall immediately notify the administrator of KLEFPF.

Section 14. Issuance of Certification. All identification cards issued to a peace officer, telecommunicator, or court security officer verifying certification remain the property of KLEC and shall be returned to the KLEC office upon loss of certification.

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

(a) "Standards for Educational and Psychological Testing", Part IV - Standards for Administrative Procedures***"***, [{]~~***(1985 Edition)***~~[}], American Psychological Association***, 1985***;

(b) ***"***KLEC Form A - Testing Registration - Attesting to Minimum Standards***"***, ***June 2014***[{]~~***(May 2007 edition)***~~[}];

(c) ***"***KLEC Form B - Basic Training ***Previously*** Completed (non-DOCJT)***"***, ***January 19, 1999***~~***(revised 1/19/99)***~~;

(d) ***"***KLEC Form C - Grandfather Information***"***, [{]July 2006~~***(edition)***~~[}];

(e) ***"***KLEC Form D - All Standards Met***"***, ***June 2014***[{]~~***(May 2007 edition)***~~[}];

(f) ***"KLEC Form D-1 – All Standards Met – Inactive to Active Status", June 2014;***

(g) "KLEC Form E - Request for Certification for Exempt Officers, ***March 1, 1999***~~***(revised 1/19/99)***~~;

(h) "~~***(g))***~~KLEC Form F - Status Update***"***, ***June 2014***[{]~~***(July 2008 edition)***~~[}];

(i) "~~***(h))***~~KLEC Form G-1 - Medical Examination Report***"***, [{]June ***2014***~~***(19, 2001 edition)***~~[}];

(j) "~~***(i))***~~KLEC Form G-2 - Medical History Statement***"***, ***June 2014***[{]~~***(July 1, 2001 edition)***~~[}];

(k) "~~***(j))***~~KLEC Form G-3 - Medical Screening Guidelines Implementation Manual***"***, ***June 2014***[{]~~***(July 1, 2001 edition)***~~[}];

(l) "~~***(k))***~~KLEC Form H-1 - Background Investigation***"***, [{]June 2001~~***(edition)***~~[}];

(m) "~~***(l))***~~KLEC Form H-2 - Personal History Statement***"***, ***January 19, 1999***~~***(revised 1/19/99)***~~;

(n) "~~***(m))***~~KLEC Form I-1 - Consent for Pre-employment Polygraph Examination***"***, ***June 2014***[{]~~***(July 2007 edition)***~~[}];

(o) "~~***(n))***~~KLEC Form I-2 - Pre-employment Polygraph Questionnaire***"***, [{]June ***2014***~~***(2007 edition)***~~[}];

(p) "~~***(o))***~~KLEC Form I-3 – ***Pre-employment*** Polygraph ***Background/Criminal***~~***(Test)***~~ Questions***"***, ***October 11, 2005***[{]~~***(July 2006 edition)***~~[}];

(q) "~~***(p))***~~KLEC Form J - JTA Submission***"***, ***January 19, 1999***~~***(revised 1/19/99)***~~;

(r) "~~***(q))***~~KLEC Form K-1 - Drug Screening Through Urinalysis Applicant Consent Form***"***, [{]July 2006 ~~***(edition)***~~[}];

(s) "~~***(r))***~~KLEC Form K-2 - Drug Screening Through Urinalysis Chain of Custody Form***"***, [{]July 2006 ~~***(edition)***~~[}];

(t) "~~***(s))***~~KLEC Form L-1 - Code of Ethics***"***, ***June 2014***[{]~~***(July 1, 2001 edition)***~~[}];

(u) "~~***(t))***~~KLEC Form L-2 - Canon of Ethics***"***, ***June 2014***[{]~~***(July 1, 2001 edition)***~~[}];

(v) "~~***(u))***~~KLEC Form Q - Agency Submission Form***"***, [{]October 2006~~***(edition)***~~[}];

(w) "~~***(v))***~~KLEC Form Q-3 - Drug Screening Approval***"***, [{]July 2006~~***(edition)***~~[}];

(x) "~~***(w))***~~KLEC Form Q-4 - Polygraph Approval***"***, [{]July 2006~~***(edition)***~~[}];

(y) "~~***(x))***~~KLEC Form Q-5 - Psychological Examination Approval***"***, [{]July 2006~~***(edition)***~~[}];

(z) "~~***(y))***~~KLEC Form tele-Q - Agency Submission Form***"***, ***June 2014***[{]~~***(July 2006 edition)***~~[}];

(aa) "~~***(z))***~~KLEC Form R - Removal from Testing***"***, ***January 19, 1999***~~***(revised 1/19/99)***~~;

(bb) "~~***(aa))***~~KLEC ***POPS*** Form S - Notice of Appeal***"***, ***January 19, 1999***~~***(revised 1/19/99)***~~;

(cc) "~~***(bb))***~~KLEC Form T-1 - Medical Release - Phase I Testing***"***, ***June 2014***[{]~~***(July 2001 edition)***~~[}];

(dd) "~~***(cc))***~~KLEC Form T-1a - Physician's Medical Release Form***"***, ***June 2014***[-{]~~***(July 2001 edition)***~~[}];

(ee) "~~***(dd))***~~KLEC Form T-2 - Liability Waiver - Phase I Testing***"***, [{]July 2001~~***(edition)***~~[}];

(ff) "~~***(ee))***~~POPS Form PT-1 - Physical ***Agility***~~***(Ability)***~~ Test Session Report***"***, ***January 2003***[{]~~***(1/03 edition)***~~[}];

(gg) "~~***(ff))***~~POPS Form P - Certification of Peace Officer Professional Standards Testing Procedures***"***, ***July 2004***[{]~~***(7/04 edition)***~~[}]; and

(hh) "~~***(gg))***~~KLEC Physical Fitness Testing Protocols***"***, ***December 2009***[{]~~***(12/09 edition)***~~[}].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Law Enforcement Council Office Funderburk Building, Eastern Kentucky University, Richmond, Kentucky 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m.

KEITH CAIN, Chair

APPROVED BY AGENCY: August 13, 2015

FILED WITH LRC: August 14, 2015 at 11 a.m.

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PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS, October 13, 2015)

820 KAR 1:001. Definitions for 820 KAR Chapter 1.

RELATES TO: KRS 238.500-238.995
STATUTORY AUTHORITY: KRS 238.515(9)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(9) authorizes the Department of Charitable Gaming to promulgate administrative regulations to carry out the provisions of the chapter. This administrative regulation establishes definitions of terms used throughout 820 KAR Chapter 1.

Section 1. Definitions. (1) "Account number" means the unique identification number, if any, assigned by a card-minding device system or electronic pulltab system to a customer that uses a card-minding device to play bingo or an electronic pulltab device to purchase and play a pulltab.

(2) "Bet block" means an area that indicates the dollar amount of the wager.

(3) "Bingo ball" means a ball imprinted with numbers and letters which is used in the selection process of a bingo game.

(4) "Bingo machine" means:

(a) A type of selection device with a receptacle for the unselected bingo balls, a blower for selecting the balls, and a ball tray that contains seventy-five (75) holes in which to place the ball once it is called; or

(b) A generator that randomly selects the balls and displays them on the face of the device.

(5) "Bingo paper pack" means a group of bingo paper sheets that are manufactured, collated, and sold by the manufacturer as a unit.

(6) "Bingo paper package" means a group of bingo paper sheets or packs that are assembled together by an organization for sale at a gaming occasion that becomes a unique item for sale with a specific price.

(7) "Bingo paper sheet" means a single piece of paper on which one (1) or multiple bingo faces are printed.

(8) "Break open bingo" means a bingo game in which the numbers on the face are hidden until after purchase.

(9) "Bundle" means to price a certain amount of bingo paper faces for a certain price with the patron choosing the type of packs that make up the total faces.

(10) "Called" means that a number located on a bingo ball has been:

(a) Selected by the selection device;

(b) Verbally announced by the caller;

(c) Displayed on the flashboard or other device; and

(d) Placed in a ball tray or otherwise continuously displayed until completion of the bingo game.

(11) "Cash" means currency, coinage, or a negotiable instrument.

(12) "Cash over" means the total amount of money actually received from the sale of gaming supplies at a gaming occasion is more than the amount of money due from the sale of that quantity of gaming supplies.

(13) "Cash short" means the total amount of money actually received from the sale of gaming supplies at a gaming occasion is less than the amount of money due from the sale of that quantity of gaming supplies.

(14) "Chief executive officer" means the director of the organization or the person who has legal authority to direct the management of the organization, distributor, manufacturer, or facility.

(15) "Chief financial officer" means the person who shall be:

(a) Responsible for overseeing the financial activities of the organization, distributor, manufacturer, or facility;

(b) The custodian of the gaming occasion records; and

(c) Responsible for ensuring that the records are accurate, complete, and maintained regularly for inspection by the department.

(16) "Conditioning" means a restatement of:

(a) How many numbers or combinations of numbers are being selected by the players;

(b) The way in which the numbers are being wagered; and

(c) The corresponding dollar amount wagered.

(17) "Continuation game" means a multipart bingo game in which more than one (1) game with more than one (1) pattern may be played on one (1) bingo paper sheet.

(18) "Covered" means daubed or smeared with indelible ink if using a disposable paper bingo face, or marked electronically if using a card-minding device.

(19) "Cumulative pulltab game" means a pulltab game consisting of multiple pulltab deals or game sets that is designed by the manufacturer so that a portion of each deal's predetermined payout is designated to a prize pool board.

(20) "Deal" ***or "game set"*** means each separate game or series of pulltabs, including electronic pulltabs, which has the same serial number and which may be composed of multiple packages.***[~~A deal of electronic pulltabs is called a "game set".~~]***

(21) "Digital signature" means a method by which data, as in a software application, is expressed in a calculated number which is used to verify the accuracy of the data or a copy of the data.

(22) "Disposable paper bingo face" means a nonreusable bingo face assembled in a single sheet, multiple face sheet, pad, or pack form.

(23) "Draw ticket" means a blank ticket upon which the numbers are marked as they are randomly selected.

(24) "Electronic pulltab" means an electronic version of a paper pulltab that is distributed from a finite number of game outcomes by a central computer system and played on an electronic pulltab device.

(25) "Electronic pulltab system" means***:***

(a) A central computer system***, which may be[, ~~including~~]*** an optional site system;

(b) Electronic pulltab devices;

(c) Point of sale stations;

(d) Secondary components; and

(e) Proprietary software ***that contains reporting and control functions as specified by 820 KAR 1:033***, whereby the central computer system communicates with ***the*** electronic pulltab devices for the purpose of distributing a finite number of electronic pulltabs, a certain number of which, if randomly selected, entitle a player to prize awards at various levels.***[~~The electronic pulltab system also provides reporting and control functions as specified by 820 KAR 1:033.~~]***

(26) "EPROM" means Erasable Programmable ROM.

(27)[~~(25)~~] "Event game" means a type of pulltab game, with or without a seal card, that is designed by the manufacturer so that certain prizes are determined by:

(a) The draw of a bingo ball; or

(b) A method of randomly selecting numbers or symbols that correspond to the numbers or symbols printed on a paper or electronic pulltab[~~ticket~~].

(28)[~~(26)~~] "Exception log" means a record documenting a prize payout that has not been authorized by the computer.

(29)[~~(27)~~] "Face" means a paper or an electronic representation containing:

(a) Five (5) rows of five (5) squares with numbers or symbols;

(b) A free center space;

(c) The letters "B", "I", "N", "G", "O" printed in order over the five (5) columns; and

(d) A unique perm number identifying each face.

(30)[~~(28)~~] "Fixed base card-minding device" means a computer system, not necessarily manufactured by a licensed manufacturer, which has been loaded with proprietary software by a licensed manufacturer to enable it to function as a card-minding device.

(31) "Fixed base electronic pulltab device" means a single personal computing device which has been loaded with proprietary software by a licensed manufacturer to enable it to function as an electronic pulltab device.***[~~A fixed based electronic pulltab device shall not be built into a cabinet or in any way be designed or manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any~~***

similar video gaming device.]

(32)[~~(29)~~] "Flare" means the paper included with a deal of paper pulltabs, or the electronic representation of a paper flare included with a game set of electronic pulltabs, that identifies the game, the rules of the game, the[~~and~~] payout structure, and other information as set forth by 820 KAR 1:032, 820 KAR 1:033, and 820 KAR 1:036.

(33)[~~(30)~~] "Flashboard" or "display board" means a board that displays the bingo numbers called.

(34)[~~(31)~~] "Form number" means a manufacturer's alphanumeric number that identifies a pulltab payout structure.

(35)[~~(32)~~] "Gambling" means staking or risking something of value on the outcome of a contest, game, gaming scheme, or gaming device which:

(a) Is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value if there is a certain outcome; and

(b) Does not include a contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill.

(36) "Game set" means the entire ***deal[pool]*** of finite electronic pulltabs that contains predefined and randomized game results assigned under a unique serial number.***[This term is equivalent to "deal".]***

(37) "Game subset" means a division of a game set into equal sizes following randomization, with each game subset also identified by a unique serial number.

(38)[~~(33)~~] "Gaming occasion" means an event at which charitable gaming takes place, such as a bingo session, a charity fundraising event, a special limited charity fundraising event, a sale of pulltabs, or a sale of raffle tickets.

(39)[~~(34)~~] "Gaming occasion program", "bingo program", "occasion program", or "program" means a written list of all games to be played and prize amounts to be paid for each game during a gaming occasion, including, if the prizes are based on attendance, the amount of the prize and the attendance required.

(40)[~~(35)~~] "Hand-held card-minding device" means a hand-held computer that is either manufactured or customized by the manufacturer to operate as a card-minding device.

(41) "Hand-held electronic pulltab device" means a single tablet or hand-held computer, other than a mobile phone or similar hand-held device, that is either manufactured or customized by the manufacturer to operate as an electronic pulltab device.

(42)[~~(36)~~] "Hard card" means a reusable card bearing a bingo face or faces.

(43)[~~(37)~~] "Inside ticket" means a blank Keno ticket:

(a) Constructed with eighty (80) blocks numbered one (1) through eighty (80); and

(b) Containing a bet block.

(44)[~~(38)~~] "Jackpot prize in a progressive pulltab game" or "progressive jackpot prize" means a prize in addition to the instant or seal card prizes which is carried over from deal to deal, or game set to game set, until it is won.

(45)[~~(39)~~] "Jar ticket" means a type of pulltab game ticket that is folded, glued, or stapled.

(46)[~~(40)~~] "Keno" means a numbers game in which:

(a) A participant chooses from one (1) to ten (10) numbers from a pool of eighty (80) numbers; and

(b) The winner and the prize is determined by correctly matching the participant's numbers to the twenty (20) numbers generated in the game.

(47)[~~(41)~~] "Keno equipment" means:

(a) An electronic selection device;

(b) A random number generator;

(c) A computerized Keno system; or

(d) An integrated system of computer hardware and software that:

1. Generates a player ticket;
2. Records a game outcome;
3. Verifies a winning ticket;
4. Produces a management report; or
5. Performs other internal audit controls of a Keno operation.

(48)[~~(42)~~] "Keno manager" means the person in charge of the operation of the Keno game.

(49)[~~(43)~~] "Last sale" means a pulltab game designed by the manufacturer in which a prize is awarded to the person who bought the last pulltab or electronic pulltab in a deal or game set.

(50)[~~(44)~~] "Merchandise prize" means a noncash prize given away at a charitable gaming event either as a game prize or a door prize.

(51)[~~(45)~~] "Model number" means the name or number designated by the manufacturer that indicates the unique structural design of a hand-held card-minding device, fixed base card-minding device,[~~or~~] card-minding system component, hand-held electronic pulltab device, fixed base electronic pulltab device, or any element of an electronic pulltab system.

(52)[~~(46)~~] "Multipackaged pulltab deal" means a pulltab game consisting of a single deal or game set of not more than 25,000[~~10,000~~] tickets that is packed or electronically grouped in subsets and in which each subset contributes to a prize pool with or without a prize board.

(53)[~~(47)~~] "Multirace ticket" means a single Keno ticket that allows a player to make the same wager on consecutive games.

(54)[~~(48)~~] "Outside ticket" means a computer-generated Keno ticket given to the player which reflects game and wagering information.

(55)[~~(49)~~] "Perm number" means the number located on a bingo face that identifies the unique pattern of numbers appearing on that face.

(56)[~~(50)~~] "Pickle jar, bonanza ball, or hot ball" means games played in conjunction with other bingo games in which:

(a) A bingo ball is selected by the selection device prior to the start of certain bingo games or all bingo games; and

(b) A patron is awarded the amount of money associated with the pickle jar, bonanza ball, or hot ball, if the selected bingo ball is called, and because of that selected ball being called, a patron wins the bingo game being played.

(57)[~~(51)~~] "Player pick bingo" means that the patron picks the numbers which constitute a bingo on his or her face or faces and a machine prints those numbers on the bingo face at the gaming occasion before the game is played.

(58)[~~(52)~~] "Player tracking software" means computer software installed on a card-minding device system, electronic pulltab system, or other point of sale system that is used to identify or track certain characteristics of bingo or pulltab players, including personal data and purchasing habits.

(59)[~~(53)~~] "Progressive bingo" means a bingo game in which the value of the prize is carried forward to the next bingo occasion if no player wins at that session.

(60)[~~(54)~~] "Progressive pulltab game" or "carryover pulltab game" means a pulltab game consisting of one (1) or more deals or game sets designed by the manufacturer so that a portion of the deal's predetermined prize payout is designated to a progressive jackpot and the jackpot value may accumulate from one (1) deal to the next deal until won.

(61)[~~(55)~~] "PROM" means programmable ROM.

(62)[~~(56)~~] "Promotional" means any item available at no charge to all participants at an event.

(63)[~~(57)~~] "Proprietary software" means custom computer software developed by the manufacturer that is a primary component of a[~~the~~] card-minding device system or electronic pulltab system and is required for a card-minding device to be used in a game of bingo or for an electronic pulltab device to be used to play an electronic pulltab.

(64)[~~(58)~~] "Pulltab" means a charity game ticket as defined by KRS 238.505(5).

(65)[~~(59)~~] "Purchased prize" means any merchandise prize that was purchased and not donated.

(66)[~~(60)~~] "Quick pick" means a number selection made for the player by a computer.

(67)[~~(61)~~] "RAM" or "random access memory" means the electronic memory that a computer uses to store information.

(68)[~~(62)~~] "Random number generator" means a device:

(a) For generating number values that exhibit characteristics of randomness; and

(b) Composed of:

1. Computer hardware;
2. Computer software; or
3. A combination of computer hardware and software.

(69)[~~(63)~~] "ROM" or "read only memory" means the electronic component used for storage of nonvolatile information in Keno equipment that provides instructions needed by the computer to begin its operations each time it is turned on and may be either "PROM" or "EPROM".

(70)[~~(64)~~] "Secondary component" means an additional software or hardware component that:

(a) Is part of or is connected to a card-minding device system or electronic pulltab system;

(b) Does not affect the conduct of the game of bingo or an electronic pulltab;

(c) Is provided by the manufacturer; and

(d) May include computer screen backgrounds, battery charge-up software routines, monitors, keyboards, pointer devices, mice, printers, printer software drivers, or charging racks.

(71)[~~(65)~~] "Selected" means a bingo number that has been obtained by the selection device and is ready to be called next by the bingo caller.

(72)[~~(66)~~] "Selection device" means a device that:

(a) May be operated manually or automatically; and

(b) Is used to randomly select bingo numbers.

(73)[~~(67)~~] "Selection pool" means the bingo numbers in a selection device that have not been selected.

(74)[~~(68)~~] "Serial number" means a number assigned by the manufacturer to track the individual product.

(75)[~~(69)~~] "Series number" means the number of unique faces contained in a series.

(76)[~~(70)~~] "Set" means a case or cases of paper that contain one (1) of each face in a series.

(77)[~~(71)~~] "Site system" means computer hardware, software, and peripheral equipment leased or purchased from a licensed distributor and used by a licensed organization to conduct, manage, and record bingo games played on card-minding devices and electronic pulltab games played on electronic pulltab devices.

[(a) It shall][that]***[:***

1. Be][~~(a) Is~~]***[located at the gaming]***[bingo]***[premises;***

2. Be][~~(b) Is~~]***[operated by the charitable organization;***

3. Interface][~~(c) Interfaces~~]***[with, connect]***[~~connects~~]***[with, control,]***[controls]***[or define]***[defines]***[the operational parameters of card-minding devices or electronic pulltab devices;***

4. Report and transmit the game results as prescribed by the department;

5. Provide security and access levels sufficient so that the internal control objectives are met as prescribed by the department; and

6. Contain a point of sale station.

(b) It][~~(d)~~]***[may include the following components:***

1.][~~Point of sale station;~~

~~2.~~]***[A caller verification system;***

2.][~~3.~~]***[Required printers;***

3.][~~4.~~]***[Modem;***

4.][~~5.~~]***[Proprietary executable software;***

5.][~~6.~~]***[Report generation software; and***

6.][~~7.~~]***[An accounting system or database.]***

(78)[~~(72)~~] "Terminal number" means the unique identification number, if any, assigned by a manufacturer to a specific standard card-minding device or a specific electronic pulltab device.

(79)[~~(73)~~] "Transaction log" means a record of the same information printed on each outside ticket that is:

(a) Retained in the computer's memory; or

(b) Printed out by the computer.

(80)[~~(74)~~] "Verification system" means a book of bingo faces compiled by the manufacturer or an electronic device created by the manufacturer that:

(a) Lists the unique patterns of numbers on each face by perm number; and

(b) Is used to verify the authenticity of a winning face.

(81)[~~(75)~~] "Version number" means a unique number designated by the manufacturer to identify a specific version of software used on or by the card-minding device system or the electronic pulltab system.

(82)[~~(76)~~] "Way ticket" means a single ticket that permits wagering on a combination of groups of numbers in various ways designated by the player.

(83)[~~(77)~~] "Week" means a seven (7) day period beginning on Sunday and ending Saturday.

(84)[~~(78)~~] "Year" is defined by KRS 238.505(25).

SCOTT JONES, Commissioner
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: June 12, 2015

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

CONTACT PERSON: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS, October 13, 2015)

820 KAR 1:032. Pulltab construction.

RELATES TO: KRS 238.505(5), (27), (28), 238.545(1), (2)

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.545(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(2) and (9) require the Department[~~Office~~] of Charitable Gaming to establish reasonable standards for the conduct of charitable gaming. KRS 238.545(2) requires the department[~~office~~] to establish standards for pulltab construction, distribution, and rules of play. This administrative regulation establishes standards for the construction and distribution of pulltabs.

Section 1. Conformity of Paper Pulltabs. (1) A licensed distributor of charitable gaming supplies and equipment shall distribute in Kentucky only those paper pulltabs conforming to the requirements of this administrative regulation.

(2) A licensed charitable organization shall sell to the public only those paper pulltabs conforming to the requirements of this administrative regulation.

Section 2. Paper Pulltab Construction Standards. (1) Pulltabs shall be constructed so that the concealed numbers, symbols, or winner protection features cannot be viewed or determined from the outside of the pulltab using a high intensity lamp of up to and including 500 watts, with or without utilizing a focusing lens.

(2) The deal shall be designed, printed, glued, cut, and assembled in a manner to prevent determination of a winning or losing ticket without removing the tabs or otherwise uncovering the symbols or numbers as intended.

(3) Each pulltab in a deal shall bear the same serial number. If a seal card is used with a pulltab deal, the seal card shall bear the same serial number as each pulltab. Only one (1) serial number shall be used in a deal. A serial number used in a deal of pulltabs shall not be repeated by the same manufacturer on that same manufacturer's form number within a three (3) year period.

(4) If the pulltab utilizes a window, the numbers or symbols on the pulltab shall be fully visible in the window and shall be placed so that no part of a symbol or number remains covered when the tab is removed. Displacement of the symbol to the left or right in a window may be used for increased game security. Additional security devices or methods, including a laminate underneath a window, may be used by a manufacturer.

(5) It shall not be possible to distinguish winning pulltabs from losing pulltabs through variations in printing graphics or colors, including those involving different printing plates.

(6) All winning pulltabs shall have at least one (1) winner protection feature. In addition, all winning pulltabs that entitle a player to an instant prize of greater than twenty (20) dollars shall include an additional form of winner protection. Numeral jar tickets

with colored winning numerals shall not be required to have secondary winner protection.

(7) All pulltabs shall be glued on the window edges and between each window. The glue shall be of sufficient strength and type to prevent the separation or delamination of the pulltab. For banded tickets, the glue shall be of sufficient strength and quality to prevent the separation of the band from the ticket.

(8) The window slits on each break open ticket shall be perforated on at least three cut sides. The ties shall be of a sufficient thickness or strength to prevent unauthorized peering under the windows and so that unauthorized peering under the windows can be detected. It shall not be possible to isolate winning or potential winning tickets from variations to the size or the appearance of a cut edge of the pulltab comprising a particular game.

(9) Except as provided in subsection (10) or (11) of this section, the minimum information that shall be printed on an unopened pulltab with an overall area of two and five-tenths (2.5) square inches or more shall be:

(a) The name of the manufacturer, or its distinctive logo;

(b) The name of the game;

(c) The manufacturer's form number;

(d) The price per individual pulltab;

(e) The unique minimum five (5) digit game serial number, printed on the game information side of the pulltab; and

(f) The number of winners and respective winning numbers or symbols, and specific prize amounts.

(10) A pulltab with an overall area of at least one and six tenths (1.6) square inches unopened but less than two and five tenths (2.5) square inches unopened shall:

(a) Have printed on it, at a minimum, the information listed in subsection (9)[~~9~~](a), (b), (c), (d), and (e) of this section; and

(b) Not be required to have the information listed in subsection (9)(f) of this section.

(11) A pulltab with an overall area of less than one and six-tenths (1.6) square inches unopened shall:

(a) Have printed on it, at a minimum, the information listed in subsection (9)(a) and (e) of this section; and

(b) Not be required to have the information listed in subsection (9)(b), (c), (d), or (f) of this section.

Section 3. Randomization of Paper Pulltabs. Winning paper pulltabs shall be distributed and mixed among all other pulltabs in a deal to eliminate any pattern between deals, or portions of deals. The pulltab deal shall be assembled so that the winning pulltabs cannot be distinguished. Winning tickets shall be randomly distributed throughout the deal. Banded tickets packaged in bags, rather than boxes, shall be subject to these requirements.

Section 4. Packaging and Distribution of Paper Pulltabs. (1)(a) Each paper pulltab deal's package, box, or other container shall be sealed or taped at every entry point at the manufacturer's factory with a tamper resistant seal or tape.

(b) The seal or tape shall be visible under the shrink-wrap or from outside the container and shall be constructed to guarantee that, if the container is opened or otherwise tampered with, evidence of the opening or tampering will be easily detected.

(c) The seal or tape shall include a warning to the purchaser that the deal may have been tampered with if the package, box, or other container is received by the purchaser with the seal or tape broken.

(d) If the deal is packaged in a plastic bag, the entry point shall be completely sealed by the application of heat or adhesive. The warning may be imprinted in the plastic.

(2) A deal's serial number shall be clearly and legibly placed on:

(a) The outside of the deal's package, box, or other container; or

(b)[~~On~~] The inside of the deal's package, box, or other container if it is clearly visible from the outside of the package, box, or other container.

(3) Manufacturers shall print on or affix to the outside of the package or container of pulltabs or include inside the package or container, in bold print of sufficient size to be easily read, a message that states substantially the following: "tickets must be removed from this packaging container and thoroughly mixed prior to sale to the public."

(4) Manufacturers shall include with every deal of pulltabs a bar code label that contains at a minimum the name of the manufacturer or its distinctive logo, the game form number, and the game serial number. The bar code label shall be visible from the outside of the package, box, or other container.

Section 5. Flares and Seal Cards for Paper Pulltabs. (1) Every deal of pulltabs shall contain a flare or a seal card. The manufacturer shall print directly on the paper flare or seal card[~~that has printed on it, by the manufacturer,~~] the following information:

(a) The name of the game;

(b) The manufacturer's name or logo;

(c) The manufacturer's form number;

(d) The game serial number;

(e) The ticket count;

(f) The prize structure, including a description of the number of winning pulltabs by denomination, with their respective winning symbols or number combinations, and amounts dedicated to the prize pool in a seal card game with a cumulative prize, or a carryover or progressive prize; and

(g) The cost per play.

(2) Every deal of pulltabs shall contain instructions on how to play the game.

Section 6. Cumulative Games, and Carryover or Progressive Games. (1) The rules for cumulative games, and carryover or progressive games, shall apply to both paper and electronic pulltabs.

(2) The amount dedicated to a[~~the~~] cumulative prize pool, or a [~~the~~] carryover or progressive jackpot, shall be predetermined by the manufacturer and built into the payout structure for the game.

(a) For paper pulltabs, the dedicated amount shall be printed by the manufacturer on either the flare or seal card for each game or on each ticket in each game.

(b) For electronic pulltab games, the dedicated amount shall be included by the manufacturer on the flare or seal card for each game.

(3)[~~(2)~~] All games contributing to the cumulative prize pool, or the carryover or progressive jackpot, shall be of the same form number.

(4)[~~(3)~~] The paper or electronic flare or seal card for the carryover or progressive jackpot shall contain an area in which the current amount of the carryover or progressive jackpot can be posted.

(5)[~~(4)~~] If a carryover or progressive pulltab game uses a progressive jackpot prize card that is separate from the jackpot seal, the jackpot card shall contain prize space for the organization to record the serial numbers of all games contributing to the jackpot prize.

(6)[~~(5)~~] If a carryover or progressive pulltab game uses a jackpot prize card that is separate from the jackpot seal card, each deal of the game shall possess both a seal card and a jackpot prize card that has the serial number of the deal affixed to it by the manufacturer.

(7)[~~(6)~~]—In a carryover or progressive pulltab game, the organization shall either start a new jackpot card with each deal or use the original jackpot card until won. The organization shall maintain each jackpot card used pursuant to 820 KAR 1:036, Section 2(15).

(8)[~~(7)~~] A progressive pulltab game shall not be designed by the manufacturer to give any player odds greater than a fifty (50) percent chance to win the progressive jackpot.

Section 7. Event Games. (1) The rules for event games shall apply to both paper and electronic pulltabs.

(2) An event game shall not contain a "last sale" feature.

(3)[~~(2)~~] The number of winners and the prize amounts shall be built into the payout structure for the game by the manufacturer.

(4)[~~(3)~~] An event ticket prize shall not exceed the individual

ticket prize limit for a pulltab game.

(5)[~~(4)~~] The prize for an event pulltab game shall not be considered a bingo prize.

Section 8. Multipackaged Pulltab Deals. (1) The rules for multipackaged pulltab deals shall apply to both paper and electronic pulltabs. Every package shall be played for the deal to show the stated profit.

(2) Each package may contain individual winners if desired. If each package contains a winner, the game shall contain a method of verifying from which package the winner was sold.

Section 9. Tracking by Manufacturer. Every manufacturer of paper pulltabs shall maintain records sufficient to track each deal of paper pulltabs, by serial number and form number, from the manufacturer to the next point of sale for thirty-six (36) months. The records shall be subject to inspection by department[~~office~~] staff.

Section 10. Tracking by Distributor. (1) Every distributor of paper and electronic pulltabs shall maintain records sufficient to track each deal of paper and electronic pulltabs, by serial number and form number, from purchase by the distributor to the next point of sale for thirty-six (36) months. The records shall be subject to inspection by department[~~office~~] staff.

(2) For sales in the Commonwealth of Kentucky, or to residents of Kentucky, the records required under this section shall be***[deemed]*** sufficient if the distributor records the name of the purchaser and makes and retains a copy of the Kentucky charitable gaming license or exemption number of the purchaser at the next point of sale.

(3) For sales outside the Commonwealth of Kentucky to nonresidents of Kentucky, the records required under this section shall be***[deemed]*** sufficient if the distributor makes and retains a copy of a state charitable gaming license or a valid state identification card of the purchaser which contains the name, address, date of birth, and state identification number of the purchaser at the next point of sale.

Section 11. Requirements of Distributor Invoice. (1) Distributors selling paper pulltabs to charitable organizations or other distributors shall provide the charitable organization or other distributor with an invoice that contains, at a minimum, the following information:

(a) The purchaser's name, address, and license number;

(b) The address to which the shipment was delivered;

(c) The date of sale or credit;

(d) The conditions of the sale or credit;

(e) The quantity of pulltabs sold including the number of the deals, the name of each deal, the tickets per deal, and the serial number and form number of the deal;

(f) The total invoice amount;

(g) The name of the person who ordered the supplies;

(h) The name of the person making the delivery;

(i) The date of delivery or date the item was picked up for sale or credit;

(j) The place or manner of delivery; and

(k) The name and signature of the person taking delivery, if any.

(2) A distributor may deliver paper pulltabs to an agreed secure location[~~place~~] or to an identified person. An invoice not challenged within seven (7) days of delivery shall be deemed accurate. Any challenge to an invoice shall be made in writing to the distributor and a copy shall be sent to the department[~~office~~].

Section 12. Defects. (1) If a defect in packaging or construction of a paper pulltab is discovered by an organization, the defect shall be reported to the distributor within fifteen (15) days. The distributor shall correct the defect***[,]*** or replace the defective items***[,]*** within a reasonable time, ***or, if the product cannot be replaced or the defect corrected, the distributor shall provide a refund to the organization[~~if possible~~]***.

(2) If the department[~~office~~], in consultation with the manufacturer, determines that a defect actually exists, and the defect affects game security or otherwise threatens public confidence in the game, the department[~~office~~] shall, with respect to paper pulltabs for use in Kentucky, require the manufacturer to:

(a) Recall the pulltabs affected that have not been sold at retail to licensed organizations; or

(b) Issue a total recall of all affected deals.

(3) In choosing and directing a particular recall in accordance with subsection (2) of this section, the department[~~office~~] shall be guided in each circumstance by any combination of the following factors:

(a) The nature of the defect;

(b) Whether the defect affected game security;

(c) Whether the defect affected game playability;

(d) Whether the defect was limited to a specific number of deals of a particular form number;

(e) Whether the defect was easily detectable by a charitable organization;

(f) Whether the defect was easily detectable by members of the general public;

(g) Whether the defect threatens public confidence in the game; or

(h) Whether the defect is capable of being used to adversely affect the fair play of the game.

(4) In consultation with the manufacturer, the department[~~office~~] shall determine a specific date for the recall to be completed and whether the manufacturer is required to reimburse the organization or distributor.

SCOTT JONES, Commissioner
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: June 12, 2015

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PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS, October 13, 2015)

820 KAR 1:033. Electronic pulltab system, electronic pulltab device, and electronic pulltab construction.

RELATES TO: KRS 238.505(5), (27), (28), 238.545(1), (2)

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.530(5), 238.545(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(2) and (9) require the Department of Charitable Gaming to establish reasonable standards for the conduct of charitable gaming. KRS 238.505(27), (28) and KRS 238.545(2) require the department to establish standards for electronic pulltab device and electronic pulltab construction, distribution**,** and rules of play. KRS 238.530(5) requires manufacturers and distributors of charitable gaming supplies and equipment to maintain records as required by the department. This administrative regulation establishes standards for the construction and distribution of electronic pulltab devices and electronic pulltabs.

Section 1. General Requirements. (1) A manufacturer shall affix to ***each[all]*** electronic pulltab ***device[devices]*** an identification badge that shall include the following information:

(a) Manufacturer name;

(b) A unique serial number;

(c) The electronic pulltab device model number, if applicable; ***and***

(d) The date of manufacture, if applicable***[; and***

(e) Any other information required by the department].

(2) An electronic pulltab system's central computer system shall be dedicated***[primarily]*** to electronic accounting, reporting, and the presentation, randomization, and transmission of electronic

pulltabs to electronic pulltab devices. It shall also be capable of generating the data necessary to provide reports required by regulation or otherwise specified by the department.

(3) A player shall purchase or otherwise obtain access to an electronic pulltab device, and load money to a player account for purchase of electronic pulltabs during the current gaming occasion, only from a point of sale station. The point of sale station may be stationary, mobile, ***or*** self-service***[, or any configuration approved by the department]***.

(4) A player shall only cash-out or redeem credits from a point of sale station.

(5) All equipment used to facilitate the distribution, play, or redemption of electronic pulltabs shall be physically located within the boundaries of the Commonwealth of Kentucky. Electronic pulltab devices, site system if used, point of sale stations, and all secondary components shall be located on the premises where the gaming occasion is being held.

(6) An electronic pulltab device shall not be capable of being used for the purpose of engaging in any game prohibited by the department.

(7) A licensed manufacturer of charitable gaming supplies and equipment shall sell, lease, or otherwise provide in the Kentucky market only those electronic pulltab systems and electronic pulltabs that conform to the requirements of ***820 KAR 1:032 and this administrative regulation[these administrative regulations]***.

(8) A licensed distributor of charitable gaming supplies and equipment shall distribute in Kentucky only those electronic pulltab systems and electronic pulltabs that conform to the requirements of ***820 KAR 1:032 and this administrative regulation[these administrative regulations]***.

(9) A licensed charitable organization shall provide to the public only those electronic pulltab systems and electronic pulltabs that conform to the requirements of ***820 KAR 1:032 and this administrative regulation[these administrative regulations]***.

Section 2. Testing and Approval of Electronic Pulltab Systems. (1) An electronic pulltab system shall not be sold, leased, or otherwise furnished to any person for use in the conduct of charitable gaming until an identical system containing identical software has been***:***

(a) Tested and certified by an independent testing facility accepted by the department***; and***

(b)[, demonstrated to the department by the manufacturer upon request of the department, and] Approved by the department.

(2) The cost of testing and certification shall be the responsibility of the manufacturer.

(3) The independent testing facility shall certify in writing that the electronic pulltab system and associated hardware and software conform, at a minimum, to the requirements and restrictions set forth in KRS 238.505(27), KRS 238.545(2), ***820 KAR 1:001, 820 KAR 1:032, 820 KAR 1:036,*** and ***this administrative regulation[the administrative regulations]***.

(4)(a) The department, in consultation with the independent testing facility, shall determine if the electronic pulltab system and associated hardware and software conform to the requirements and restrictions contained in KRS 238.505(27), KRS 238.545(2) ***820 KAR 1:001, 820 KAR 1:032, 820 KAR 1:036,*** and ***this administrative regulation[the administrative regulations]*** and shall notify the manufacturer of its decision in writing.

(b) Once the department has received the test results from the independent testing facility, the department may request a demonstration of the product within thirty (30) days.

(c) The department shall either approve or disapprove the electronic pulltab system and software. The department shall inform the manufacturer of its decision***[within thirty (30) days of the demonstration, or]*** no later than sixty (60) days after the department receives the test results from the independent testing facility. Approval shall be granted in accordance with paragraph (a) of this subsection.

(5) Any modifications to an electronic pulltab system or its software***, except as provided in subsection (6) of this section,*** shall be tested and certified by an independent testing facility, demonstrated to the department by the manufacturer upon request, and approved by the department in the same manner as a new system or new software. Testing and certification shall be at the manufacturer's expense.

(6) A manufacturer may conduct routine maintenance activities and replace secondary components of an electronic pulltab system without additional testing and certification as long as this activity does not affect the operation of any proprietary software, the manner in which an electronic pulltab game is played, the integrity of any critical or controlled software, or the outcome of an electronic pulltab game. A record of all***[such]*** activities shall be maintained and provided to the department within ten (10) days of the maintenance or replacement.

(7)(a) If a manufacturer, distributor, or charitable organization detects or discovers any defect, malfunction, or problem with an electronic pulltab system, electronic pulltab device, or electronic pulltab game that affects the security or the integrity of the electronic pulltab system, electronic pulltab device, or electronic pulltab game, the manufacturer, distributor, or charitable organization shall immediately notify the department. The charitable organization shall also immediately notify the distributor of the defect, malfunction, or problem. The distributor shall immediately notify the manufacturer of the defect, malfunction, or problem.

(b) If the department detects, discovers, or is notified of any problem with an electronic pulltab system, electronic pulltab device, or electronic pulltab game that affects the security or the integrity of the electronic pulltab system, electronic pulltab device, or electronic pulltab game, the department shall direct the manufacturer, distributor, and charitable organization to immediately cease the sale, lease, or use of the affected electronic pulltab system, electronic pulltab device, or electronic pulltab game until the problem can be assessed by the department in consultation with the manufacturer or distributor.

(c) If the department, in consultation with the manufacturer or distributor, determines that a defect actually exists, and the defect affects game security or otherwise threatens public confidence in the game, the department shall require the manufacturer to issue a total recall of all affected electronic pulltab systems, electronic pulltab devices, or electronic pulltab games or affected game sets or subsets, if necessary.

(d) In choosing and directing a particular recall in accordance with paragraph (c) of this subsection, the department shall be guided in each circumstance by any combination of the following factors:

1. The nature of the defect;

2. Whether the defect affected game security;

3. Whether the defect affected game playability;

4. Whether the defect was limited to a specific number of deals of a particular form number;

5. Whether the defect was easily detectable by a charitable organization;

6. Whether the defect was easily detectable by members of the general public;

7. Whether the defect threatens public confidence in the game; or

8. Whether the defect is capable of being used to adversely affect the fair play of the game.

(e) The manufacturer or distributor may correct the defect, if possible, without issuing a total recall if the affected electronic pulltab devices and electronic pulltabs are not offered for sale, lease, or use if and until the department allows. The manufacturer or distributor shall make all corrections within a reasonable time, not to exceed thirty (30) days, and the manufacturer or distributor shall demonstrate the correction to the department. If the department believes the defect has been corrected and that the defect no longer affects game security or otherwise threatens public confidence in the game, the department may issue written notification that the affected electronic pulltab system, devices, or pulltab game may be reoffered for sale, lease, or use.

(f) If a recall of an electronic pulltab system or electronic pulltab device is necessary, the department, in consultation with the

manufacturer, shall determine a specific date for the recall of any affected electronic pulltab system or electronic pulltab ***device[~~devices~~]*** to be completed and whether the manufacturer is required to reimburse the organization or distributor. The recall of any electronic pulltab game shall occur no later than twenty-four (24) hours after the manufacturer is notified of the defect.

(8)(a) A distributor or charitable organization shall not add or remove any software programs to an approved electronic pulltab system without the written permission of the manufacturer and the department.

(b) If the department detects or discovers an electronic pulltab system at a playing location that is using components or software that were required to have been approved by the manufacturer and the department, but have not been approved, the electronic pulltab system shall be determined to have an unauthorized modification and use of the system shall cease immediately.

(9) All games including game themes, sounds, and music shall be approved by the department prior to being available for play on an electronic pulltab device in the Commonwealth of Kentucky.

Section 3. Electronic Pulltab System Requirements. (1) Any element of the central computer system that holds or maintains game data, other than an electronic pulltab device or point of sale station when in use, shall be kept in a locked and secure enclosure with limited access to designated personnel. The system shall provide a secure physical and electronic means for securing the games and game data against alteration, tampering, or unauthorized access.

(2) The central computer system shall include a central server located in the Commonwealth of Kentucky that is accessible to the department so the department has the ability to remotely verify the operation, compliance, and internal accounting systems of the electronic pulltab system at any time. The department shall have real time and complete read-only access to all data for all systems and devices.

(a) The manufacturer shall provide to the department all current protocols, passwords, and any other required information needed to access the electronic pulltab system prior to the operation of the system within Kentucky, and at all times while the system remains operational within Kentucky.

(b) The department shall be notified of any changes in the protocols, passwords, and any other required information needed to access the system ***at least[~~within~~]*** three (3) days ***prior to[~~of~~]*** the change.

(c) Any reports maintained or generated by the electronic pulltab system shall be capable of being downloaded or otherwise accessed via the internet by the department.

(3) ***A site system, if used, shall:***

(a) Be located at the gaming premises;

(b) Be operated by the charitable organization;

(c) Interface with, connect with, control, or define the operational parameters of the electronic pulltab devices;

(d) Report and transmit the game results as prescribed by the department;

(e) Provide security and access levels sufficient so that the internal control objectives are met as prescribed by the department; and

(f) Contain a point of sale station.

(4) The site system, if used, may include the following components:

(a) Required printers;

(b) Proprietary executable software;

(c) Report generation software; and

(d) An accounting system or database.

(5) The electronic pulltab system shall provide password protection for each organization.

(6)[~~(4)~~] An electronic pulltab system shall provide a means for terminating a game set if information about electronic pulltabs in an open game set has been accessed, or ***if the department determines there has been a breach of game security[~~at the discretion of the department~~].[~~In such cases,~~]*** Traceability of unauthorized access including time and date, users involved, and any other relevant information shall be available.

(7)[~~(5)~~] An electronic pulltab system shall not permit the alteration of any accounting or significant event information. Significant events shall include power resets or failures, communication loss between an electronic pulltab device and the electronic pulltab system, any award in excess of the single win limit for an electronic pulltab, or corruption of the electronic pulltab system memory or storage. If financial data is changed, an automated audit log shall be capable of being produced to document the following:

(a) Data element altered;

(b) Data element value prior to alteration;

(c) Data element value after alteration; and

(d) Time and date of alteration.

(8)[~~(6)~~] An electronic pulltab system shall provide password security or other secure means of ensuring data integrity and enforcing user permissions for all system components, including the following:

(a) All programs and data files shall only be accessible via the entry of a password that shall be known only to authorized personnel;

(b) The electronic pulltab system shall have multiple security access levels to control and restrict different privilege levels;

(c) The electronic pulltab system access accounts shall be unique when assigned to the authorized personnel;

(d) The storage of passwords and PINs shall be in an encrypted, nonreversible form; and

(e) A program or report shall be available that lists all authorized users on the electronic pulltab system including their privilege level.

(9)[~~(7)~~] All components of an electronic pulltab system that allow access to users, other than end-users for game play, shall have a password sign-on ***comprised of a[~~with two-level codes comprising the~~]*** personal identification code and a personal password.

(a) The personal identification code shall have a length of at least six (6) ASCII characters.

(b) The personal password shall have a minimum length of six (6) alphanumeric characters, which shall include at least one (1) non-alphabetic character.

(10)[~~(8)~~] Electronic pulltab system software components shall be verifiable by a secure means at the system level. An electronic pulltab system shall have the ability to allow for an independent integrity check of the components from an outside source and is required for all control programs that may affect the integrity of the electronic pulltab system. This shall be accomplished by being authenticated by a third-party device, which may be embedded within the electronic pulltab system software or having an interface or procedure for a third-party application to authenticate the component. This integrity check shall provide a means for field verification of the electronic pulltab system components.

(11)[~~(9)~~] The electronic pulltab system shall have a medium for securely storing electronic pulltab game sets which shall be mirrored in real time by a backup medium. The electronic pulltab system shall also provide a means for storing duplicates of the game sets already transmitted to the electronic pulltab devices so as to reflect, on an ongoing basis, changes in the transmitted game sets as they occur.

(a) All storage shall be through an error checking, nonvolatile physical medium, or an equivalent architectural implementation, so that if the primary storage medium fails, the functions of the electronic pulltab system and the process of auditing those functions shall continue with no critical data loss.

(b) The database shall be stored on redundant media so that a single failure of any portion of the system shall not result in the loss or corruption of data.

(c) If there is a catastrophic failure when the electronic pulltab system cannot be restarted in any other way, it shall be possible to reload the electronic pulltab system from the last viable backup point and fully recover the contents of that backup, to consist of at least the following information:

1. All significant events;
2. All accounting information; and
3. Auditing information, including all open game sets and the

summary of completed game sets.

(12)[~~(10)~~] Connections between all components of the electronic pulltab system shall only be through use of secure communication protocols which are designed to prevent unauthorized access or tampering, employing Data Encryption Standards (DES) or equivalent encryption with changeable seeds or algorithms.

(13)[~~(11)~~] An electronic pulltab ***system's***[~~system~~] central computer system may be used to record the data used to verify game play and to configure and perform security checks on electronic pulltab devices, if the functions do not affect the security, integrity, or outcome of any game and meet the requirements set forth in this administrative regulation regarding program storage devices.

(14)[~~(12)~~] An electronic pulltab system shall not display to the player, the licensed organization, or the licensed distributor the number of electronic pulltabs that remain in a game set, or the number of winners or losers that have been drawn or still remain in the game set, while the game set is still open for play. Once a game set has been closed, it shall not be able to be opened for play.

(15)[~~(13)~~] The electronic pulltab system shall render unplayable the electronic pulltabs of a charitable organization once the organization logs out of the system at the end of the organization's gaming occasion and until the organization logs back onto the system at the start of the organization's next scheduled gaming occasion. If multiple organizations use the same electronic pulltab devices and electronic pulltab system, one (1) organization's electronic pulltab games and data shall not be accessible or played by another organization.

(16)[~~(14)~~] An electronic pulltab system may include player tracking software. Player tracking records shall at all times be the property of the charitable organization and neither the manufacturer nor the distributor shall utilize or make available to any person, other than the department or as otherwise authorized by law, the information contained within the player tracking software without the express permission of the charitable organization.

Section 4. Point of Sale Requirements. (1) An electronic pulltab system shall include a point of sale station that is used to facilitate the sale of an electronic pulltab device, to load money to a player account for purchase of electronic pulltabs during the current gaming occasion, and to cash-out or redeem credits from the play of electronic pulltabs.

(a) The point of sale station may be stationary, mobile, ***or*** self-service***[, or any configuration approved by the department]***.

(b) The point of sale station shall not be designed or manufactured to resemble an electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.

(c) The point of sale station shall not have vertical or horizontal spinning reels, a pull handle, sounds or music intended to entice a player to play, flashing lights, tower light, top box, enhanced animation, artwork, or any other attribute or representation that mimics a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.

(d) The point of sale station shall not function simultaneously as an electronic pulltab device.

(2) The point of sale station shall be capable of printing a receipt, which the organization shall provide to the player, that details each transaction. The receipt shall contain, at a minimum, the following information:

(a) The date and time of the transaction;

(b) A unique non-resettable transaction number that is printed in continuous, consecutive order;

(c) The dollar amount of the transaction, including the cost, if any, of the electronic pulltab device and the amount of money loaded to a player account that will be available for the purchase of electronic pulltabs during that gaming occasion;

(d) A unique entry code or account number that will be used to activate an electronic pulltab device and make available to the player the money loaded to the player account at the point of sale for the purchase of electronic pulltabs during that gaming occasion;

(e) The name of the charitable organization and license number; and

(f) The point of sale identification number or name.

(3) If the receipt printer malfunctions or printed receipts are not legible, manual receipts shall be issued that contain the same information required by subsection (2) of this section.

(4) The point of sale station shall be capable of displaying, at minimum, the following for each gaming occasion:

(a) The sales transaction history, including:

1. The organization name and license number;
2. Date and time of each transaction;
3. Dollar value of each transaction;
4. Quantity of electronic pulltab devices sold;
5. All transaction numbers; and
6. The point of sale identification number or name; and

(b) A pay-out history detailing all pay-outs, including:

1. The organization name and license number;
2. Date and time of each pay-out;
3. Dollar value of each pay-out; and
4. Point of sale identification number or name.

(5) A point of sale station shall not display***[pay-out]*** information ***relating to prizes already paid out in***[~~specific to~~] a particular game set, the number of electronic pulltabs that remain in a game set, or the number of winners or losers that have been drawn or still remain in the game set, while the game set is still open for play.

Section 5. Electronic Pulltab Device Requirements. (1) An electronic pulltab device shall be designed as a handheld or fixed base personal computing device that:

(a) Is used to play one (1) or more electronic pulltab games;

(b) Requires coded entry to activate a device for a player to purchase and play electronic pulltabs, but does not allow the use of coin, currency, or tokens to be inserted to purchase and play electronic pulltabs;

(c) Maintains and displays information pertaining to accumulation of credits that may be applied to games in play or redeemed upon termination of play;

(d) Has no vertical or horizontal spinning reels, pull handle, sounds or music solely intended to entice a player to play, flashing lights, tower light, top box, coin tray, ticket acceptor, hopper, coin acceptor, cabinet, artwork, or any other attribute or representation that mimics a video slot machine;

(e) Shall not be capable of displaying any enticing animation while in an idle state. An electronic pulltab device may use simple display elements or screen savers to prevent monitor damage;

(f) Has no additional function as a gambling device other than as an electronic pulltab device or as an approved card-minding device, if possible; and

(g) Is not a pulltab dispenser as ***described***[~~defined~~] in 820 KAR 1:034.

(2) An electronic pulltab device shall not have hardware or software that determines the outcome of any electronic pulltab, produces its own outcome, or affects the order of electronic pulltabs as dispensed from the electronic pulltab ***system's***[~~system~~] central computer system. The game outcome shall be determined by the electronic pulltab ***system's***[~~system~~] central computer system.

(3) An electronic pulltab device may utilize a touch screen. The touch screen shall meet the following requirements:

(a) It shall be accurate once calibrated;

(b) It shall be able to be recalibrated; and

(c) It shall have no hidden or undocumented buttons or touchpoints anywhere on the touch screen.

(4) An electronic pulltab device shall not be capable of displaying the number of electronic pulltabs that remain in a game set or the number of winners or losers that have been drawn or still remain in the game set, while the game set is still open for play.

(5) A fixed base electronic pulltab device shall not be built into a cabinet or in any way be designed or manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot

machine, video poker machine, or any similar video gaming device.

Section 6. Electronic Pulltab Requirements. (1) An electronic pulltab system shall dispense, upon player request and payment of consideration, an electronic pulltab. A player shall win if the player's electronic pulltab contains a combination of symbols or numbers that was designated in advance of the game as a winning combination. There may be multiple winning combinations in each game. All games shall be played without replacement.

(2) An electronic pulltab game shall:

(a) Be a version of a paper pulltab game that is played on an electronic pulltab device;

(b) Have a predetermined, finite number of winning and losing tickets, not to exceed 25,000 tickets per game set;

(c) Charge the same price for each ticket in a game set;

(d) Require that a player press a button or perform some other function to purchase or open an electronic pulltab ticket;

(e) Comply with ***KRS Chapter 238, 820 KAR 1:001, 820 KAR 1:032, 820 KAR 1:036,[all applicable statutes]*** and ***this*** administrative ***regulation[regulations governing pulltab games]***;

(f) Comply with prize limits set forth in KRS 238.545(2);

(g) Have a unique serial number for each game set that shall not be regenerated. Each pulltab in a game set shall bear the same serial number and only one (1) serial number shall be used in a game set. After randomization, game sets may be broken into subsets of equal size. If game subsets are used, they shall each be assigned a unique serial number and be traceable to a parent game set. If a seal card is used with a pulltab game set, the seal card shall bear the same serial number as each pulltab; ***and***

(h) Have an electronic flare or seal card, viewable upon player request, that displays the name of the game, manufacturer's name or logo, manufacturer's form number, the game serial number, the predetermined finite number of tickets in the game, and the prize structure, and the cost per play***.***

(3) An electronic pulltab game shall[;

(i)] not contain vertical or horizontal spinning reels or other representations that mimic a video slot machine***.***

(4) An electronic pulltab game[; and

(j)] may have visual or audio enhancements to provide information about the game being played if the component does not affect the outcome of a game and if any game theme, visual enhancement, sound, or music is approved by the department prior to being available for play on an electronic pulltab device.

(5)[(3)] The available games, flare, and rules of play shall be displayed on the electronic pulltab device's video screen upon player request.

(6)[(4)] Any number of game themes may be selectable for play on any given electronic pulltab device. Only one (1) of the game themes shall be playable at a time.

(7)[(5)] The results of the electronic pulltab shall be shown to the player using a video display. ***Results shall not be shown by using[No]*** rolling, flashing, or spinning animations, reels, or other representations that mimic a video slot machine***[are permitted]***.

(8)[(6)] Any sound or music solely intended to entice a player to play shall be prohibited. Any sound or music emitted by an electronic pulltab device shall not be played at a level sufficient to disturb other players or patrons.

(9)[(7)] An electronic pulltab device shall have one (1) or more buttons, electromechanical or touch screen, to facilitate the following functions:

(a) Viewing of the game "help" screens;

(b) Viewing of the game rules including the flare or seal card;

(c) Initiating game play;

(d) Cash-out or logout; and

(e) Purchasing or revealing the pulltab.

(10)[(8)] Each electronic pulltab shall be initially displayed so that the numbers, letters, or symbols on the pulltab are concealed. Each electronic pulltab game shall require the player to press a "play", "purchase", "open", or equivalent button to initiate the purchase of an electronic pulltab. A player may have the option of opening each individual line, row, or column of each electronic pulltab or may choose to "open all".

(11)[(9)] Following play of an electronic pulltab, the result shall be clearly shown on the video display along with any prizes that may have been awarded. Prizes shall be added as a credit to the player's account.

(12)[(10)] An available player account balance shall be collected by the player by pressing the "cash-out" button or "logoff" button on the electronic pulltab device and taking the device, the receipt, or, if allowed, a player account card to the point of sale station.

(13)[(11)] Game themes shall not contain obscene or offensive graphics, animations, or references.***[The department shall determine what constitutes obscene or offensive graphics, animations, or references.]***

(14)[(12)] An electronic pulltab game shall not be capable of displaying the number of electronic pulltabs that remain in the game set, or the number of winners or losers that have been drawn or still remain in the game set, while the game set is still open for play.

Section 7. Randomization of Electronic Pulltabs. (1) An electronic pulltab system shall utilize randomizing procedures in the creation of game sets for electronic pulltabs, or utilize externally generated randomized game sets. After randomization, game sets may be broken into game subsets of equal size which shall be assigned a unique serial number.

(2) Winning electronic pulltabs shall be distributed randomly among all other pulltabs in a game set to eliminate any pattern between game sets, or portions of game sets.

(3) Any random number generation, shuffling, or randomization of outcomes used in connection with an electronic pulltab system shall be by use of a random number generation application that has successfully passed standard tests for randomness and unpredictability.

Section 8. Flares and Seal Cards for Electronic Pulltabs. (1) Every game set shall include a flare or a seal card. The manufacturer shall include on the electronic flare or seal card the following information:

(a) The name of the game;

(b) The manufacturer's name or logo;

(c) The manufacturer's form number;

(d) The game set serial number;

(e) The predetermined finite number of tickets within the game set;

(f) The prize structure, including a description of the number of winning pulltabs by denomination, and amounts, if any, dedicated to the prize pool in a seal card game with a cumulative prize, or a carryover or progressive prize; and

(g) The cost per play of an electronic pulltab within the game set.

(2) Every game set of electronic pulltabs shall contain electronic rules of play.

Section 9. Electronic Accounting and Reporting. (1) One (1) or more electronic internal accounting systems shall be required to perform recordkeeping, reporting, and other functions in support of an electronic pulltab system. The electronic internal accounting system shall not interfere with the outcome of any gaming function.

(2) The electronic internal accounting system shall be capable of recording and retaining for a period of not less than three (3) years the following information:

(a) The name and license number of the organization utilizing an electronic pulltab system; and

(b) For each gaming occasion:

1. The date and time of each log-on and log-off of an organization;

2. The total amount of all monetary transactions ***regarding electronic pulltabs and electronic pulltab devices*** at each gaming occasion;

3. The total number of electronic pulltab devices sold or provided at each gaming occasion;

4. The serial number of each hand-held electronic pulltab device sold or provided;

5. The terminal number for each fixed base electronic pulltab device sold or provided;

6. The name, serial number, price, and predetermined finite number of tickets within each game set available for play at each gaming occasion;

7. The total number of electronic pulltabs played from each game set at each gaming occasion;

8. All prize payouts for each game set per gaming occasion; and

9. All wagers and other information necessary to fully reconstruct a game outcome.

(3) The information required by subsection (2) of this section shall be secure and shall not be accessible for alteration. Information pertaining to the number of electronic pulltabs that remain in an open game set, or the number of winners or losers that have been drawn or still remain in an open game set shall not be accessible to the licensed organization or the licensed distributor.

(4) The electronic pulltab ***system's[~~system~~]*** central computer system shall maintain a printable, permanent record of all transactions involving each device and each closed electronic pulltab game played on each device.

(5) An electronic pulltab system shall have report generation software with the capability to print all information required to be maintained on the system's active or archived databases, and pursuant to the restrictions related to information available on open game sets.***[~~Reporting shall be in a format requested by the department.~~]***

(6) All data required to be available or reported by this administrative regulation shall be retained for a period of not less than three (3) years.

Section 10. Manufacturer Requirements. (1) Each manufacturer selling, leasing, or otherwise furnishing electronic pulltab devices, site systems, point of sale stations, secondary components, and electronic pulltabs shall maintain a log or other record showing the following:

(a) The name, address, and license number of the distributor to whom the electronic pulltab devices, site ***systems[~~system~~]***, point of sale ***stations[~~station~~]***, secondary components, or electronic pulltabs were sold, leased, or otherwise furnished;

(b) The date of the transaction with the distributor;

(c) The model, version, and serial number of each hand-held electronic pulltab device, if applicable;

(d) The account number or terminal number of each fixed base electronic pulltab device, if applicable;

(e) The quantity of each type of electronic pulltab device;

(f) The model and version number of the system software;

(g) The name, form number, and serial number of each game set of electronic pulltabs; and

(h) The quantity of game sets sold, the cost per game set, the selling price per ticket, the cash take-in per game set, and the cash payout per game set.

(2) A manufacturer selling, leasing, or otherwise providing electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, or secondary components to a distributor shall provide the distributor with an invoice or other documentation that contains, at a minimum, the following information:

(a) The manufacturer name, address, and license number;

(b) The distributor name, address, and license number;

(c) The address to which the shipment was delivered;

(d) The date of sale or credit and the time period covered by the invoice;

(e) The conditions of the sale or credit;

(f) A description of the type and the quantity of electronic ***pulltab[~~pulltabs~~]*** devices, site systems, point of sale stations, and secondary components provided;

(g) The total invoice amount;

(h) The name of the person who ordered the supplies;

(i) The name of the person making the delivery;

(j) The date of delivery or date the item was picked up for sale or credit;

(k) The place or manner of delivery; and

(l) The name and signature of the person taking delivery, if any.

(3) A manufacturer providing electronic pulltabs to a distributor for distribution to a licensed charitable organization shall provide the distributor with an invoice or other documentation that contains, at a minimum, the following information:

(a) The manufacturer name, address, and license number;

(b) The distributor name, address, and license number;

(c) The organization name, address, and license number;

(d) The date of sale or credit and the time period covered by the invoice;

(e) The conditions of the sale or credit;

(f) The quantity of electronic pulltabs sold including the number of game sets, the name of each game set, the number of tickets per game set, and the serial number and form number of the game set; and

(g) The total invoice amount.

(4) The manufacturer shall maintain physical or electronic copies of the documentation required by this section for a period of not less than three (3) years.

(5) A manufacturer shall supply any available financial reports to distributors and organizations, upon request, that provide detailed pulltab sales activity for the requesting distributor or organization for a selected date range.

Section 11. Distributor Requirements. (1) Before initial use by a charitable organization, the distributor shall ascertain that the particular electronic pulltab system, electronic pulltab device, and associated software version are approved by the department for use in Kentucky.

(2) A distributor shall not display, use, or otherwise furnish an electronic pulltab device, site system, or secondary component which has in any manner been marked, defaced, or tampered with, or which is otherwise intended to deceive the public or affect a person's chances of winning.

(3) Before the complete removal of any electronic pulltab system, the distributor shall supply a copy of the data files to each charitable organization which used the electronic pulltab system and to the department.

(4) Each distributor selling, leasing, or otherwise furnishing electronic pulltab devices, site systems, point of sale stations, secondary components, ***or[~~and~~]*** electronic pulltabs shall maintain a log or other record showing the following information, if applicable:

(a) The name of the location, physical address, telephone number, and facility license number, if applicable, where the electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, and secondary components are located for play;

(b) A description, including the quantity, of all electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, and secondary components at each playing location;

(c) The date any electronic pulltab device, site system, point of sale station, or secondary component was installed in or removed from a playing location;

(d) The model, version, and serial numbers or terminal numbers of the electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, and secondary components, if applicable;

(e) The name and license number of the charitable organization or distributor to whom the electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, or secondary components were sold, leased, or otherwise furnished;

(f) The name and license number of the manufacturer or distributor from whom the electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, and secondary components were purchased, leased, or otherwise obtained;

(g) Each contract, lease, or purchase agreement between a distributor and the charitable organization or other distributor to which the electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, or secondary components are furnished; and

(h) The total dollar amount of electronic pulltab device, site system, point of sale station, and secondary component sales or lease transactions regarding each charitable organization to which the equipment was furnished during each calendar quarter.

(5) A distributor selling, leasing, or otherwise providing electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, or secondary components to a licensed charitable organization shall provide the organization with an invoice or other documentation that contains, at a minimum, the following information:

(a) The manufacturer name, address, and license number;

(b) The distributor name, address, and license number;

(c) The organization name, address, and license number;

(d) The date of sale or credit and the time period covered by the invoice;

(e) The conditions of the sale or credit;

(f) A description of the type and the quantity of electronic pulltab devices, site systems, point of sale stations, and secondary components provided;

(g) The total invoice amount;

(h) The name of the person who ordered the supplies;

(i) The name of the person making the delivery;

(j) The date of delivery or date the item was picked up for sale or credit;

(k) The place or manner of delivery; and

(l) The name and signature of the person taking delivery, if any.

(6) A distributor providing electronic pulltabs to a licensed charitable organization shall provide the organization with an invoice or other documentation that contains, at a minimum, the following information:

(a) The manufacturer name, address, and license number;

(b) The distributor name, address, and license number;

(c) The organization name, address, and license number;

(d) The date of sale or credit and the time period covered by the invoice;

(e) The conditions of the sale or credit;

(f) The quantity of electronic pulltabs sold including the number of game sets, the name of each game set, the number of tickets per game set, and the serial number and form number of the game set; and

(g) The total invoice amount.

(7) An invoice not challenged within seven (7) days of delivery shall be deemed accurate. Any challenge to an invoice shall be made in writing to the distributor and a copy shall be sent to the department.

(8) The distributor shall maintain physical or electronic copies of the documentation required by this section for a period of not less than three (3) years.

(9) A distributor shall deliver electronic pulltab devices, site ***systems[~~system~~]***, point of sale stations, and secondary components to an agreed secure location or to an identified person.

Section 12. Charitable Organization Requirements. (1) Before initial use, the organization shall ascertain that the particular electronic pulltab system, electronic pulltab device, and associated software version are approved by the department for use in Kentucky.

(2) An organization shall not display, use, or otherwise furnish an electronic pulltab device, site system, or secondary component which has in any manner been marked, defaced, or tampered with, or which is otherwise intended to deceive the public or affect a person's chances of winning.

(3) The use of electronic pulltab devices shall only be allowed at an authorized location, which shall be limited to the following:

(a) On or in the premises of a licensed charitable organization;

(b) In a licensed charitable gaming facility; or

(c) With prior approval of the department, at any authorized charity fundraising event conducted by a licensed charitable organization at an off-site location.

(4) All electronic pulltab games shall be sold and played at the authorized locations and shall not be linked to other authorized locations.

(5) Electronic pulltab games shall not be transferred electronically or otherwise to any other location by the licensed organization.

(6) An organization may remove from play a device that a player has not maintained in an activated mode for a specified period of time determined by the organization. The organization shall provide the notice in its house rules and shall allow the player to cash-out.

(7) Before purchasing or being provided with an electronic pulltab device, a player shall present proof that the player is at least eighteen (18) years of age. Proof shall be in the form of a picture identification card that includes the player's date of birth. If an organization uses a self-service point of sale kiosk, identification shall be presented and verified at the door.

(8) Each player shall be limited to the use of one (1) electronic pulltab device at a time.

(9) If a player's electronic pulltab device malfunctions during a game, it ***shall[~~may~~]*** be repaired or the credits ***shall[~~may~~]*** be transferred to another electronic pulltab device.

(10) The department shall be allowed access to examine and inspect any part of an electronic pulltab system. The department shall be granted access to all electronic pulltab devices in use by a charitable organization.

(11) The organization shall reasonably ensure that the connection to the electronic pulltab ***system's[~~system~~]*** central computer system is operational at all times.

(12) If the organization sells electronic pulltab devices for a discounted price, or gives them away as a promotion, the site system shall be programmed to account for the discounted item and priced separately from those sold at the regular price. A generic discount key shall not be allowed.

(13) The organization shall print a Total Sales Activity Report ***For Electronic Pulltab Devices*** at the end of each gaming occasion and maintain it with the occasion records. The Total Sales Activity Report ***For Electronic Pulltab Devices*** shall be completed in the format of Form CG-EPD.

(14) A manufacturer's representative or distributor's representative may be present during a gaming occasion only to consult, demonstrate, and train the organization on the operation of the electronic pulltab system.

Section 13. Incorporation by Reference. (1) Form CG-EPD, "***Total Sales Activity Report For*** Electronic Pulltab ***Devices[~~Device Total Sales Activity Report~~]***", ***8/15[~~5/15~~]***, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Charitable Gaming, Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT JONES, Commissioner
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: June 12, 2015

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

CONTACT PERSON: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, October 13, 2015)

922 KAR 1:310. Standards for child-placing agencies.

RELATES TO: KRS 2.015, 17.165, 17.500(8), 158.135(1)(c), 189.125, 194A.060, 199.011, 199.430(3), 199.470, 199.492, 199.493, 199.510, 199.520, 199.570, 199.572, 199.590, 199.640, 199.645, 199.650-199.670, 258.015, 258.035[~~216.300~~], 273.161(8)[~~(7)~~], 311.720(9), 311.840(3), 314.011(5), (7),[~~(9),~~] 503.110(1), 527.100, 527.110, 600.020, 605.090(1), 610.110(6), 610.125, 615.010-615.990, 620.030, 620.090(2), 620.140(1)(d), 620.230(3), Chapter 625, 16 C.F.R. 1219-1220[~~1508 and 1509~~], 45

C.F.R. Parts 160, 164, 1355.34, 8 U.S.C. 1151, 42 U.S.C. 671[~~(a)(23)~~], 42 U.S.C. 677(a)[~~(1)-(6)~~], 14901-14954

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those 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. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150(1) permits the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards for child-placing agencies.

Section 1. Definitions. (1) "Adequate supervision" means adult oversight of a child's activities with consideration of the child's past and current:

(a) Incidents;

(b) High risk behaviors; and

(c) Needs.

(2) "Adoption" means the legal process by which a child becomes the child of a person or persons other than biological parents.

(3) **"Adoptive home" means a home in which the family has been approved by the child-placing agency to adopt a child.**

(4) "Aftercare" means services provided to the child after discharge from a child-placing agency.

(5)[~~(4)~~] "Applicant" means an individual or a family subject to approval by the child-placing agency as a:

(a) Foster home; or

(b) Adoptive home.

(6)[~~(5)~~] "Board of directors" is defined by KRS 273.161(8)[~~(7)~~].

(7)[~~(6)~~] "Case management" means a process whereby a state agency or child-placing agency assesses the individualized needs of a child or family, arranges for the provision of services, and maintains documentation of actions and outcomes.

(8)[~~(7)~~] "Child" ***means:***

(a) A child as defined by KRS 199.011(4) and 600.020(8);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015

[~~is defined by KRS 199.011(4) and 600.020(8)~~][~~and may include:~~

~~(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or~~

~~(b) A child who meets the exceptions to the age of majority in accordance with KRS 2.015~~].

(9)[~~(8)~~] "Child with medical complexity" means a child who is determined to have a medical condition pursuant to 922 KAR 1:350, Section ***4(1)(b)[~~1(4)~~]***[~~1(5)~~].

(10)[~~(9)~~] "Child-placing agency" is defined by KRS 199.011(7).

(11)[~~(10)~~][~~(9)~~] "College or university" means:

(a) An institution accredited by one (1) of the eleven (11) regional accrediting organizations recognized by the U.S. Department of Education, Office of Postsecondary Education;

(b) For a Kentucky institution, one (1) that is licensed by the Kentucky Council on Postsecondary Education or the Kentucky Board for Proprietary Education; and

(c) For an out-of-state institution, one (1) that is licensed in its home state if licensure is required in that state.

(12)[~~(11)~~][~~(10)~~]***["Community resource" means a service or activity available in the community in addition to]***[~~that supplements~~]***[~~those provided by the child-placing agency in the care and treatment of a child.~~***

(13)[~~(12)~~][~~(11)~~] "Executive director" means the person employed by the board of directors to be responsible for the overall administration and management of a child-placing agency.

(13)[~~(14)~~][~~(13)~~][~~(12)~~] "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(9) and 600.020(28)[~~(26)~~], if referring to a physical structure; or

(b) Any individual approved as a foster parent by the child-placing agency, if referring to an individual.

(14)[~~(15)~~][~~(14)~~] "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(9);

(b) ***Physician[~~Physician's~~]*** assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

(d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(15)[~~(16)~~][~~(15)~~][~~(13)~~] "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker that meets the requirements specified in Section 4(3) of this administrative regulation.

(16)[~~(17)~~][~~(16)~~][~~(14)~~] "Independent living program" means a planned program that:

(a) Is licensed by the cabinet and designed to teach a child age sixteen (16) or older life skills that enable a child to become self-sufficient; and

(b) Meets requirements specified in 922 KAR 1:340[~~Section 17(1) of this administrative regulation~~].

(17)[~~(18)~~][~~(17)~~][~~(15)~~] "Independent living services" means services provided to an eligible child, as described in Section 16 of this administrative regulation, to assist the child in the transition from dependency of childhood to living independently.

(18)[~~(19)~~][~~(18)~~][~~(16)~~] "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.[~~(17) "Licensed health care professional" is defined by KRS 216.300(1).~~

~~(18) "Medically fragile child" means a child who is determined to have a medical condition as specified in 922 KAR 1:350.~~]

(19)[~~(20)~~][~~(19)~~] "Mental health treatment" means services provided to an individual determined to have emotional, mental, or behavioral problems.

(20)[~~(21)~~][~~(20)~~] "Placement" means:

(a) The physical relocation of a child removed from the child's home of origin with a provider of out-of-home services; or

(b) A foster or adoptive home that has been approved by completing an application process, home study, and required preparation.

(21)[~~(22)~~][~~(21)~~] "Program director" means the person responsible for supervising the day-to-day operation of the program.

(22)[~~(23)~~][~~(22)~~] "Respite care" means temporary care provided by another individual or family that meets requirements specified in Section 13 of this administrative regulation to[~~:(a)~~] provide relief to a foster care parent, therapeutic foster care parent, or medically complex[~~medically-fragile~~] foster parent with the expectation that the child will return to the foster home[~~; or (b) Allow an adjustment period for the child placed in out-of-home care~~].

(23)[~~(24)~~][~~(23)~~] "Sex crime" is defined by KRS 17.500(8).

(24)[~~(25)~~][~~(24)~~] "Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and the individual's environment.

(25)[~~(26)~~][~~(25)~~] "Social services worker" means a person retained by a child-placing agency who meets the qualifications as specified in Section 2(4)(c) of this administrative regulation.

(26)[~~(27)~~][~~(26)~~] "Supervision plan" means a written supplement to a child's ITP, developed pursuant to Section 6(7)(b)2 of this administrative regulation, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

(27)[~~(28)~~][~~(27)~~] "Therapeutic foster care" is defined by KRS 158.135(1)(c).

(28)[(29)][~~(28)~~] "Therapeutic services" means clinical or supportive services provided to a child with severe emotional or behavioral needs.

(29)[(30)][~~(29)~~] "Treatment director" means an individual who meets the qualifications as specified in Section 2(4)(d) of this administrative regulation.

Section 2. Administration and Operation. (1) Licensing procedures.

(a) Licensing procedures for a child-placing agency shall be administered pursuant to 922 KAR 1:305.

(b) An independent living program shall be an optional component of the child-placing agency's license in accordance with 922 KAR 1:340.

(c) A child-placing agency shall obtain accreditation within two (2) years of initial licensure or within two (2) years of acquiring an agreement with the cabinet to provide private child care services, whichever is later. Accreditation shall be from a nationally-recognized accreditation organization, such as:

1. The Council on Accreditation; or

2. The Joint Commission on Accreditation for Healthcare Organizations.

(d) The cabinet shall revoke a license if a child-placing agency fails to:

1. Become accredited in accordance with paragraph (c) of this subsection; or

2. Maintain accreditation.

(e) The child-placing agency shall provide proof of accreditation to the Office of Inspector General, Division of Regulated Child Care:

1. Upon receiving initial accreditation; and

2. At the time of annual inspection for re-licensure.

(2) Board of directors. The child-placing agency shall have a board of directors, or an advisory board if the child-placing agency is a privately-held for-profit organization, that shall:

(a) Consist of a minimum of seven (7) members;

(b) Meet at least quarterly;

(c) Cause minutes of the meeting to be taken and kept in written form;

(d) Be responsible for and have the authority to ensure the continuing compliance with the requirements established by this administrative regulation;

(e) Approve a mission statement;

(f) Establish and revise, when necessary, the child-placing agency's[~~delineating the~~]:

1. Purpose;

2. Objective;

3. Scope of services to be provided; and

4. Intake policy specifying the type of child to be accepted for care;

(g)[~~(f)~~] Hire, supervise, and annually evaluate the executive director of the child-placing agency; and

(h)[~~(g)~~] Delineate in writing the duties of the executive director.

(3) Executive director.

(a) The executive director shall:

1. Be responsible for the child-placing agency and its affiliates, pursuant to the child-placing agency's written policies and procedures;

2. Oversee all aspects of the child-placing agency; and

3. Report to the board, on a quarterly basis, the following:

a. Evaluation of program services;

b. Measurement of attainment of the objective established pursuant to subsection (2)(f)2[~~(2)(e)2~~] of this section;

c. Staff training; and

d. Incident reports.

(b) The criteria and process of the evaluation required in paragraph (a)3a of this subsection shall be approved by the board annually.

(c) If the executive director is not available, a designated staff person shall be responsible for the day-to-day operation of the child-placing agency.

(4) Staff qualifications.

(a) An executive director shall possess the following qualifications:

1.a. A master's degree from a college or university in any of the following human services fields:

(i) Social work;

(ii) Sociology;

(iii) Psychology;

(iv) Guidance and counseling;

(v) Education;

(vi) Religious education;

(vii) Business administration;

(viii) Criminal justice;

(ix) Public administration;

(x) Child-care administration;

(xi) Nursing;

(xii) Family studies; or

(xiii) Another human service field related to working with families and children; and

b. Two (2) years of work experience in a human services program; or

2.a. A bachelor's degree with a major in a discipline designated in subparagraph 1 of this paragraph; and

b.[~~(b)~~] Four (4) years of work experience in a human services program.

(b) A licensed child-placing agency shall have one (1) member of the social work staff designated as program director who shall hold:

1. A master's degree from a college or university in social work or in a discipline designated in paragraph (a)1 of this subsection; or

2.a. A bachelor's degree from a college or university in social work or in a discipline designated in paragraph (a)1 of this subsection; and

b. At least two (2) years of professional experience in working with a child or family.

(c) A social services worker shall:

1. Be responsible for[~~social work, counseling or~~] planning and coordinating services to a child; and

2. Hold at least a bachelor's degree from a college or university in social work or a human services field.

(d) A treatment director shall:

1. Oversee the day-to-day operation of the treatment program;

2. Hold at least a master's degree from a college or university in a human services discipline; and

3. Have at least five (5) years of total experience in mental health treatment, with a minimum of three (3) years of experience in mental health treatment of children with emotional or behavioral disabilities and their families.

(e)1. A child-placing agency contracting for the service of a social services worker not ***an employee[~~on the staff~~]*** of the child-placing agency shall obtain documentation that the social services worker meets the qualifications in paragraph (c) of this subsection.

2. An agreement for this provision of service shall be on file at the child-placing agency and shall specify the qualifications of the social services worker.

(f) The program director shall supervise social ***services workers[~~service staff~~]***.

(g)[~~In a therapeutic foster care program, a person meeting the qualifications of~~] A treatment director shall carry out approval and evaluation of services.

(h)1. Social services ***workers[~~staff~~]*** shall not carry a caseload of more than twenty (20) children.

2. If a social services worker carries a caseload of children in some combination of foster care, therapeutic foster care, medically complex foster care, or an independent living program, the allowable caseload for the social services worker shall be determined by:

a. Dividing the number of children in each placement type on the worker's caseload by the maximum caseload for the placement type to derive a percentage;

b. Adding each percentage calculated in clause a. of this subparagraph to derive a sum; and

c. Maintaining the sum derived in clause b. of this subparagraph at or below 100 percent.

(5) Personnel policy.

(a) A child-placing agency shall have and comply with written personnel policies and procedures.

(b) An employee shall:

1. Be at least eighteen (18) years of age;

2. Submit to a criminal background check in accordance with KRS 17.165 and a central registry check in accordance with 922 KAR 1:470; and

3. Submit to a new criminal background check in accordance with KRS 17.165 and central registry check in accordance with 922 KAR 1:470 once every two (2) years.

(c)1. If a substantiated finding[~~allegation~~] of abuse, neglect, or exploitation of a child has been made against a person, a child-placing agency shall not employ the person or allow the person to volunteer in a position involving direct contact with a child.

2. The cabinet shall respond to allegations of abuse, neglect, or exploitation of a child in accordance with 922 KAR 1:330 and 922 KAR 1:480.

(d) A current personnel record shall be maintained for an employee that includes the following:

1. Name, address, Social Security number, date of employment, and date of birth;

2. Evidence of qualifications, including degree from a college or university, current registration, certification, or licensure;

3. Record of participation in staff development;

4. Record of performance evaluation;

5. Criminal records and central registry checks pursuant to paragraph (b)2 and 3 of this subsection;

6. Record of a physical exam related to employment, as specified in the child-placing agency's policies and procedures;

7. Personnel action;

8. Application for employment, resume, or contract; and

9. Evidence of personnel orientation.

(e) A[~~The~~] child-placing agency shall have an ongoing staff development program under the supervision of a designated staff member.

(f) An employee under indictment, legally charged with felonious conduct, or subject to a cabinet investigation in accordance with 922 KAR 1:330 shall:

1. Be immediately removed from contact with a child; and

2. Not be allowed to work with a[~~the~~] child until:

a. A prevention plan has been written and approved by a designated regional cabinet staff;

b. The person is cleared of the charge; or

c. A cabinet investigation reveals an unsubstantiated finding, if the charge resulted from an allegation of child:

(i) Abuse;

(ii) Neglect; or

(iii) Exploitation.

(g) Unless the volunteer is a practicum student, a volunteer who performs a similar function as paid staff described in subsection (4) of this section shall meet the same requirements and qualifications.

(h) Practicum students and volunteers shall submit to a background check and any other mandatory requirements listed in subsection (5)(b) and (c) of this section.

(i) A current personnel record shall be maintained for a practicum student or volunteer that includes the following:

1. Name, address, Social Security number, starting date, and date of birth;

2. Evidence of qualifications if the volunteer performs a similar function as paid staff; and

3. Criminal records and central registry checks pursuant to paragraph (h) of this subsection.

(6) Physical management. If a child-placing agency uses physical management, the agency shall have established guidelines and policies governing the use of physical management that shall be:

(a) Consistent with accreditation standards; and

(b) In accordance with 922 KAR 1:300.

(7) Notifications. A licensed child-placing agency shall provide written notification within one (1) week to the Office of Inspector General, Division of Regulated Child Care when there is a change in the following leadership staff:

(a) Executive director;

(b) Program director; **or[~~and~~]**

(c) Treatment director.

[~~(8) Child. For purposes of this administrative regulation, a child may include:~~

~~(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or~~

~~(b) A child who meets the exceptions to the age of majority in accordance with KRS 2.015.~~]

Section 3. Interstate Placement. (1) Prior to accepting a child from another state or prior to placing a child outside Kentucky, a[~~the~~] child-placing agency shall comply with:

(a) KRS 615.030 to 615.040, Interstate Compact on Placement of Children;

(b) KRS 615.010, Interstate Compact for Juveniles; and

(c) 42 U.S.C. 671(a)(23).

(2)[~~If a child committed to the cabinet makes a brief visit out of state, not accompanied by child-placing agency personnel, the child-placing agency shall obtain prior consent of designated regional cabinet staff.~~

~~(3)~~] A child-placing agency shall comply with subsection (1) of this section if a child placed with the child-placing agency visits or receives respite care in another state for a period to exceed:

(a) Thirty (30) days; or

(b) The child's school vacation period as ascertained from the academic calendar of the school.

(3)[~~(4)~~] If an emergency placement of a child into a licensed child-placing agency is made, the placement source shall be responsible for compliance with KRS 615.030 to 615.040.

Section 4. Evaluation of an Applicant. (1) A child-placing agency's social services staff shall recruit a prospective foster or adoptive home.

(2) A child-placing agency shall:

(a) Complete a home study; and

(b) Approve the home prior to the placement of a child.

(3) Documentation of the home study shall include the following:

(a) **A minimum of two (2) home visits for the purpose of conducting:**

1. One (1) interview with each of the household members individually to assess each member's attitude toward the placement or adoption of a child; and

2. One (1) family consultation with all household members present to observe the functioning of the applicant's household, including interpersonal relationships and patterns of interaction;

(b)[~~Two (2) family consultations~~][~~A personal interview~~]**[~~with each member of the applicant's household;~~**

~~(b) An assessment of the attitude of each member of the applicant's household toward the placement of a child into the home or adoption;~~

~~(c) Observations of the functioning of the applicant's household, including interpersonal relationships and patterns of interaction;~~

~~(d) The applicant's ability to accept a child's relationship with the child's family of origin;~~

~~(e)~~] Proof of the applicant's:

1. Identity, such as a federally or state-issued photo identification card;

2. Age of twenty-one (21) years or older, unless an exception is granted pursuant to subsection (4) of this section; and

3. United States citizenship or legal immigrant status[~~, such as a birth certificate, or legal alien status, such as a permanent resident card,~~] as described in 8 U.S.C. 1151;

(c)[~~(f)~~] A statement for each member of the applicant's household that shall:

1. Be signed by a health professional who is not a member of the applicant's household; and

2. Verify[~~licensed physician or licensed health care professional verifying~~] that the individual:

a.[1.] Is free of a communicable or infectious disease; and

b.[2.] Has no illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(d)[(g)] A signed statement by a[licensed physician or licensed] health professional ***who is not a member of the applicant's household*** regarding the applicant's physical ability to provide necessary care for a child;

(e)[(h)] Verification that the applicant has a source of income separate from:

1. Foster care reimbursement; or

2. Adoption assistance;

(f)[(i)] Documentation of references to include:

1. The name of three (3) personal references who:

a.[1.] Are not related to the applicant; and

b.(i)[2.a.] Shall be interviewed by the child-placing agency staff in person or by telephone; or

(ii)[b.] Shall provide letters of reference for the applicant; and

2. Two (2) credit references;

(g)[(j)] Verification that the applicant's financial stability has been assessed and approved in accordance with a child-placing agency's written policies and procedures;

(h)[(k)] Documentation of an in-person or telephone[any] interview with each[an] adult child of the applicant, who does not live in the applicant's home, regarding the applicant's parenting history unless a documented exception exists and is approved by the program director ***due to inaccessibility***;

(i)[(l)] If applicable, verification from the applicant regarding a:

1. Previous divorce;

2. Death of a spouse; or

3. Present marriage;

(j)[(m)] If the applicant does not have custody of the applicant's own child:

1. A copy of a visitation order;

2. A copy of a child support order; and

3. Proof of current payment of child support;

(k)[(n)] Proof that the child-placing agency performed background checks on the applicant and any member of the applicant's household in accordance with criteria established in 922 KAR 1:490;

(l)[(o)] Documentation that the applicant has access to:

1. Transportation that meets the child's needs, including restraint requirements pursuant to KRS 189.125;

2. School;

3. Recreation;

4. Medical care; and

5. Community facilities;

(m)[(p)] If an applicant or household member will be transporting a foster child:

1.[,] Proof that the individual possesses a valid driver's license and has automobile or driver's insurance coverage; and

2. Documentation that the applicant or household member shall abide by passenger restraint laws;

(n)[(q)] Documentation that the applicant's home:

1. Does not present a hazard to the health and safety of a child;

2. Is well heated and ventilated;

3. Complies with state and local health requirements regarding water and sanitation; and

4. Provides indoor and outdoor[in- or out-of-door] recreation space appropriate to the developmental needs of a child placed in the applicant's home;

(o)[(r)] Verification that ***the requirements established by this paragraph are being followed.[:]***

1.***[No]*** More than four (4) children, including the applicant's own children, shall ***not*** share a bedroom;

2. Thorough consideration shall be given to age, gender, and background ***if[when]*** children share a bedroom;

3. Children of different genders over the age of five (5) shall not share a bedroom;

4. A bedroom used by a child in the custody of a state agency shall be comparable to other bedrooms in the house; and

5.[2.] A foster parent shall not share a bedroom with a child in the custody of a state agency, unless prior approval is obtained from the state agency ***based on the needs of the child***;

(p)[(s)] Verification that an individual bed:

1. Is provided for each child in the home;

2. If the child is under age one (1), is a crib that meets the Consumer Products Safety Commission Standards pursuant to 16 C.F.R. 1219-1220[1508 and 1509]; [and]

3. Is age and size appropriate for the child; and

4. Has a mattress that:

a. Meets current Consumer Products Safety Commission Standards ***in 16 C.F.R. Parts 1632 and 1633***;

b. Is in good repair; and

c. Has a clean**, fitted[tight-fitted]** sheet that shall be changed:

(i) Weekly; or

(ii) Immediately if it is soiled or wet;

(q)[(t)] Verification that[:

1. Medication is locked, unless an exception is granted pursuant to subsection (10) of this section; and

2.] the following are inaccessible to a child:

1.[a.] Alcoholic beverages;

2.[b.] Poisonous or hazardous materials; [and]

3.[c.] Ammunition and firearms in accordance with KRS 527.100 and 527.110;

4. An animal that presents a danger to a child; and

5. Medication unless an exception is granted pursuant to subsection (10) of this section;

(r)[(u)] Proof that the applicant has:

1. First aid supplies with unexpired dates available and stored in a place easily accessible by the foster parent;

2. A working telephone;[and]

3. A working smoke alarm within ten (10) feet of each bedroom;

4. A working carbon monoxide detector in a home with gas heating or appliances; and

5. Any household animal vaccinated in accordance with KRS 258.015 and 258.035;

(s)[(v)] If a business open to the public adjoins the applicant's household, consideration of potential negative impacts on the child and family, including:

1. Hours of operation;

2. Type of business; and

3. Clientele; and

(t)[(w)] If an applicant was approved to foster or adopt a child by another child placing agency or the cabinet and the applicant's home was closed:

1.[,] Verification of the closure; and

2. A statement to indicate whether the closure was at the request of the applicant or the agency.

(4) Exception to subsection **(3)(b)2[(3)(e)2]** of this section shall be granted if the applicant is:

(a) Between eighteen (18) and twenty-one (21) years of age;

(b) A relative of the child to be placed in the applicant's home; and

(c) Able to meet the needs of the child to be placed in the applicant's home.

(5) For each potential applicant evaluated, a[the] child-placing agency shall keep a written record of the findings of the home study and the evidence on which the findings are based.

(6)(a) A[Following approval as a foster home, the approving] child-placing agency shall[may] request written approval from the state agency with custody of the child, for the foster home to provide services as a[certified]:

1. Certified provider of Supports for Community Living in accordance with 907 KAR 1:145;

2. Therapeutic foster care provider for adults in accordance with 907 KAR 3:030;[or]

3. Certified family child-care[child care] home in accordance with 922 KAR 2:100; or

4. Licensed child-care center in accordance with 922 KAR 2:090.

(b)[Except as provided in paragraph (a) of this subsection,] An approved foster home shall not simultaneously[:

1. Provide day care center services in accordance with 922 KAR 2:090; and

~~2.~~] be used as a licensed or certified health care or social service provider for a child in the foster home's care.

(7) An employee of the department who provides protection and permanency services shall be prohibited from becoming a foster parent or respite care provider for a child in the custody of the cabinet, unless the:

(a) Employee was a foster parent or respite care provider for the child at the time employment with the department in protection and permanency services began; and

(b) Commissioner approves, in writing, the employee to be a foster parent or respite care provider for the child.

(8) An employee of the department who provides protection and permanency services may apply to adopt a child in the custody of the cabinet if the[~~:~~

~~(a) Employee had:~~

~~1. No relationship with the child or a parent of the child prior to the termination of parental rights in accordance with KRS Chapter 625, unless the employee is a relative of the child; or~~

~~2. Adopted a sibling of the child available for adoption; and~~

~~(b)~~] commissioner approves, in writing, the employee to adopt.

(9)(a) A child-placing agency shall develop written policies and procedures regarding employees of the child-placing agency serving as:

1. A foster parent;

2. An adoptive parent; or

3. A respite care provider.

(b) Policies and procedures developed in accordance with paragraph (a) of this subsection shall address the prevention or appearance of:

1. A conflict of interest; or

2. Misuse of influence.

(10) A child-placing agency may make an exception to subsection **(3)(g)5[~~(3)(t)5~~]**[~~(3)(t)1~~] of this section if:

(a) The exception is documented in the ITP of a child placed in the foster or prospective adoptive home;

(b)1. The child is approved by a health professional[~~learning~~] to self-administer medicine under the supervision of the foster or prospective adoptive parent or other caretaker; or

2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(c) Measures are taken to prevent unauthorized access by another child in the same home.

(11) If an applicant is approved as a foster home, adoptive home, or respite care provider by a state agency or another child-placing agency, a child-placing agency shall:

(a) Conduct a home study in accordance with subsections (2), (3), and (5) of this section; and

(b)[~~1.~~] Document that the applicant meets training requirements in accordance with Section 5, 7, 10, 13, or 18[~~19~~] of this administrative regulation.[~~; and~~

~~2.~~] If an applicant lacks training in accordance with[~~subparagraph 1 of~~] this paragraph, the child-placing agency shall, prior to placement of a child in the home:

1.[~~a.~~] Provide training in accordance with Section 5, 7, 10, 13, or 18[~~19~~] of this administrative regulation; or

2.a.[~~b.(i)~~] Develop an individualized curriculum to fulfill unmet training needs; and

b.[~~(ii)~~] Document the applicant's compliance with the individualized curriculum.

Section 5. Orientation and Preparation of a Foster Home. (1) With the exception of training requirements specified in 922 KAR 1:495 for a foster home that cares for a child in the custody ***of the cabinet***, a child-placing agency shall:

(a)[~~(1)~~] Develop and maintain an orientation and preparation curriculum to be kept on file;

(b)[~~(2)~~] Provide a minimum of twenty-four (24) hours of orientation and preparation to a prospective foster parent, to include the following:

[~~(a)~~]1. Child-placing agency program description with mission statement;

2. Information about the rights and responsibilities of the home;[~~and~~]

3. Background information about the foster child and the child's family, including information in accordance with KRS 605.090(1)(b);

4.[~~(b)~~] An example of an actual experience from a foster parent that has fostered a child;

5.[~~(c)~~] Information regarding:

a.[~~1.~~] The stages of grief;

b.[~~2.~~] Identification of the behavior linked to each stage;

c.[~~3.~~] The long-term effect of separation and loss on a child;

d.[4.] Permanency planning for a child, including independent living services;

e.[~~5.~~] The importance of attachment on a child's growth and development and how a child may maintain or develop a healthy attachment;

f.[~~6.~~] Family functioning, values, and expectations of a foster home;

g.[~~7.~~] Cultural competency;

h.[~~8.~~] How a child enters and experiences foster care, and the importance of achieving permanency; and

i.[~~9.~~] The importance of birth family and culture and helping children leave foster care;

6.[~~(d)~~] Identification of changes that may occur in the home if a placement occurs, to include:

a.[~~1.~~] Family adjustment and disruption;

b.[~~2.~~] Identity issues; and

c.[~~3.~~] Discipline issues and child behavior management; and

7.[~~(e)~~] Specific requirements and responsibilities of a foster parent; and [~~.~~]

(c)[~~(3)~~] Maintain an ongoing foster home preparation and training program that:

1.[~~(a)~~] Provides a minimum of six (6) hours of foster home training annually; and

2.[~~(b)~~] Maintains a record of preparation and training completed.

(2) Training provided in accordance with 922 KAR 1:495 may be utilized for a foster home that does not care for a child in the custody of the cabinet if the governmental agency or individual with oversight of the child approves the training.

Section 6. Placement, Case Management, and Supervision of a Child in a Foster Home, Medically Complex[~~Medically fragile~~] Foster Home, or Therapeutic Foster Care Home. (1) A child-placing agency shall:

(a) Place a child only in an approved foster home; and

(b) Keep a child who has been committed to the Department of Juvenile Justice for the commission of a sex crime in a separate foster home or prospective adoptive home from a child committed to the cabinet in accordance with KRS 605.090(1), 620.090(2), and 620.230(3).

(2) A child-placing agency shall select a foster home for a child based upon the individual needs of the child, including:

(a) The child's assessment and ITP, if available;

(b) Any information concerning the child's needs in placement; and

(c) Measures to support the safety of the child, such as a placement restriction in accordance with subsection (1)(b) of this section[~~,~~] or another child in the foster home.

(3) A child shall participate in the intake process[~~and in the decision that placement is appropriate,~~] to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

(4) Unless an exception is granted pursuant to subsection (6) of this section,[~~:~~

~~(a) The number of children residing in a foster home by a child-placing agency shall not exceed six (6), including the foster parent's own children.~~

~~(b)~~] the number of children residing in a foster home[~~that cares for a child in the custody of the cabinet~~] shall not exceed five (5), including the foster parent's own children.

(5) Unless an exception is granted pursuant to subsection (6) of this section, a child-placing agency shall have a maximum of two

(2) children under two (2) years of age placed in the same foster home at the same time, including children placed in the custody of the cabinet and the foster parent's own children[~~with the exception of a sibling group, who may remain together~~].

(6)(a) Justification for an exception to subsection (4)[~~(a)~~] or (5) of this section shall be:

1. Documented in the foster parent file; and

2. Authorized by the program director ***because a plan is in place with the foster parent to ensure that the needs of all children in the home are met***.

(b) For a foster home that cares for a child in the custody of the cabinet, the child-placing agency shall submit a DPP-112B, Private Child-Placing Agency Placement Exception Request,[~~a written justification~~] for an exception to subsection (4)[~~(b)~~] or (5) of this section to designated cabinet staff prior to the**[~~proposed~~]** placement documenting:

1. The reason the placement is in the best interest of the child; and

2. Specific support services to be provided[~~in accordance with 922 KAR 1:350, Section 2(2)~~].

(c) If an exception to subsection (4) or (5) of this section is necessary for a placement to occur outside of normal business hours:

1. The child-placing agency shall verbally provide all information contained within the DPP-112B to designated cabinet staff prior to the placement;

2. A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and

3. The completed DPP-112B shall be submitted on the first business day following placement.

(7) A[~~The~~] child-placing agency shall:

(a) Assess a child to be placed in foster care;

(b) Within thirty (30) days of a child's placement, develop:

1. An ITP:

a. Based upon the individual strengths and needs of the child and, if appropriate, the child's family, which addresses the:

(i)[~~a.~~] Visitation, health, and educational needs of the child;

(ii)[~~b.~~] Child's permanency goals and related objectives;

(iii)[~~c.~~] Methods for accomplishing each goal and objective; and

(iv)[~~d.~~] Designation of an individual or individuals responsible for completion of each goal and objective; and

b. With the child and the child's parent:

(i) That includes offering the child the opportunity to sign the ITP signifying the child's understanding; and

(ii) Unless a circumstance exists which precludes engagement of the child or the child's parent from occurring and is documented in the child's case record; and

2. A supervision plan for the child which:

a. Is attached to the child's ITP;

b. Identifies the current supervision needs of and expectations for the child based upon the child's recent and past:

(i) Incidents;

(ii) High-risk behaviors; and

(iii) Needs identified in the assessment conducted pursuant to paragraph (a) of this subsection;

c. Includes goals and objectives for the child's improvement with tasks assigned to the child-placing agency and foster home parent;

d. Is signed and dated by the social service worker and foster home parent; and

e. Remains a part of the child's record;

(c) Review a child's ITP and supervision plan on a quarterly basis or more frequently as the child's needs or circumstances dictate;

(d) Have a written agreement with the foster home stating the:

1. Responsibilities of the:

a. Child-placing agency; and

b. Foster home; and

2. Terms of each placement;

(e) Require a foster home to certify, in writing, that supervision from the child-placing agency or the state agency, which has custody of the child, shall be allowed;

(f) Document a placement in the foster home file;

(g) Report immediately to the state agency which has custody of the child if there is:

1. A hospitalization or life-threatening accident or illness;

2. An absence without official leave;

3. A suicide attempt;

4. Criminal activity by the child***[requiring notification of law enforcement]***;

5. Death;[~~or~~]

6. Possession of a deadly weapon by a child;

7.[~~(h) Report, if applicable, within two (2) business days to the state agency which has custody of the child if there is a:~~

~~1.~~] Change in address;

8.[~~2.~~] Change in the number of people living in the home; or

9.[~~3.~~] Significant change in the foster home, such as changes in health or income status of an individual living in the foster home;

(h)[~~(i)~~] Establish policies and procedures for supervision of a foster home by a worker other than the social services worker assigned to the foster home, who meets qualifications specified in Section 2(4)(c) of this administrative regulation to:

1. Include:

a. Frequency of an in-home visit with the foster parent;

b. Means of supervision;

c. Methods of supervision; and

d. Personnel conducting the supervision;

2. Ensure a foster child's placement stability and safety; and

3. Be individualized, as needed, for the:

a. Child; or

b. Foster home;

(i)[~~(j)~~] Identify and make available necessary supports to a foster home, including:

1. A plan for respite care in accordance with Section 13 of this administrative regulation;

2. Twenty-four (24) hour crisis intervention; and

3. A foster home support group;

(j)[~~(k)~~] Assure that a child receives care and services, including independent living services:

1. In accordance with Section 16 of this administrative regulation; and

2. As prescribed by the child's needs as assessed in the child's ITP;

(k)[~~(l)~~] Provide information to a foster parent regarding the behavior and development of the child placed by the child-placing agency;

(l)[~~(m)~~] Inform the foster parent, in accordance with KRS 605.090(1)(b), of:

1. Inappropriate sexual acts or sexual behavior of the child as specifically known to the child-placing agency; and

2. Any behaviors of the child that indicate a safety risk for the placement;

(m)[~~(n)~~] Document each effort to:

1. Protect the legal rights of the family and the child; and

2. Maintain the bond between the child and the child's family, in accordance with the child's permanency plan;

(n)[~~(o)~~] Assure that a child shall have, for the child's exclusive use, clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(o)[~~(p)~~] Be responsible for monitoring the child's school progress and attendance;

(p)[~~(q)~~] Secure psychological and psychiatric services, vocational counseling, or other services if indicated by the child's needs;

(q)[~~(r)~~] Reassess and document quarterly, in the child's ITP, placement and permanency goals, including independent living services, in accordance with Section 16 of this administrative regulation;

(r)[~~(s)~~] Conduct and document a face-to-face visit with the child at least once per month; and

(s)[~~(t)~~] Maintain foster care records in accordance with Section 17[~~18~~] of this administrative regulation.

(8) Without prior notification to and written authorization from the Kentucky Interstate Compact Administrator, a child shall not be:

(a) Placed with a family that normally resides in another state; or

(b) Permitted to go with a person to take up residence in another state.

(9)(a) An approved foster home in use shall be evaluated on an annual basis for compliance with responsibilities listed in the written agreement described in subsection (7)(d) of this section.

(b) Results shall be recorded in the foster parent file.

(10) Factors that shall result in a review of a foster home shall include:

(a) Death or disability of a family member;

(b) Sudden onset of a health condition that impairs a foster parent's ability to care for a child placed in the home;

(c) Change in marital status or home address;

(d) Sudden, substantial decrease in, or loss of, income;

(e) Child birth;

(f) Use of a form of punishment that includes:

1. Cruel, severe, or humiliating actions;

2. Corporal punishment inflicted in any manner;

3. Denial of food, clothing, or shelter;

4. Withholding implementation of the child's ITP;

5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and

6. Assignment of extremely strenuous exercise or work;

(g) A report of abuse, neglect, or dependency that results in a finding that is:

1. Substantiated; or

2. Reveals concern regarding the care of the child;

(h) If the foster parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense;

(i) An incident required to be reported in accordance with subsection (7)(g) of this section and Section[~~Sections 6(7)(g) and (h), and~~] 12(6)[~~and (7)~~] of this administrative regulation; or

(j) Other factors identified by a child-placing agency that jeopardize the physical, mental, or emotional well-being[~~well being~~] of the child.

(11) The documentation of a review, specified in subsection (10) of this section, shall contain:

(a) Identifying information;

(b) Current composition of the household;

(c) Description of the situation that initiated the review;

(d) An assessment of the family functioning to determine if the child's needs are met; and

(e) Corrective action that may include a recommendation for closure of the foster home.

Section 7. Orientation and Preparation of a Therapeutic Foster Care Home. (1) A child-placing agency shall[~~:(a)~~] maintain the orientation and preparation curriculum on file.

(2) Unless a therapeutic foster care home cares for a child in the custody of the cabinet and is subject to training requirements specified in 922 KAR 1:495, a child-placing agency shall[~~; and (b)~~] provide a minimum of thirty-six (36) hours of orientation and preparation for a prospective therapeutic foster care parent that shall incorporate the following topic areas:

(a)[~~1.a.~~] Child-placing agency program description with mission statement;

(b)[~~b.~~] Information about the rights and responsibilities of the therapeutic foster care home;[~~and~~]

(c)[~~c.~~] Background information about a foster child and the child's family;

(d)[~~2.~~] An example of an actual experience of a therapeutic foster care parent that has fostered a child;

(e)[~~3.~~] Stages of grief;

(f)[~~4.~~] Behaviors linked to each stage of grief;

(g)[~~5.~~] Long-term effects on a child from separation and loss;

(h)[~~6.~~] Permanency planning for a child, including independent living services;

(i)[~~7.~~] Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment, including attachment disorder and associated behaviors;

(j)[~~8.~~] Family functioning, values, and expectations of a therapeutic foster care home;

(k)[~~9.~~] Changes that may occur in the home with placement of a child regarding:

1.[~~a.~~] Family functioning;

2.[~~b.~~] Family adjustment;

3.[~~c.~~] Identity issues;

4.[~~d.~~] Discipline issues and child behavior management; and

5.[~~e.~~] Family disruption;

(l)[~~10.~~] Specific requirements and responsibilities of a therapeutic foster care home;

(m)[~~11.~~] Behavior management;

(n)[~~12.~~] Communication skills;

(o)[~~13.~~] Skill teaching;

(p)[~~14.~~] Cultural competency;

(q)[~~15.~~] Behavior management de-escalation techniques;

(r)[~~16.~~] The dynamics of a[~~the sexually-abused~~] child who has experienced sexual abuse or human trafficking; and

(s)[~~17.~~] The effect of chemical abuse or dependence by the child or the child's biological parent.

(3)[~~(2)~~] A therapeutic foster care home shall receive:

(a) A minimum of twenty-four (24) hours of annual training; or

(b) Training in accordance with 922 KAR 1:495 if the home provides care to a child in the custody of the cabinet.

(4)[~~(3)~~] A child-placing agency that provides therapeutic foster care shall maintain an ongoing therapeutic foster care preparation and training program that:

(a) Provides training to meet requirements of subsection (2) of this section[~~a minimum of twenty-four (24) hours of annual training~~]; and

(b) Maintains a record of preparation and training completed.

Section 8. Additional Requirements for Therapeutic Foster Care. (1) A therapeutic foster care home shall accommodate the needs of a child who is unable to live with the child's own family and who:

(a) May benefit from care in a family setting; and

(b)1. Has clinical or behavioral needs that exceed supports available in a foster home; or

2. Is transitioning from group care as part of the process of returning to family and community.

(2) Unless an exception is granted pursuant to subsection (3) of this section, the number of children residing in a therapeutic foster care home that does not care for a child in the custody of the cabinet shall be limited to a total of five (5)[~~six (6)~~] children, including no more than two (2) therapeutic foster care children.

(3) Justification for an exception to subsection (2) of this section shall be:

(a) Documented in the therapeutic foster care parent's file; and

(b) Authorized by the treatment director ***because a plan is in place with the foster care parent to ensure that the needs of all children in the home are met***.

(4) Unless an exception is granted pursuant to subsection (5)[~~(3)~~] of this section, the number of children residing in a therapeutic foster care home that cares for a child in the custody of the cabinet[~~,~~] shall be limited to a total of four (4) children, including no more than two (2) therapeutic foster care children.

(5) To make a request for an exception to subsection (4) of this section, a[~~the~~] child-placing agency shall follow the procedure set forth in Section 6(6)(b) of this administrative regulation[~~922 KAR 1:350, Section 2(2)~~].

(6) A treatment director shall supervise a treatment team and shall participate in the development of the ITP and the quarterly case consultation.

(7) A child-placing agency shall provide or contract, as specified in KRS 199.640(5)(a)2, for therapeutic services individualized for the child, as needed, at least two (2) times per month.

(8) A therapeutic foster care parent shall be responsible for:

(a) Participation in the development of an assessment, ITP, and supervision plan as specified in Section 6(7) of this administrative regulation;

(b) Facilitation of in-home services provided by a social services worker at least two (2) times per month;

(c) Adequate supervision of the child and implementation of

components of the ITP, including daily log documentation as specified in the ITP;

(d) Working with the child-placing agency to promote stability and avoid disruption for the child; and

(e) Working with the child-placing agency in the development of a plan for the smooth transition of the child to a new placement, ***if there is[in the event of]*** a disruption[~~; and (f) Providing independent living services for a child twelve (12) years of age or older consistent with a child's ITP~~].

(9) Except for a child who is the legal responsibility or in the custody of the cabinet or the Department of Juvenile Justice, a[~~the~~] child-placing agency shall be responsible for:

(a) A preplacement conference, in a nonemergency placement, for the purpose of:

1. Developing permanency goals and a discharge plan for the child, including independent living services;

2. Developing a plan for the implementation of services;

3. Identifying the treatment goals; and

4. Developing a behavior management plan if applicable; and

(b) Inviting and encouraging attendance to the preplacement conference by:

1. The prospective therapeutic foster care home;

2. A respite care provider approved in accordance with Section 13(4) of this administrative regulation;

3. The child, if appropriate; and

4. The child's family.

(10) The social services worker shall:

(a) Have a[~~first~~] face-to-face visit with a child and therapeutic foster care parent on the day of the child's placement;

(b) Have another face-to-face visit with the therapeutic foster care parent or child within ten (10) calendar days of the child's placement;

(c) Telephone or visit, on a weekly basis, at least one (1) of the therapeutic foster care parents of each child on the therapeutic foster care worker's caseload;

(d) Visit a therapeutic foster care parent a minimum of two (2) times a month with at least one (1) visit being in the foster home;

(e) Visit the foster child face-to-face a minimum of two (2) times a month with at least one (1) visit in the therapeutic foster care home and one (1) visit outside the foster home;

(f) Carry a caseload of not more than twelve (12) therapeutic foster care children, taking into account:

1. Required responsibilities other than the case management of a child in foster care;

2. Additional support, contact, and preparation needed by a therapeutic foster care home, due to the extent of the needs of the child served;[~~and~~]

3. The intensity of services provided to the child and the child's family; and

4. Caseload expectations established in Section 2(4)(h) of this administrative regulation;

(g) Conduct a quarterly case consultation, including the:

1. Foster home;

2. Child's public agency worker;

3. Child-placing agency treatment director and social services worker; and

4. Child and the child's family of origin, to the extent possible;

(h) Identify the support needed by the foster family, including a:

1. Plan for respite care as provided in Section 13 of this administrative regulation;

2. Plan for twenty-four (24) hour on-call crisis intervention; and

3. Foster home support group;

(i) Recommend and prepare an aftercare plan for a child, prior to discharge from therapeutic foster care, to ensure a successful transition; and

(j) Document a quarterly case consultation and revision to a child's ITP as determined by the case consultations.

(11) A[~~The~~] child-placing agency shall:

(a) Meet requirements specified in Section 6(1) through (3) and (7) through (11) of this administrative regulation; and

(b) Annually reevaluate a therapeutic foster care home in accordance with Section 15 of this administrative regulation.

Section 9.[~~Medically-fragile~~] Child With Medical Complexity. (1) A[~~medically-fragile~~] child with medical complexity shall be:

(a) A child in the custody of the cabinet; and

(b) Determined by the cabinet to meet the child with medical complexity[~~medically-fragile~~] requirements of 922 KAR 1:350.

(2) The decision to accept a[~~medically-fragile~~] child with medical complexity shall be optional to a child-placing agency.

(3) If a child placed with a child-placing agency in a non-medically complex[~~non-medically-fragile~~] foster home becomes medically complex[~~medically-fragile~~] in accordance with subsection (1) of this section, the Division of Protection and Permanency director[~~commissioner~~] or designee and child-placing agency shall reevaluate the placement and ensure the child's needs can be met.

Section 10. Preparation of a Medically Complex[~~Medically-fragile~~] Foster Home. (1) A child-placing agency shall create a medically complex[~~medically-fragile~~] foster home only if the child-placing agency has:

(a) Staff meeting qualifications established in Section 2(4) of this administrative regulation supervising the home, who have received medically complex[~~medically-fragile~~] training in accordance with subsection (2)(b) and (c) of this section; and

(b) A liaison established with the cabinet.

(2) A foster home shall be approved to care for a[~~medically-fragile~~] child with medical complexity by a child-placing agency if the foster home:

(a) Includes a primary caregiver who is not employed outside the home, unless approved in writing by designated cabinet staff;

(b) Completes training as specified in 922 KAR 1:495, Section 4[~~, in addition to training specified in Section 5 of this administrative regulation:~~

~~1. Twenty-four (24) hours of cabinet training to include first aid and cardiopulmonary resuscitation (CPR) certification if the foster parent is not currently certified in first aid and CPR;~~

~~2. Sixteen (16) hours of cabinet training if the foster parent is currently certified in first aid and CPR; or~~

~~3. Training approved in advance by the cabinet, in the areas of:~~

~~a. Growth and development;~~

~~b. Nutrition; and~~

~~c. Medical disabilities~~];

(c) Maintains certification in:

1. Infant, child, and adult CPR; and

2. First aid;

(d) Is located within a:

1. One (1) hour drive of a medical hospital with an emergency room; and

2. Thirty (30) minute drive of a local medical facility; and

(e) Is evaluated in accordance with Section 4 of this administrative regulation.

(3)[~~Professional experience related to the care of a medically-fragile child may substitute for the training requirement of the medically-fragile foster parent as specified in subsection (2)(b) and (c) of this section:~~

~~(a) Upon the approval by a designated cabinet staff; and~~

~~(b) If the foster parent is one (1) of the following licensed health care professionals:~~

~~1. Physician as defined in KRS 311.720(9);~~

~~2. Registered nurse as defined in KRS 314.011(5);~~

~~3. Licensed practical nurse as defined in KRS 314.011(9);~~

~~4. Physician's assistant as defined in KRS 311.840(3); or~~

~~5. Advanced registered nurse practitioner as defined in KRS 314.011(7).~~

~~(4)~~] If the cabinet determines that a child currently in the care of a foster parent approved by the child-placing agency is a[~~medically-fragile~~] child with medical complexity in accordance with Section 9(1) of this administrative regulation, then the cabinet shall prioritize the foster home's enrollment in training as specified in subsection (2)(b) and (c) of this section.

(4)[~~(5)~~] An approved medically complex[~~medically-fragile~~] foster home shall receive annual reapproval, if the foster home:

(a) Annually completes ongoing training as specified by subsection (2)(b) and (c) of this section; and

(b)[~~Completes the training before the anniversary date of~~

~~approval as a medically-fragile foster home; and~~

~~(c)~~] Continues to meet the requirements in Section 15 of this administrative regulation.

(5)[~~(6)~~] Except for a sibling group or unless approved by designated cabinet staff ***in accordance with the DPP-112B***, no more than four (4) children, including the medically complex[~~medically-fragile~~] foster parent's own children, shall reside in a medically complex[~~medically-fragile~~] foster home, with no more than two (2) children being medically complex or requiring therapeutic foster care.

(6)[~~(7)~~] Unless an exception is approved by designated cabinet staff ***in accordance with the DPP-112B***, a:

(a) One (1) parent medically complex[~~medically-fragile~~] foster home shall not care for more than one (1)[~~medically-fragile~~] child with medical complexity; and

(b) Two (2) parent medically complex[~~medically-fragile~~] foster home shall not care for more than two (2)[~~medically-fragile~~] children with medical complexity.

(7) ***If a placement would exceed a limit established by subsection (5) or (6) of this section,*****[~~Unless an exception is approved prior to placement by the Division of Protection and Permanency director or designee, a child with medical complexity shall not be placed in a placement other than an approved medically complex home.~~**

[~~(8)~~] a child-placing agency shall request an exception ***[~~to subsection (5) and (6)~~]*****[~~through~~]**[~~(6) or~~]**[~~(7)~~]*****[~~of this section,~~]*** in accordance with Section 6(6)(b) of this administrative regulation[~~922 KAR 1:350, Section 2(2)~~].

Section 11. Placement of a[~~Medically-fragile~~] Child With Medical Complexity. (1)(a) In addition to training required in Section 10(2)(b) and (c) of this administrative regulation, an approved medically complex[~~medically-fragile~~] foster parent shall receive training on how to care for the specific needs of a[~~medically-fragile~~] child with medical complexity placed in the home.

(b) The training shall be conducted by a[~~licensed~~] health[~~care~~] professional.

(2) Unless an exception is granted **by the director of the Division of Protection and Permanency or designee** pursuant to subsection (3)(a) of this section, a[~~medically-fragile~~] child with medical complexity shall be placed in an approved medically complex[~~medically-fragile~~] foster home.

(3) A child-placing agency shall:

(a) Request an exception to subsection (2) of this section in accordance with Section 6(6)(b) of this administrative regulation[~~922 KAR 1:350, Section 2(2)~~];

(b) Provide case management services:

1. As described in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and

2. In accordance with the child's:

a. Health plan developed by designated cabinet staff;

b. ITP; and

c. Supervision plan;

(c) Support the child's health plan developed by designated cabinet staff; and

(d) Conduct a face-to-face visit with the child at least two (2) times per month.

Section 12. Expectations for a Foster Home, Therapeutic Foster Care Home, or Medically Complex[~~Medically-fragile~~] Foster Home. An approved foster parent, medically complex foster parent, or therapeutic foster care parent shall:

(1) Provide a child placed by the child-placing agency with a family life, including:

(a) Nutritious food;

(b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(c) Affection;

(d) Life skills development[~~training~~];

(e) Recreational opportunities;

(f) Education opportunities;

(g) Nonmedical transportation;

(h) Opportunities for development consistent with the child's religious, ethnic, and cultural heritage;

(i) Adequate supervision; and

(j) Independent living services for a child twelve (12) years of age or older;

(2) Permit a child-placing agency and staff of a state agency to visit the home;

(3) Share with the child-placing agency and, if applicable, staff of the state agency which has custody of the child, information about the child placed by the child-placing agency;

(4) Notify the child-placing agency fourteen (14) calendar[~~ten (10)~~] days prior if the home is approved to provide foster or adoptive services through another private child-placing agency or the cabinet;

(5) Notify the child-placing agency prior to:

(a) Leaving the state with a child placed by the child-placing agency for more than twenty-four (24) hours[~~two (2) nights~~]; or

(b) Allowing a child placed by the child-placing agency to be absent from the foster home for more than twenty-four (24) hours[~~three (3) days~~];

(6) Report immediately to the child-placing agency through which the child is placed[~~,~~] if there is:

(a) A hospitalization or life-threatening accident or illness;

(b) An absence without official leave;

(c) A suicide attempt;

(d) Criminal activity by the child***[~~requiring notification of law enforcement~~]***;

(e) Death of any member in the household;[~~or~~]

(f) A child's possession of a deadly weapon;

(g)[~~(7) Report, if applicable, within two (2) business days to the child-placing agency if there is a:~~

~~(a)~~] Change in address;

(h)[~~(b)~~] Change in the number of people living in the home;

(i)[~~(c)~~] Significant change in circumstance in the foster home; or

(j)[~~(d)~~] Failure of the foster child or foster parent to comply with the supervision plan;

(7)[~~(8)~~] Cooperate with the child-placing agency if child-placing agency staff arranges for a child, placed in the foster home by the child-placing agency, and the child's birth family regarding:

(a) Visits;

(b) Telephone calls; or

(c) Mail;

(8)[~~(9)~~] Surrender a child or children to the authorized representative of the child-placing agency or the state agency, which has custody of the child, upon request;

(9)[~~(10)~~] Keep confidential all personal or protected health information as shared by the cabinet or child-placing agency, in accordance with KRS 194A.060 and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child's birth family;

(10)[~~(11)~~] Support an assessment of the service needs, including respite care, and the development of an ITP, including the supervision plan, of a child placed by the child-placing agency;

(11)[~~(12)~~] Participate in a case planning conference concerning a child placed by the child-placing agency;

(12)[~~(13)~~] Cooperate with the implementation of the permanency goal established for a child placed by the child-placing agency;

(13)[~~(14)~~] Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;

(14) Facilitate the delivery of[~~(15) Provide~~] medical care to a child placed by the child-placing agency as needed, including:

(a) Administration of medication to the child and daily documentation of the administration; and

(b)[~~Annual~~] Physicals and examinations for the child;

(15)[~~(16)~~] Treat a child placed by the child-placing agency with dignity;

(16)[~~(17)~~] Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030; and

(17)[~~(18)~~] Comply with general supervision and direction of the child-placing agency or, if applicable, the state agency that has custody of the child, concerning the care of the child placed by the child-placing agency.

Section 13. Respite For Foster Care, Medically Complex[~~Medically-fragile~~] Foster Care, or Therapeutic Foster Care. (1) The child-placing agency shall develop written policies and procedures to address the respite care needs of a child or a foster parent.

(2) Respite care shall not be used as a means of placement for a child.

(3) Respite care shall be in accordance with Section 3(2)[~~3(3)~~] of this administrative regulation.

(4) The child-placing agency shall not approve a respite care provider unless the provider meets requirements specified by Section **4(3)(b), (d), and (k) through (s)[~~4(3)(e), (g), and (n) through (v)~~]** of this administrative regulation.

(5) A respite care provider shall:

(a) Receive, from the agency or foster parent, preparation for placement of a child, including:

1. Information in accordance with KRS 605.090(1)(b); and

2. Information regarding the supervision plan of the child;

(b) Provide adequate supervision in accordance with the child's supervision plan;[~~and~~]

(c)1. Give relief to a foster parent caring for a child; or

2. Provide for an adjustment period for a child;

(d) Meet the requirements of Section 6(4) through (6) of this administrative regulation; and

(e) Meet the requirements of Section 8(4) ***of this administrative regulation*** if the provider cares for a child requiring therapeutic foster care.

(6) A respite care provider for a[~~medically-fragile~~] child with medical complexity shall:

(a) Meet the requirements of Section **10(4)(b), (5), and (6)[~~10(4) through (6)~~]**[~~10(2)(b) through (d) or 10(3)~~] of this administrative regulation;[~~and~~]

(b) Receive training on how to meet the specific needs of the[~~medically-fragile foster~~] child with medical complexity from:

1. A[~~licensed~~] health[~~care~~] professional; or

2. The foster parent trained by a[~~licensed~~] health[~~care~~] professional; and

(c) Maintain certification in:

1. Infant, child, and adult CPR; and

2. First Aid.

Section 14. Private Placement Process. Except for a child in the custody of or otherwise made the legal responsibility of the cabinet or the Department of Juvenile Justice, a[~~the~~] child-placing agency shall ***follow the procedures established by this section[~~be responsible for the following~~]*** if a private placement is conducted***.[~~:~~]***

(1) For a child being placed with a child-placing agency, the child-placing agency shall obtain an:

(a) Agreement for voluntary care signed by the custodian; or

(b) Order from a court of competent jurisdiction placing the child into the custody of the child-placing agency.

(2) The child-placing agency shall:

(a) Complete an intake assessment of the strengths and needs of the child and the child's family of origin; and

(b) Ascertain the appropriateness of the referral for the child.

(3)(a) The child-placing agency shall ***develop[~~be responsible for developing~~]*** an ITP individualized for a child and the child's family based on an individualized assessment of the child's and family's needs**:**

1. Within thirty (30) days of the child's placement with the child-placing agency; or

2. Prior to the child being placed out of state**[~~or no later than~~]**[~~within~~]**[~~thirty (30) days of the child's placement with the child-placing agency~~]**.

(b) An exception to the requirement specified in paragraph (a) of this subsection may be made for a child:

1. Under the age of twelve (12) months; and

2. With no extraordinary needs.

(c)[~~(b)~~] The assessment shall be revised as needed.

(d)[~~(c)~~] The assessment and ITP shall include the type and extent of services to be provided to the child and the child's family.

(e) Assessment of the child shall include consideration of the following history:

1. Behavioral health treatment;

2. Trauma;

3. Risk for harm to self or others; and

4. Past behaviors or safety issues that could increase the likelihood of placement disruption.

(4) Unless not in the best interest of the child, the child, parent, and foster parent shall be included in developing the assessment and ITP.

(5)(a) The foster home selected for placement shall be the most appropriate home based on the child's needs and the strengths of the foster family.

(b) The foster home shall be located as close as possible to the home of the family of origin, in order to facilitate visiting and reunification.

(6)(a) The social services worker and the foster parent shall work collaboratively to prepare the child prior to the placement.

(b) Unless a circumstance precludes preparation and the circumstance is documented in the case record, a child shall have a period of preparation prior to the placement in the foster home.

(7) The child-placing agency shall:

(a) Provide or arrange for services to support reunification for a child for whom family reunification is the goal;

(b) Assess and document the parent's capacity for reunification quarterly;

(c) Provide for review of the child in order to evaluate the progress toward achieving the child's permanency goal every six (6) months; and

(d) Assure that foster care continues to be the best placement for the child.

(8)(a) Services to the family of origin and to the child shall be adapted to their individual capacities, needs, and problems.

(b) A reasonable effort shall be made to return the child to the family of origin.

(9) Planning for the child regarding treatment program matters, including visitation, health, education, and permanency goals, shall be developed in collaboration with the:

(a) Family of origin;

(b) Treatment director;

(c) Social services worker; and

(d) Foster home.

(10)(a) The child-placing agency shall work with a foster home to promote stability and avoid disruption for a child, to include:

1. Services specified in Section 6(1) through (3), and (7) through (11) of this administrative regulation; and

2. Annual reevaluation of the foster home in accordance with Section 15 of this administrative regulation.

(b) A request for the removal of a child from a foster home shall be explored immediately and shall be documented by the social services worker.

(c) If disruption is unavoidable, the child-placing agency and foster home shall develop a plan for the smooth transition of the child to a new placement.

(11)(a) Preparation for the return of a child to the family of origin shall be supervised by a social services worker.

(b) The family shall participate in planning for the child's return.

(c) If regular contact with the child's family does not occur, a plan for the child's return shall include at least one (1):

1. Prior visit between the child and the family; and

2. Preliminary visit of the child to the child's family home.

(12) The child-placing agency shall recommend a plan for aftercare services for a child and the child's family.

Section 15. Annual Reevaluation of an Approved Adoptive Home Awaiting Placement or an Approved Foster Home. (1) Annually, a child-placing agency shall:

(a)[~~(1)~~] Conduct a personal interview in the home with an approved:

1.[~~(a)~~] Adoptive home awaiting placement; or

2.[~~(b)~~] Foster home; and

(b)[~~(2)~~] Assess:

1.[~~(a)~~] Any change in the home;

2.[~~(b)~~] The ability of the home to meet the needs of a child

placed in the home; and

3.[~~(c)~~] The home's continued compliance with the requirements of this administrative regulation in:

a.[~~1.~~] Section **4(3)(e), (g), and (i) through (s)[4(3)(h), (j), and (l) through (v)]**, and Section 4(5) through (11) of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;

b.[~~2.~~] Sections 6(9)(a) and 12 of this administrative regulation, with regard to case management and expectations, if the home is approved as a foster home;

c.(i)[~~3.a.~~] Sections **5(1)(c)[~~5(3)~~]** or 7(3)(a)[~~5(3)(a), 7(2), or 10(5)(a)~~] of this administrative regulation, with regard to annual training, if the home is approved as a foster home; or

(ii) 922 KAR 1:495 with regard to annual training if the home is approved to receive a child in the custody of the cabinet; and

d.[~~4.~~] Section 18(3)[~~19(3)~~] of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.

(2)[~~(3)~~] After initial approval, a foster parent, an adoptive parent awaiting placement, a respite care provider, or a member of a foster or adoptive parent's household shall comply with a child-placing agency's request for a statement regarding the parent, provider, or household member's general health and medical ability to care for a child.

(3)[~~(4)~~] If a prospective adoptive home is awaiting an international adoption, the child-placing agency shall conduct a reevaluation of the home once every eighteen (18) months.

Section 16. Independent Living Services. A child-placing agency shall:

(1) Provide independent living services:

(a) To a child:

1. In the custody of a state agency; and

2. Who is twelve (12) to twenty-one (21) years of age;

(b) Directly or indirectly through a foster parent with whom the child is placed;

(c) As prescribed in the child's ITP; and

(d) In accordance with 42 U.S.C. 677(a); and

(2) Teach independent living:

(a) To a child:

1. In the custody of a state agency; and

2. Sixteen (16) years of age and older; and

(b) Developed in accordance with 922 KAR 1:340, Section 3(1)(a).[~~Section 17(1)(e) of this administrative regulation.~~

~~Section 17. Independent Living Programs. (1) A child-placing agency providing independent living programming shall:~~

~~(a) Conduct and document an assessment of the child's skills and knowledge:~~

~~1. Within fourteen (14) days of a child's placement with the child-placing agency and provision of services by the agency's independent living program; and~~

~~2. Using a tool to assess:~~

~~a. Money management and consumer awareness;~~

~~b. Job search skills;~~

~~c. Job retention skills;~~

~~d. Use of and access to:~~

~~i. Community resources;~~

~~ii. Housing; and~~

~~iii. Transportation;~~

~~e. Educational planning;~~

~~f. Emergency and safety skills;~~

~~g. Legal knowledge;~~

~~h. Interpersonal skills, including communication skills;~~

~~i. Health care knowledge, including knowledge of nutrition;~~

~~j. Human development knowledge, including sexuality;~~

~~k. Management of food, including food preparation;~~

~~l. Ability to maintain personal appearance;~~

~~m. Housekeeping; and~~

~~n. Leisure activities;~~

~~(b) Develop and update quarterly a written ITP within thirty (30) calendar days of a child's placement with a child-placing agency in an independent living program, to include:~~

~~1. Educational, job training, housing, and independent living goals;~~

~~2. Objectives to accomplish a goal;~~

~~3. Methods of service delivery necessary to achieve a goal and an objective;~~

~~4. Person responsible for each activity;~~

~~5. Specific timeframes to achieve a goal and an objective;~~

~~6. Identification of a discharge plan;~~

~~7. Plan for aftercare services; and~~

~~8. Plan for services from a cooperating agency;~~

~~(c) Maintain written policies and procedures for the independent living program;~~

~~(d) Train and document the training provided to designated independent living staff within thirty (30) days of employment on:~~

~~1. Content of the independent living curriculum;~~

~~2. Use of the independent living materials;~~

~~3. Application of the assessment tool; and~~

~~4. Documentation methods used by the child-placing agency; and~~

~~(e) Maintain and teach independent living in accordance with 42 U.S.C. 677(a), including:~~

~~1. Money management and consumer awareness;~~

~~2. Job search skills;~~

~~3. Job retention skills;~~

~~4. Educational planning;~~

~~5. Community resources;~~

~~6. Housing;~~

~~7. Transportation;~~

~~8. Emergency and safety skills;~~

~~9. Legal skills;~~

~~10. Interpersonal skills, including communication skills;~~

~~11. Health care, including nutrition;~~

~~12. Human development, including sexuality;~~

~~13. Food management, including food preparation;~~

~~14. Maintaining personal appearance;~~

~~15. Housekeeping;~~

~~16. Leisure activities;~~

~~17. Voting rights and registration;~~

~~18. Registration for selective service, if applicable;~~

~~19. Self-esteem;~~

~~20. Anger and stress management;~~

~~21. Problem-solving skills; and~~

~~22. Decision-making and planning skills.~~

~~(2) A social services worker from an independent living program shall:~~

~~(a) Be responsible for a child sixteen (16) to eighteen (18) years of age in an independent living program and provide supervision in accordance with the child's supervision plan; and~~

~~(b) Be available for twenty-four (24) hours, seven (7) days a week crisis support for a child in the independent living program, regardless of the child's age; and~~

~~(c) Have:~~

~~1. Daily face-to-face contact with a child:~~

~~a. Sixteen (16) to eighteen (18) years of age; and~~

~~b. In the independent living program; or~~

~~2. A minimum of one (1) face-to-face, in-home contact per week for a child:~~

~~a. Eighteen (18) to twenty-one (21) years of age; and~~

~~b. In the independent living program;~~

~~(d) Conduct a visual and exploratory review of a child's living unit at least monthly, to include a review for:~~

~~1. Safety;~~

~~2. Use of alcohol; and~~

~~3. Illegal contraband;~~

~~(e) Maintain a caseload of no more than ten (10) children, including independent living program:~~

~~1. Participants sixteen (16) to twenty-one (21) years of age; and~~

~~2. Participants' children assigned a Level of Care of III or higher; and~~

~~(f) Document annual compliance with fire and building codes for any living unit in which the agency places a child.~~

~~(3)(a) A living unit for a child in an independent living program~~

~~shall be occupied by only a child or children approved to occupy the living unit by the child-placing agency.~~

~~(b) Nonresidents shall be asked to vacate the living unit.~~

~~(4) The child-placing agency shall assure and document that the living unit of a child in an independent living program:~~

~~(a) Does not present a hazard to the health and safety of the child;~~

~~(b) Is well ventilated and heated; and~~

~~(c) Complies with state and local health requirements regarding water and sanitation.~~

~~(5) The child-placing agency shall maintain documentation for each child concerning:~~

~~(a) Assistance to the child in finding and keeping in touch with family, if possible;~~

~~(b) Health care and therapeutic services received by a child;~~

~~(c) Progress each child has made in the independent living program, including independent living services received;~~

~~(d) Progress in an educational program, including vocational education;~~

~~(e) An assessment of the child's readiness to live independently; and~~

~~(f) The social services worker's contacts with the child, including observation of the child's living arrangement.~~]

Section 17.[~~18.~~] Maintenance of a Foster Care, Medically Complex[~~Medically-fragile~~] Foster Care, or Therapeutic Foster Care Record. (1)(a) The child-placing agency shall maintain a record on each child and foster home, including medically complex[~~medically-fragile~~] foster homes and therapeutic foster care homes.

(b) The child's record and the foster home record shall show the reason for placement change and steps taken to ensure success.

(c) A case record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, pursuant to KRS 199.430(3), 199.640, and 45 C.F.R. Parts 160 and 164.

(2) The record of the child, including information of the child's family, shall include:

(a) Identifying information for child, parent, and foster home;

(b) Commitment order or custodian's consent for admission;

(c) Birth and immunization certificate;

(d) Educational record;

(e) Medical and dental record since placement;

(f) Social history and assessment;

(g) ITP and review;

(h) Supervision plan and updates to the plan;

(i) Permanency goals, including independent living services;

(j) Incident reports, including details of the child's behavior and supervision at the time of the incident;

(k) Monthly progress notes based on the ITP and supervision plan;

(l) Quarterly revisions to the child's ITP;

(m) Correspondence with the:

1. Court;

2. Family;

3. Department for Community Based Services; or

4. Department of Juvenile Justice;

(n) Discharge report; and

(o) Aftercare plan.

(3) The foster home's record shall include documentation relating to the:

(a) Orientation and preparation of the home, including all adult caregivers in the household;

(b) Required preparation hours and the topics covered;

(c) Placement of the child;

(d) Narrative summary of the initial and annual foster home's home study;

(e) Supervision of the foster home, including critical incidents;

(f)1. Annual training requirements that are met in accordance with Section **5(1)(c)[5]**[~~5(3)~~] of this administrative regulation by the foster parent and all adult caregivers in the household; or

2. If applicable, annual training requirements in accordance with Section 7**(3)**[~~(2)~~] or 10[~~(5)(a)~~] of this administrative regulation;

(g) Background checks in accordance with Sections **4(3)(k)[4(3)(n)]** and ***15(1)(b)3.a[~~15(2)(c)1~~]*** of this administrative regulation;

(h) Copy of any placement exceptions granted; and

(i) If applicable, copy of the written statement of the foster home's closure completed pursuant to Section 22(5)[~~23(3)~~] of this administrative regulation.

(4) A child-placing agency shall:

(a) Maintain a child or foster home's record for at least three (3) years;

(b) After three (3) years of inactivity:

1. Archive the record and have it transferred to one (1) of the cabinet's designated record centers; or

2. Maintain the record in accordance with 725 KAR 1:061 within[~~permanently by~~] the child-placing agency;

(c) Transfer the record to the cabinet, if:

1. The agency ceases operations; and

2. No other operational governing entity exists; and

(d) Make available all records maintained by the agency to the cabinet or its designee upon request.

Section 18.[~~19.~~] Orientation and Preparation of an Adoptive Home for a Child Not in the Custody of the Cabinet. For a child not in the custody of the cabinet, a child-placing agency shall:

(1) Prepare and maintain the orientation and preparation curriculum on file;

(2) Provide orientation and preparation to a prospective adoptive home in accordance with the child-placing agency's policies and procedures to include the following:

(a) An example of an actual experience from a parent who has adopted a child;

(b) Challenging behavior characteristics of an adoptive older child;

(c) Referral resources for a developmental delay;

(d) Transition issues with focus on stages of grief, and a honeymoon period;

(e) Loss and the long-term effects on a child;

(f) Attachment and identity issues of the child;

(g) Cultural competency;

(h) Medical issues including referral resources;

(i) Family functioning, family values, and expectations of an adoptive home;

(j) Identification of changes that may occur in the family unit upon the placement of a child to include:

1. Family adjustment and disruption;

2. Identity issues; and

3. Discipline; and

(k) Financial assistance available to an adoptive home; and

(3) Ensure that an approved adoptive home awaiting the placement of a child receives adoptive home training annually in accordance with the child-placing agency's established policies and procedures.

Section 19.[~~20.~~] Adoption Placement Process For a Child Not in the Custody of the Cabinet. (1) A child shall not be placed for adoption until the:

(a) Adoptive home has been approved;

(b) Parental rights of the mother, legal or birth father, and putative father of the child, if not the same person as the legal father, are terminated by a circuit court order entered pursuant to KRS Chapter 625; and

(c) Child is placed with the child-placing agency for the purpose of adoption placement.

(2) A child's parent shall not be induced to terminate parental rights by a promise of financial aid or other consideration.

(3)(a) A child-placing agency licensed by the cabinet shall not use the authority authorizing the agency to place a child for adoption to facilitate an adoptive placement planned by a doctor, lawyer, clergyman, or person or entity outside the child-placing agency.

(b) The child-placing agency shall comply with provisions of 922 KAR 1:010.

(4) The child-placing agency shall obtain the following:

(a) A developmental history of the adoptive child to include:

1. Birth and health history[~~, unless an exception is granted pursuant to subsection (5) of this section~~];

2. Early development[~~, unless an exception is granted pursuant to subsection (5) of this section~~];

3. Characteristic ways the child responds to people and situations;

4. Any deviation from the range of normal development;

5. The experiences of the child prior to the decision to place the child for adoption;

6. Maternal attitude during pregnancy and early infancy;

7. Continuity of parental care and affection;

8. Out-of-home placement history;

9. Separation experiences; and

10. Information about the mother, legal father, and putative father, if not the same person as the legal father, and family background:

a. That may affect the child's normal development in order to determine the presence of a significant hereditary factor or pathology; and

b. Including an illness of the biological mother or father;

(b) A social history of the biological or legal parent, to include:

1. Name;

2. Age;

3. Nationality;

4. Education;

5. Religion or faith; and

6. Occupation;

(c) Information obtained from direct study and observation of the child by a:

1. Social services worker; and

2. Physician or other[~~licensed~~] health[~~care~~] professional;

(d) If indicated, information obtained from direct study and observation of the child by a:

1. Foster parent;

2. Nurse;

3. Psychologist; or

4. Other consultants; and

(e) Information from the mother, if possible, identifying the biological father, or legal father, if different from the biological father, for the purpose of:

1. Determining the father's parental rights; and

2. Establishment of possible hereditary endowments.

(5)[~~Exception to subsection (4)(a)1 and 2 of this section may be granted, if the adoption involves a child born in a country other than the United States.~~

~~(6)~~] If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of information necessary to comply with KRS 199.520 and 199.572, the child-placing agency shall document information, to the extent possible, from the existing case record.

(6)[~~(7)~~] Prior to finalization of the adoptive placement, a licensed physician or other[~~licensed~~] health professional shall make a medical examination to determine:

(a) The state of the child's health;

(b) Any significant factor that may interfere with normal development; and

(c) The implications of any medical problem.

(7)[~~(8)~~] The condition under which an adoptive home agrees to accept the child shall be decided upon, prior to placement of the child. The written agreement between the child-placing agency and the adoptive home shall embody the following provisions:

(a) The adoptive home shall agree to:

1. Comply with KRS 199.470;

2. File an adoptive petition at a time agreeable to the adoptive home and the child-placing agency; and

3. Permit supervision by the child-placing agency in accordance with the child-placing agency's policies and procedures:

a. After placement; and

b. Preceding a final judgment of adoption by the circuit court;

(b) The child-placing agency shall be responsible for providing the adoptive home with written information regarding the child's:

1. Background;

2. Medical history;

3. Current behavior; and

4. Medical information necessary to comply with KRS 199.520(4)(a); and

(c) The adoptive home and the child-placing agency shall agree that the child may be removed from the placement, at the request of either party, before the filing of the adoptive petition.

(8)[~~(9)~~](a) Preplacement visits shall be arranged for the adoptive home and a child.

(b) The pattern and number of visits shall be based on the child's:

1. Age;

2. Development; and

3. Needs.

(9)[~~(10)~~] During preparation, the child-placing agency shall discuss the child's readiness to accept the selected placement with the child, in accordance with the child's age and ability to understand.

(10)[~~(11)~~](a) Unless the child-placing agency and, if applicable, the state agency which has custody of a child belonging to a sibling group, determines that it is more beneficial for siblings to be placed in separate adoptive homes, siblings who have had a relationship with each other shall be placed together.

(b) If siblings have been separated in placements:

1. The case record shall reflect a valid basis for the separation;

2. The decision to separate siblings shall be made by the executive director of the child-placing agency; and

3. Continued contact between siblings shall be maintained, if possible.

(11)[~~(12)~~] A child-placing agency shall comply with Section 6(1)(b) of this administrative regulation during the process of placing a child in a prospective adoptive home.

Section 20.[~~21.~~] Supervision of an Adoptive Placement of a Child Not in the Custody of the Cabinet. (1) For a child not in the custody of the cabinet, the child-placing agency placing a child shall remain responsible for the child until the adoption has been granted. This responsibility shall involve[~~involves~~] the following:

(a) Two (2) meetings by the social services worker with the child and the adoptive home, including both adoptive parents if not a single parent adoption, one (1) visit of which shall be in the adoptive home before filing of the adoption petition;

(b) The continuation of case management, visits, and telephone contacts based upon the needs of the child until the adoption is legally granted; and

(c) Awareness of a change in the adoptive home including health, education, or behavior.

(2) Upon request of the cabinet, the child-placing agency shall:

(a) Provide information pursuant to KRS 199.510, as necessary to report to the court to proceed with adoption;

(b) Prepare and provide the original confidential report to the court; and

(c) Forward to the cabinet a copy of:

1. The confidential report that was provided to the court; and

2. Information required by KRS 199.520 and 199.572.

(3) If the court finds the adoptive home to be unsuitable and refuses to grant a judgment, the child-placing agency shall remove the child from the home.

Section 21.[~~22.~~] Maintenance of Adoptive Case Record. (1) The child-placing agency shall maintain a case record from the time of the application for services through the completed legal adoption and termination of child-placing agency services for:

(a) A child accepted for care[~~,~~] and the child's family; and

(b) An adoptive applicant.

(2) The case record shall contain material on which the child-placing agency decision may be based and shall include or preserve:

(a) Information and documents needed by the court;

(b) Information about the child and the child's family;

(c) A narrative or summary of the services provided with a copy

of legal and other pertinent documents; and

(d) Information gathered during the intake process including the following:

1. A description of the situation that necessitated placement of the child away from the child's family[,] or termination of parental rights;

2. A certified copy of the order of the circuit court terminating parental rights and committing the child to the child-placing agency for the purpose of adoption;

3. Verification of the child's birth record and the registration number;

4. A copy of the child's medical record up to the time of placement;

5. A copy of the required evaluation of the adoptive placement;

6. Date of adoptive placement;

7. A statement of the basis for the selection of this adoptive home for the child;

8. A record of after-placement services with dates of:

a. Visits;

b. Contacts;

c. Observations;

d. Filing of petition;

e. Granting of judgments; and

f. Other significant court proceedings relative to the adoption;

9. Child's adoptive name; and

10. Verification of preparation and orientation and annual training in accordance with Section 18[~~19~~] of this administrative regulation.

(3) If there is a need to share background information with a party to a completed adoption, or to have the benefits of information from a closed adoption record to offer services following completion of an adoption, the child-placing agency shall comply with KRS 199.570.

(4) Records on adoption that contain pertinent information shall be:

(a) Maintained indefinitely following final placement of a child; and

(b) Sealed and secured from unauthorized scrutiny.

(5) A child-placing agency shall submit adoptive case records to the cabinet, if:

(a) The child-placing agency closes; and

(b) No other operational governing entity exists.

Section 22.[~~23.~~] Closure of an Approved Foster or Adoptive Home. (1) A foster or adoptive home shall be closed if:

(a) Sexual abuse or exploitation by a resident of the household is substantiated;

(b) Child maltreatment by a resident of the household occurs that is serious in nature or warrants the removal of a child;

(c) A serious physical or mental illness develops that may impair or preclude adequate care of the child in the home; or

(d) The home fails to meet requirements of this administrative regulation in:

1. Section **4(3)(e), (g), and (i) through (s)[~~4(3)(h), (j), and (l) through (v)~~]**, and Section 4(5) through (11) of this administrative regulation, with regard to evaluation, if the home is approved as a foster or adoptive home;

2. Sections 6(9)(a) and 12 of this administrative regulation, with regard to placement and case management, if the home is approved as a foster home;

3. Sections 5, 7, or 10[~~5(3)(a), 7(2), or 10(5)(a)~~] of this administrative regulation, with regard to annual training, if the home is approved as a foster home. An exception to this subparagraph **may[~~shall~~]** be granted by the Division of Protection and Permanency director or designee for a foster parent caring for a child in the custody of the cabinet ***if it is in the best interest of a child placed in the foster home to allow the exception***. If an exception is approved for a foster parent caring for a child in the custody of the cabinet, a new or additional child shall not be placed in the home until the foster parent has met the training requirement; and

4. Section 18(3)[~~19(3)~~] of this administrative regulation, with regard to annual training, if the home is approved as an adoptive home.

(2) A foster or adoptive home may be closed:

(a) In accordance with the terms specified in the written agreement between the child-placing agency and the foster or adoptive home; or

(b) In accordance with the terms specified in the written contract between the cabinet and the child-placing agency.

(3) If closure of an approved foster or adoptive home is necessary, a child-placing agency shall:

(a) State the reason for the closure in a personal interview with the family unless the family refuses or declines the personal interview; and

(b) Document the reason in the foster or adoptive home's case record.

(4) A child-placing agency shall confirm the decision to close a home in a written notice to the foster or adoptive parent. The notice shall be provided within fourteen (14) calendar days of the interview with a foster or adoptive parent. **If the foster or adoptive parent refuses to be interviewed, the notice shall be provided within fourteen (14) calendar days of the foster or adoptive parent's refusal.**

(5) The **written notice shall include[~~child-placing agency shall provide the foster or adoptive parent a written closure statement to include~~]**:

(a) Date of approval and termination; and

(b) Indication of whether the closure was at the request of the foster parents or the agency.

Section 23.[~~24.~~] Foster Care Registry. (1) A child-placing agency shall register a foster home with the cabinet, approved by the child-placing agency, to include medically complex[~~medically-fragile~~] foster homes and therapeutic foster care homes.

(2) Information shall be provided to the cabinet in a format prescribed by the cabinet, to include:

(a) The foster parent's:

1. Full name;

2. Social Security number; and

3. Address, including county of residence;

(b) The child-placing agency's:

1. Name; and

2. Mailing address;

(c) The date the foster home was approved; and

(d) Whether the foster home is active or inactive.

Section 24. Incorporation by Reference. (1) The "DPP-112B, Private Child-Placing Agency Placement Exception Request", 10/15, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

TERESA C. JAMES, LCSW, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: September 9, 2015

FILED WITH LRC: September 11, 2015 at 3 p.m.

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, email tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, October 13, 2015)

922 KAR 1:340. Standards for independent living programs.

RELATES TO: KRS 2.015, 194A.050, 194A.060, 199.011, 199.430(3), 199.640, 199.650-199.670, 600.020, 605.090(1), 610.110(6), 620.140(1)(d), 42 U.S.C. 677(a)(1)-(6)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a),

605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those 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. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150(1) permits the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards of care for independent living programs.

Section 1. Definitions. (1) "Aftercare" means services provided to the child after discharge from a child-placing agency.

(2) "Cabinet" is defined by KRS 194A.005(1) and 600.020(6).

(3) "Child" ***means:***

(a) A child as defined by KRS 199.011(4) and 600.020(8);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015[is defined by KRS 199.011(4) and 600.020(8)].

(4) "Child-placing agency" is defined by KRS 199.011(7).

(5) "Community resource" means a service or activity available in the community in addition to those provided by the child-placing agency in the care and treatment of a child.

(6) "Independent living program" means a planned program that:

(a) Is licensed by the cabinet and designed to teach a child age sixteen (16) or older life skills that enable a child to become self-sufficient; and

(b) Meets requirements specified in Section 3(1) of this administrative regulation.

(7) "Independent living services" means services provided to an eligible child, as specified in 922 KAR 1:310, Section 16, to assist the child in the transition from dependency of childhood to living independently.

(8) "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.

(9) "Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and the individual's environment.

(10) "Social services worker" means a person who meets the qualifications established within 922 KAR 1:310, Section 2.

(11) "Supervision plan" means a written supplement to a child's ITP, developed in accordance with 922 KAR 1:310, Section 6, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

[~~(12) "Therapeutic services" means clinical or supportive services provided to a child with severe emotional or behavioral needs.~~]

Section 2. Administration and Operation. (1) Licensing procedures for an independent living program shall be:

(a) In compliance with 922 KAR 1:310 for a private child-placing agency; and

(b) Administered pursuant to 922 KAR 1:305.

(2) An independent living program shall meet the requirements of 922 KAR 1:310**, Section 16**.

[~~(3) For purposes of this administrative regulation, a child may include:~~

~~(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or~~

~~(b) A child who meets the exceptions to the age of majority in accordance with KRS 2.015.~~]

Section 3. Independent Living Program. (1) A child-placing agency providing independent living programming shall be in compliance with 922 KAR 1:310**, Section 16,** and staff shall:

(a) Conduct and document an assessment of the child's skills and knowledge:

1. Within fourteen (14) days of a child's placement with the child-placing agency and provision of services by the agency's independent living program; and

2. Using a tool to assess:

a. Money management and consumer awareness;

b. Job search skills;

c. Job retention skills;

d. Use of and access to:

(i) Community resources;

(ii) Housing; and

(iii) Transportation;

e. Educational planning;

f. Emergency and safety skills;

g. Legal knowledge;

h. Interpersonal skills, including communication skills;

i. Health care knowledge, including knowledge of nutrition;

j. Human development knowledge, including sexuality;

k. Management of food, including food preparation;

l. Ability to maintain personal appearance;

m. Housekeeping; and

n. Leisure activities;

(b) Develop and update quarterly a written ITP within thirty (30) calendar days of a child's placement in an independent living program, to include:

1. Educational, job training, housing, and independent living goals;

2. Objectives to accomplish a goal;

3. Methods of service delivery necessary to achieve a goal and an objective;

4. Person responsible for each activity;

5. Specific timeframes to achieve a goal and an objective;

6. Identification of a discharge plan;

7. Plan for aftercare services; and

8. Plan for services from community resources;

(c) Maintain written policies and procedures for the independent living program;

(d) Train and document the training provided to designated independent living staff within thirty (30) days of employment on:

1. Content of the independent living curriculum;

2. Use of the independent living materials;

3. Application of the assessment tool; and

4. Documentation methods used by the child-placing agency; and

(e) Maintain and teach independent living in accordance with 42 U.S.C. 677(a), including:

1. Money management and consumer awareness;

2. Job search skills;

3. Job retention skills;

4. Educational planning;

5. Community resources;

6. Housing;

7. Transportation;

8. Emergency and safety skills;

9. Legal skills;

10. Interpersonal skills, including communication skills;

11. Health care, including nutrition;

12. Human development, including sexuality;

13. Food management, including food preparation;

14. Maintaining personal appearance;

15. Housekeeping;

16. Leisure activities;

17. Voting rights and registration;

18. Registration for selective service, if applicable;

19. Self-esteem;

20. Anger and stress management;

21. Problem-solving skills; and

22. Decision-making and planning skills.

(2) A social services worker from an independent living program shall:

(a) Be responsible for a child sixteen (16) to eighteen (18) years of age in an independent living program and provide supervision in accordance with the child's supervision plan;

(b) Be available for twenty-four (24) hours, seven (7) days a week crisis support for a child in the independent living program, regardless of the child's age;

(c) Have:

1. Daily face-to-face contact with a child:

a. Sixteen (16) to eighteen (18) years of age; and

b. In the independent living program; or

2. A minimum of one (1) face-to-face, in-home contact per week for a child:

a. Eighteen (18) to twenty-one (21) years of age; and

b. In the independent living program;

(d) Conduct a visual and exploratory review of a child's living unit at least monthly, to include a review for:

1. Safety;

2. Use of alcohol; and

3. Illegal contraband;

(e) Maintain a caseload of no more than ten (10) children, including independent living program:

1. Participants sixteen (16) to twenty-one (21) years of age; and

2. Participants' children assigned a Level of Care of III or higher ***in accordance with 922 KAR 1:360***; and

(f) Document annual compliance with fire and building codes for any living unit in which the agency places a child.

(3)(a) A living unit for a child in an independent living program shall be occupied by only a child or children approved to occupy the living unit by the child-placing agency.

(b) Nonresidents shall be asked to vacate the living unit.

(4) The child-placing agency shall assure and document that the living unit of a child in an independent living program:

(a) Does not present a hazard to the health and safety of the child;

(b) Is well ventilated and heated; and

(c) Complies with state and local health requirements regarding water and sanitation.

(5) The child-placing agency shall maintain documentation for each child concerning:

(a) Assistance to the child in finding and keeping in touch with family, if possible;

(b) **Physical and behavioral** health**[~~care and therapeutic~~]** services received by a child;

(c) Progress each child has made in the independent living program, including independent living services received;

(d) Progress in an educational program, including vocational education;

(e) An assessment of the child's readiness to live independently; and

(f) The social services worker's contacts with the child, including observation of the child's living arrangement.

TERESA C. JAMES, LCSW, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: September 9, 2015

FILED WITH LRC: September 11, 2015 at 3 p.m.

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CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, October 13, 2015)

922 KAR 1:350. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers[~~Family preparation for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet~~].

RELATES TO: KRS 2.015, 61.870-61.884,[~~Chapter 151,~~] 194A.060, 199.011[~~(7)~~], 202A.011(12),[~~Chapter 211,~~] 311.720(9), 311.840(3), 314.011(5), (7),[~~and~~] (9), 600.020, 605.090, 610.110,***[620.140(1)(d),]*** 620.030, 620.050, ***620.140(1)(d),*** 620.360, Chapter 625, 16 C.F.R. ***1219[~~1291~~]***-1220[~~1508 and 1509~~], 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 42 U.S.C. 671, 677[~~(a)(23)~~]

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472, 605.100(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 199.472 authorizes the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood. This administrative regulation establishes criteria for public agency foster homes, adoptive homes,[~~resource homes~~] and respite care providers caring for foster or adoptive children.

Section 1. Definitions. (1) "Adoptive home" means a home in which a parent is approved by the cabinet to provide services as specified in Section 2(12) of this administrative regulation.

(2) "Applicant" means an individual or family[~~,~~] subject to approval by the cabinet as a foster or adoptive[~~resource~~] home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(6).

(4) **"Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in Section 5 of this administrative regulation.**

(5) "Child" ***means:***

(a) A child as defined by KRS 199.011(4) and 600.020(8);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015[~~is defined by KRS 199.011(4) and 600.020(8)~~].

(6)[~~(5)~~] "Child with medical complexity" means a child who has a medical condition in accordance with Section 4(1)(b) of this administrative regulation.

(7)[~~(6)~~][~~(2)~~] "Commissioner" means commissioner of the Department for Community Based Services.

(8)[~~(7)~~] "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(9) and 600.020(28), if referring to a physical structure; or

(b) If referring to an individual, any individual approved as a foster parent by the cabinet to provide services as specified in Section 2(12) of this administrative regulation.

(9)[~~(8)~~][~~(3)~~] "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(9);

(b) ***Physician[~~Physician's~~]*** assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse[~~practitioner~~] as defined by KRS 314.011(7); or

(d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(10)[~~(9)~~][~~(4)~~] **"Home study" means an assessment done on a prospective foster or adoptive home by a social services worker.**

(11) "Independent living services" means services provided to an eligible child[~~youth~~] to assist ***the child[~~them~~]*** in the transition from the dependency of childhood to living independently.

(12) "Placement" means the physical change in the location and living arrangement of a child in the custody of the cabinet removed from the child's home of origin.

(13)[~~(10)~~][~~(5) "Medically-fragile child" means a child who has a medical condition as defined in Section 6(1)(b) of this administrative regulation.~~

~~(6) "Professional experience" means paid employment or~~

~~volunteer work in a setting where there is supervision and periodic evaluation.~~

~~(7) "Resource home" means a home in which a parent is approved by the cabinet to provide services as specified in Section 3(12) of this administrative regulation.~~

~~(8)~~] "Respite care" means temporary care provided by a provider, as specified in Section 17[~~21~~] of this administrative regulation, to[~~:~~

~~(a)~~] provide relief to the foster or adoptive[~~resource home~~] parents with the expectation of a child's return to the current foster or adoptive home[~~; or~~

~~(b) Allow for an adjustment period for the child in out-of-home care.~~

~~(9) "Specialized medically-fragile child" means a child determined by the cabinet to have a medical condition, documented by a physician, that is severe enough to require placement with a resource home parent who is a:~~

~~(a) Health professional;~~

~~(b) Registered nurse as defined in KRS 314.011(5); or~~

~~(c) Licensed practical nurse as defined by KRS 314.011(9)~~].

Section 2.[~~Out-of-home Placement in a Resource Home Providing Only Foster Care Services. (1) Unless an exception is approved pursuant to subsection (2) of this section, the following requirements apply to resource homes providing only foster care services:~~

~~(a) No more than five (5) children, including children under the custodial control of the cabinet and the resource home parent's own children living at home, shall reside in a resource home that provides only foster care services;~~

~~(b) No more than two (2) children under age two (2), including children placed in out-of-home care by the cabinet and the resource home parent's own children, may reside at the same time in a resource home that provides only foster care services; and~~

~~(c) A medically-fragile child shall be placed in an approved medically-fragile home.~~

~~(2) To request an exception to subsection (1) of this section, the following forms shall be submitted to designated cabinet staff within ten (10) working days of placement:~~

~~(a) DPP-112A, Placement Exception Request; and~~

~~(b) DPP-112B, Placement Exception Plan, documenting the:~~

~~1. Reason the placement is in the best interest of the child; and~~

~~2. Specific support services to be provided.~~

~~(3) Cabinet staff shall inform the resource home parent of conditions related to the child in accordance with:~~

~~(a) KRS 605.090(1)(b); and~~

~~(b) KRS 605.090(6).~~

~~Section 3.~~] General Requirements for a Foster or Adoptive[~~Resource Home~~] Parent. (1)(a) Unless an exception is approved pursuant to paragraph (b) of this subsection by designated cabinet staff, a foster or adoptive parent[~~resource home~~] applicant shall be[~~:~~] at least twenty-one (21) years of age.

(b)[~~A resource home applicant shall show proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151.~~

~~(2)~~] A foster or adoptive parent[~~resource home~~] applicant between eighteen (18) to twenty-one (21) years of age may be approved as a foster or adoptive[~~resource home~~] parent if:

1.[~~(a)~~] The foster or adoptive parent[~~resource home~~] applicant is related to the child under the custodial control of the cabinet;

2.[~~(b)~~] The foster or adoptive parent[~~resource home~~] applicant can meet the needs of the child; and

3.[~~(c)~~] Cabinet staff determines the placement is in the best interest of the child.

(2) A foster or adoptive parent applicant shall provide proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151***, 8 U.S.C. 1181, and 42 C.F.R. 435.407***.

(3) A department employee who provides protection and permanency services may apply to adopt a child in the care and custody of the cabinet if the[~~:~~

~~(a) Department employee:~~

~~1. Had no relationship with the child or a parent of the child prior to the termination of parental rights in accordance with KRS Chapter 625; or~~

~~2. Has adopted a sibling of the child available for adoption; and~~

~~(b)~~] commissioner approves the employee to adopt ***and the adoption is in the best interest of the child***.

(4) A department employee who provides protection and permanency services shall be prohibited from becoming a respite care provider or foster parent[~~resource home parent who provides foster care services or respite care~~] for a child in the care and custody of the cabinet, regardless of the child's residence, unless ***it is approved by the commissioner in writing because the employee was a foster parent or respite care provider for the child when employment with the department protection and permanency services began[~~the:~~***

~~(a) Department employee was a foster~~][resource home]***[~~parent or a respite care provider for the child when employment with the department began; and~~***

~~(b) Commissioner approves the employee to be a respite care provider or foster~~][resource home]***[~~parent~~]***[who provides foster care services or respite care]***[~~for the child~~]***.

(5) A married couple may apply to become foster or adoptive[~~resource home~~] parents.

(6) A single**,** unmarried person may apply to become a foster or adoptive[~~resource home~~] parent.

(7) The decision to foster or adopt a child shall be agreed to by each adult member of the applicant's household.

(8)**[~~(a)~~]** Each foster or adoptive applicant and adult member of the applicant's family shall submit a DPP-107, Health Information Required for Foster or Adoptive Parents,[~~Resource Home~~] Applicants**,** or Adult Household Members, completed:

(a)[~~1.~~] By a health professional who is not a member of the applicant's household, **based upon health information within the past year, documenting:**

1. The applicant's general health, including that the applicant is free of communicable or infectious disease or a health condition that presents a health or safety risk to a child placed in the applicant's home; and

2. That there are no known health factors that would interfere with the applicant's ability to become a foster or adoptive parent; and

(b) As part of:

1. The initial application;

2. The annual re-evaluation; or

3. A foster or adoptive home review pursuant to Section 13 of this administrative regulation[~~stating that the individual is free of a:~~

~~a. Communicable or infectious disease; and~~

~~b. Condition that presents a health or safety risk to a child placed in the applicant's home; and~~

~~2. As a part of:~~

~~a. The initial application; or~~

~~b. A foster or adoptive~~][~~resource~~]**[~~home review pursuant to Section 13~~]**[~~17~~]**[~~of this administrative regulation.~~**

~~(b) Each foster or adoptive~~][~~resource home~~]**[~~parent applicant shall submit a DPP-107~~]**[~~current within one (1) year~~]**[~~, completed by a health professional based upon health information within the past year, attesting to the parent applicant's:~~**

~~1. General health, including that the applicant is free of communicable diseases; and~~

~~2. Medical ability to care for a child placed in the applicant's home~~].

(9) Each foster or adoptive[~~resource home~~] parent applicant shall submit a DPP-108, Health Information Required for Foster or Adoptive Parents or[~~Resource Home~~] Applicants Regarding Dependent Children, for each child member of the applicant family.

(10) A foster or adoptive parent[~~resource home~~] applicant shall have a source of income:

(a) Sufficient to meet the applicant's household expenses; and

(b) Separate from:

1. Foster care reimbursement; or

2. Adoption assistance.

(11) Unless specified in a contract between the cabinet and a child welfare agency that provides foster care services, a foster or adoptive[~~resource home~~] parent shall accept a child for foster care only from the cabinet.

(12) An approved foster or adoptive[~~resource home~~] parent shall be willing to:

(a) Provide foster care services for a child placed in out-of-home care by the cabinet;

(b) Adopt a child:

1. Whose parent's parental rights have been terminated; and

2. Who is under the custodial control of the cabinet;

(c) Provide respite care for a child under the custodial control of the cabinet; or

(d) Provide any combination of the services described in paragraphs (a) through (c) of this subsection.

(13) A foster or adoptive[~~resource home~~] applicant shall provide to the cabinet:

(a) The names of three (3) personal references who:

1. Are not related to the applicant; and

2.a. Shall be interviewed by cabinet staff in person or by telephone; or

b. Shall provide letters of reference for the applicant; and

(b) Two (2) credit references.

(14) Unless a documented exception exists and is approved by designated cabinet staff ***due to inaccessibility***, **each** adult **child[~~children~~]** of the foster or adoptive parent[~~resource home~~] applicant who **does[~~do~~]** not live in the home shall be interviewed[~~contacted~~] by cabinet staff in person or by telephone regarding the applicant's parenting history.

(15) If applicable, verification shall be obtained from the foster or adoptive parent[~~resource home~~] applicant regarding:

(a) Previous divorce;

(b) Death of a spouse; and

(c) Present marriage.

(16) A foster or adoptive parent[~~resource home~~] applicant who does not have custody of his or her own[~~biological~~] child shall provide:

(a) A copy of the visitation order, if applicable;

(b) A copy of the child support order; and

(c) Proof of current payment of child support.

(17) A foster or adoptive parent[~~resource home~~] applicant and any member of the applicant's household shall submit to the background checks in accordance with 922 KAR 1:490.

(18) The cabinet shall perform background checks in accordance with criteria established in 922 KAR 1:490.

[~~(19) For purposes of this administrative regulation, a child may include:~~

~~(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or~~

~~(b) A child who meets the exceptions to the age of majority in accordance with KRS 2.015.~~]

Section 3.[~~4.~~] Home Environment. (1)[~~(a) Following approval as a resource home,~~] The foster or adoptive parent shall[~~resource home may~~] request written approval from designated cabinet staff to provide services as a[~~certified~~]:

(a) Certified[~~1.~~] provider of supports for community living in accordance with 907 KAR 1:145; [~~or~~]

(b) Certified[~~2.~~] family child care home in accordance with 922 KAR 2:100; or

(c) Provider of child-care center services in accordance with 922 KAR 2:090.

[~~(b) Except as provided in paragraph (a) of this subsection, an approved resource home shall not simultaneously:~~

~~1. Provide day care center services in accordance with 922 KAR 2:090; and~~

~~2. Be used as a licensed or certified health care or social service provider.~~]

(2) If the foster or adoptive home[~~resource home~~] adjoins a place of business open to the public, potential negative impact on the family and the child shall be examined including the:

(a) Hours of operation;

(b) Type of business; and

(c) Clientele.

(3) The foster or adoptive[~~resource home~~] parent shall have access to:

(a) Reliable transportation;

(b) School;

(c) Recreation;

(d) Medical care; and

(e) Community facilities.

(4) A foster or adoptive[~~resource home~~] parent who drives shall:

(a) Possess a valid driver's license;

(b) Possess proof of liability insurance; and

(c) Abide by passenger restraint laws.

(5)(a) No more than[~~Up to~~] four (4) children, including the foster or adoptive[~~resource home~~] parent's own children, shall[~~may~~] share a bedroom, with thorough consideration given to each child's age, gender, and background.

(b) Children of different genders over the age of five (5) shall not share a bedroom.

(6) Each child shall have:

(a) A separate bed that is age and size appropriate for the child; or

(b) If the child is under age one (1), a crib that meets Consumer Products Safety Commission standards 16 C.F.R. 1219-1220[~~1508 and 1509~~].

(7) A child's mattress shall:

(a) Meet current Consumer Products Safety Commission Standards ***in 16 C.F.R. Parts 1632 and 1633***;

(b) Be in good repair; and

(c) Have a clean ***[~~tight-~~]***fitted sheet that shall be changed:

1. Weekly; or

2. Immediately if it is soiled or wet.

(8) Except as approved by designated cabinet staff, a foster or adoptive[~~resource home~~] parent shall not share a bedroom with a child under the custodial control of the cabinet ***unless necessary due to the needs of the child***.

(9)[~~(8)~~] A bedroom used by a child under the custodial control of the cabinet shall be comparable to other bedrooms[~~each bedroom~~] in the house.

(10)[~~(9)~~] The physical condition of the foster or adoptive[~~resource~~] home shall:

(a) Not present a hazard to the safety and health of a child;

(b) Be well heated and ventilated;

(c) Comply with state and local health requirements regarding water and sanitation[~~, including KRS Chapters 151 and 211~~]; and

(d) Provide indoor and outdoor[~~out-of-door~~] recreation space appropriate to the developmental needs of a child placed in the foster or adoptive home[~~resource home~~].

(11)[~~(10)~~] The following shall be inaccessible to a child:

(a) Medication, unless an exception is granted pursuant to subsection (12) of this section;

(b) Alcoholic beverage;

(c) Poisonous or cleaning material;

(d) Ammunition; and

(e) Firearms in accordance with KRS 527.100 and 527.110.

(12) An exception may be provided by designated cabinet staff to subsection (11)(a) of this section if:

(a)1. The child is approved by a health care professional to self-administer medicine under the supervision of the foster or adoptive parent; or

2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and

(b) Measures are taken to prevent unauthorized access by another child in the same home.

(13) Any household animal shall be vaccinated in accordance with KRS 258.015 and 258.035.

(14)[~~(11)~~] A dangerous animal shall not be allowed near the child.

(15)[~~(12) Medication shall be kept in a locked container.~~

~~(13)~~] First aid supplies with unexpired dates shall be available and stored in a place easily accessible to an adult.

(16)[~~(14)~~] A working telephone shall be available in the home.

(17)[~~(15)~~] The home shall be equipped with a working smoke alarm within ten (10) feet of each bedroom.

(18) A home with gas heating or appliances shall be equipped with a working carbon monoxide detector

[~~Section 5. Emergency Shelter Resource Home. (1) An applicant shall be approved as an emergency shelter resource home if the parent:~~

~~(a) Meets the requirements of Sections 3 and 4 of this administrative regulation;~~

~~(b) Cares for a child in the custody of the cabinet age twelve (12) or above who needs immediate, unplanned care for fourteen (14) days or less, unless designated cabinet staff approve:~~

~~1. An exception to the minimum age for a child age eight (8) or over; or~~

~~2. An extension to the days of unplanned care, not to exceed a period of sixteen (16) days; and~~

~~(c) Completes ten (10) hours of cabinet-sponsored training or training approved in advance by the cabinet beyond the initial thirty (30) hours of family preparation as required by Section 9 of this administrative regulation.~~

~~(2) An approved emergency shelter resource home parent shall receive reapproval as an emergency shelter resource home if the parent completes ten (10) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet:~~

~~(a) Beyond the annual six (6) hour requirement specified in Section 15 of this administrative regulation; and~~

~~(b) Before the anniversary date of the original approval as a resource home.~~]

Section 4. Medically Complex Foster or Adoptive[~~6. Medically-fragile Resource~~]Home. (1) An applicant shall be approved by cabinet staff as a medically complex[~~medically-fragile resource~~] home if the foster or adoptive[~~resource home~~] parent:

(a) Meets the requirements in Sections 2 and 3[~~and 4~~] of this administrative regulation, except for Section 2(10) which may be considered as an exclusion on a case-by-case basis by designated cabinet staff ***based on the best interests or needs of the child***;

(b) Cares for a child in the custody of the cabinet who is determined to be medically complex by designated cabinet staff due to:

1. Significant medically oriented care needs related to a serious illness or condition diagnosed by a health professional that may become unstable or change abruptly, resulting in a life-threatening event;

2. A chronic condition that is expected to be life-long and progressive and to require extensive services;

3. An acute, time-limited condition requiring additional oversight; or

4. A severe disability that requires the routine use of medical devices or assistive technology to compensate for the loss of a vital body function needed to participate in activities of daily living and significant and sustained care to avert death or further disability[~~approved by cabinet staff as medically-fragile because of a:~~

~~1. Medical condition documented by a physician that may become unstable and change abruptly resulting in a life-threatening situation;~~

~~2. Chronic and progressive illness or medical condition;~~

~~3. Need for a special service or ongoing medical support; or~~

~~4. Health condition stable enough to be in a home setting only with monitoring by an attending:~~

~~a. Health professional;~~

~~b. Registered nurse as defined by KRS 314.011(5); or~~

~~c. Licensed practical nurse as defined by KRS 314.011(9)~~];

(c) Is a primary caretaker who is not employed outside the home, except as approved by designated cabinet staff ***and based on the needs of the child***;

(d)[~~Unless meets an exception in subsection (2) of this section~~] Completes training in accordance with 922 KAR 1:495, Section 4[~~:~~

~~1. A medically-fragile curriculum approved by the cabinet; or~~

~~2. An additional:~~

~~a. Twenty-four (24) hours of cabinet-sponsored training or training approved in advance by the cabinet, beyond the family preparation as required by Section 9 of this administrative regulation, in the areas of:~~

~~(i) Growth and development;~~

~~(ii) Nutrition;~~

~~(iii) Medical disabilities; and~~

~~(iv) Cardiopulmonary resuscitation, "CPR", and first aid; or~~

~~b. Sixteen (16) hours of cabinet-sponsored training or training approved in advance by the cabinet, beyond the family preparation as required by Section 9 of this administrative regulation, if the resource parent holds a current certificate in cardiopulmonary resuscitation (CPR) and first aid~~];

(e) Receives training with documentation of completion from a health professional in how to care for the specific[~~medically-fragile~~] child with medical complexity who ***will[~~shall~~]*** be placed in ***the foster or adoptive parent's[~~their~~]*** care;

(f) Maintains current certification in:

1. Infant, child, and adult CPR; and

2. First aid; and

(g) Has a home within:

1. One (1) hour of a medical hospital with an emergency room; and

2. Thirty (30) minutes of a local medical facility.

(2)[~~Professional experience related to the care of a medically-fragile child may substitute for the training requirement specified in subsection (1)(d) of this section:~~

~~(a) Upon the approval of designated cabinet staff; and~~

~~(b) If the resource home parent is a:~~

~~1. Health professional;~~

~~2. Registered nurse as defined by KRS 314.011(5); or~~

~~3. Licensed practical nurse as defined by KRS 314.011(9).~~

~~(3)~~] Except for a sibling group or unless approved by designated cabinet staff in accordance with Section 16 of this administrative regulation,***[~~no~~]*** more than four (4) children, including the foster or adoptive[~~resource home~~] parent's own children, shall ***not*** reside in a medically complex foster or adoptive[~~medically-fragile resource~~] home.

(3)[~~(4)~~] Unless an exception is approved pursuant to Section 16(2)[~~2(2)~~] of this administrative regulation and a medically complex foster or adoptive[~~medically-fragile resource~~] home has daily support staff to meet the needs of a[~~medically-fragile~~] child with medical complexity:

(a) A one (1) parent medically complex foster or adoptive[~~medically-fragile resource~~] home shall:

1. Not care for more than one (1)[~~medically-fragile~~] child with medical complexity; and

2. Demonstrate access to available support services; and

(b) A two (2) parent medically complex foster or adoptive[~~medically-fragile resource~~] home shall:

1. Not care for more than two (2)[~~medically-fragile~~] children with medical complexity; and

2. Demonstrate access to available support services.

(4)[~~(5)~~] Unless an exception pursuant to Section 16(2)[~~2(2)~~] of this administrative regulation is approved, a[~~medically-fragile~~] child with medical complexity shall be placed in an approved medically complex foster or adoptive[~~medically-fragile~~] home.

(5)[~~(6)~~] Unless the[~~resource~~] home is closed, pursuant to Section 14[~~18~~] of this administrative regulation, an approved medically complex foster or adoptive[~~medically-fragile resource home~~] parent shall receive annual reapproval by the cabinet as a medically complex[~~medically-fragile resource~~] home if the parent:

(a) Annually completes training specified in 922 KAR 1:495, Section 4[~~prior to the anniversary date of the original approval as a resource home:~~

~~1. Twenty-four (24) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet in the areas described in subsection (1)(d)2a of this section; or~~

~~2. Sixteen (16) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet, if the resource home parent maintains certification in CPR and first aid~~]; and

(b) Continues to meet the requirements of this section.

(6)[~~(7)~~] An approved medically complex foster or

adoptive[medically-fragile resource home] parent shall cooperate in carrying out the child's health plan.

Section 5.[7.] Care Plus[Resource] Home. (1) An applicant shall be approved by cabinet staff as a care plus[resource home] parent if the foster or adoptive[resource home] parent:

(a) Meets the requirements of Sections 2 and 3[and 4] of this administrative regulation, except for Section 2(10) which may be considered as an exclusion on a case-by-case basis by designated cabinet staff ***based on the best interests or needs of the child***;

(b) **Agrees to care[Cares]** for a child in the custody of the cabinet approved by cabinet staff as a care plus child because the child[who]:

1. Has a diagnosed[an] emotional or behavioral problem;
2. Is due to be released from a treatment facility;
3. Displays aggressive, destructive, or disruptive behavior;
4. Is at risk of being placed in a more restrictive setting;
5. Is at risk of institutionalization; or
6. Has experienced numerous placement failures;

(c) Is a primary caretaker who is not employed outside the home, unless the cabinet determines that the child's needs continue to be met;

(d) Completes training in accordance with 922 KAR 1:495, Section 6[and receives a certificate of completion for the twenty-four (24) hour care plus resource home training beyond the family preparation as required in Section 9 of this administrative regulation];

(e) **Agrees to maintain[Maintains]** a daily record of the care plus child's activities and behaviors; and

(f) **Agrees to attend[Attends]**[all] case planning conferences.

(2) Unless an exception is approved pursuant to Section 16(2)[2(2)] of this administrative regulation and the care plus[resource] home parent can demonstrate access to available support services[has daily support staff to meet the needs of a child described in subsection (1)(b) of this section]:

(a) No more than four (4) children, including the foster or adoptive[resource home] parent's own children, shall reside in a care plus[resource] home;[.]

(b)[1.] A one (1) parent care plus[resource] home shall[: a.] not care for more than one (1) care plus child as described in subsection (1)(b) of this section[; and
b. Demonstrate access to available support services]; and

(c)[2.] A two (2) parent care plus[resource] home shall[: a.] not care for more than two (2) care plus children as described in subsection (1)(b) of this section[and], including the care plus foster or adoptive[resource home] parent's own children[child; and b. Demonstrate access to available support services].

(3) Unless the[resource] home is closed pursuant to Section 14[18] of this administrative regulation, an approved care plus foster or adoptive[resource home] parent shall receive annual reapproval by the cabinet as a care plus[resource] home, if the parent:

(a) Annually completes training in accordance with 922 KAR 1:495, Section 6[twenty-four (24) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet before the anniversary date of the original approval as a resource home];[and]

(b) Submits to a review of the parent's:

1. Strengths and needs;
2. Records maintained on services provided to the child; and
3. Ability to meet the goals established for the child; and

(c) Continues to meet the requirements of this section.

[(4) Professional experience related to the care of a child described in subsection (1)(b) of this section may substitute for the training requirement specified in subsection (3)(a) of this section, if the care plus resource parent is a qualified mental health professional as defined by KRS 202A.011(12).

Section 8. Specialized Medically-fragile Resource Home. (1) An applicant shall be approved by cabinet staff as a specialized medically-fragile resource home if the applicant:

(a) Meets the requirements in Sections 3 and 4 of this administrative regulation;

(b) Cares for a child in the custody of the cabinet approved by cabinet staff as a specialized medically-fragile child;

(c) Is a primary caretaker who is not employed outside the home, unless the cabinet determines that the child's needs continue to be met;

(d) Completes:

1. A medically-fragile curriculum approved by the cabinet; or
2. An additional:

a. Twenty-four (24) hours of cabinet-sponsored training or training approved in advance by the cabinet beyond the family preparation required in Section 9 of this administrative regulation, in the areas described in Section 6(1)(d)2a; or

b. Sixteen (16) hours of cabinet-sponsored training or training approved in advance by the cabinet beyond the family preparation required in Section 9 of this administrative regulation, if the resource home parent maintains certification in CPR and first aid;

(e) Receives individual documented training from a health professional or licensed practical nurse as defined by KRS 314.011(9) in how to care for the specific specialized medically-fragile child who shall be placed in the resource home;

(f) Maintains current certification in:

1. CPR; and
2. First aid; and

(g) Has a home within:

1. One (1) hour of a medical hospital with an emergency room; and
2. Thirty (30) minutes of a local medical facility.

(2) Unless an exception is approved pursuant to Section 2(2) of this administrative regulation, no more than four (4) children, including the resource home parent's own children, shall reside in a specialized medically-fragile resource home.

(3) Unless an exception is approved pursuant to Section 2(2) of this administrative regulation and a specialized medically-fragile resource home has daily support staff to meet the needs of a medically-fragile child:

(a) A one (1) parent specialized medically-fragile resource home shall:

1. Not care for more than one (1) specialized medically-fragile child; and
2. Demonstrate access to available support services; and

(b) A two (2) parent specialized medically-fragile resource home shall:

1. Not care for more than two (2) specialized medically-fragile children; and
2. Demonstrate access to available support services.

(4) An approved specialized medically-fragile resource home parent shall receive annual reapproval as a specialized medically-fragile resource home if the parent:

(a) Annually completes, prior to the anniversary date of the original approval as a resource home:

1. Twenty-four (24) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet in the areas described in Section 6(1)(d)2a of this administrative regulation; or
2. Sixteen (16) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet, if the resource home parent holds a current certificate in CPR and first aid; and

(b) Continues to meet the requirements of this section.

(5) Professional experience related to the care of a specialized medically-fragile child may substitute for the training requirement specified in subsection (1)(d) of this section, upon the approval of designated cabinet staff if the resource home parent is a:

(a) Health professional;
(b) Registered nurse as defined by KRS 314.011(5); or
(c) Licensed practical nurse as defined by KRS 314.011(9).

(6) An approved specialized medically-fragile resource home parent shall cooperate with the cabinet in carrying out the child's health plan.]

Section 6.[9.] Preparation and Selection of a Foster or Adoptive[Resource] Home[Parent]. (1) The cabinet shall recruit a foster or adoptive[resource] home and approve the[resource] home prior to the placement of a child.

(2) Prior to approval as a foster or adoptive parent, an[A

~~resource home~~] applicant shall complete training requirements in accordance with 922 KAR 1:495[~~a:~~

~~(a) Minimum of thirty (30) hours of initial family preparation; and~~

~~(b) Curriculum approved by designated cabinet staff, including the following topics:~~

~~1. Orientation to the cabinet's resource home program;~~

~~2. An example of an actual experience from a resource home parent who has fostered a child; and~~

~~3. Information regarding:~~

~~a. The stages of grief;~~

~~b. Identification of the behavior linked to each stage of grief;~~

~~c. The long-term effect of separation and loss on a child;~~

~~d. Permanency planning for a child, including independent living services;~~

~~e. The importance of attachment on the growth and development and how a child may maintain or develop a healthy attachment;~~

~~f. Family functioning, values, and expectations of a foster home;~~

~~g. Cultural competency;~~

~~h. How a child comes into the care and custody of the cabinet, and the importance of achieving permanency;~~

~~i. Types of maltreatment and experiences in foster care and adoption;~~

~~j. The importance of birth family and culture and helping children leave foster care; and~~

~~k. Identification of changes that may occur in the home if a placement occurs, to include:~~

~~(i) Family adjustment and disruption;~~

~~(ii) Identity issues;~~

~~(iii) Discipline issues and child behavior management; and~~

~~(iv) Specific requirements and responsibilities of a resource home parent.~~

~~(3) Except for a cabinet-approved individualized preparation program, family preparation for placement of a child under the custodial control of the cabinet shall be completed in a group setting by each adult who resides in the household and provides care~~].

(3)[~~(4)~~] If a new adult moves into an approved foster or adoptive[~~resource~~] home where a child is already placed by the cabinet, the child may remain and additional children may be placed[~~,~~] if the new adult:

(a) Completes training in accordance with subsection (2) of this section within six (6) months of entering the home; and

(b) Meets the requirements specified in Sections 2 and 3[~~and 4~~] of this administrative regulation.

(4)[~~(5)~~] An adult child or incapacitated[~~elderly~~] person who resides in the foster or adoptive[~~resource~~] home shall not be required to complete training in accordance with 922 KAR 1:495[~~family preparation~~] if that individual ***will[shall]*** not be responsible for routine daily care of a child placed in the home by the cabinet.

(5)[~~(6)~~] The cabinet shall not be obligated to grant foster or adoptive[~~resource~~] home approval or placement of a specific child to an individual or family that completes **pre-service training[~~family preparation~~]**.

(6)[~~(7) The purpose of family preparation shall be to:~~

~~(a) Orient the applicant to the philosophy and process of the cabinet's family foster care or adoption programs;~~

~~(b) Develop greater self-awareness on the part of the applicant to determine strengths and needs;~~

~~(c) Sensitize the applicant to the kinds of situations, feelings, and reactions that are apt to occur with a child in the custody of the cabinet; and~~

~~(d) Effect behavior so that an applicant may better fulfill the role as a resource home parent of a child.~~

~~(8) The family preparation process shall emphasize:~~

~~(a) Self-evaluation;~~

~~(b) Participation in small group exercises; and~~

~~(c) Discussion with experienced resource home parents.~~

~~(9)~~] In addition to completion of training in accordance with 922 KAR 1:495[~~the family preparation curriculum~~], at least two (2) family consultations shall be conducted by cabinet staff in the home of an applicant, to include:

(a) Documentation that the requirements in Sections 2 and 3[~~and 4~~] of this administrative regulation have been met;

(b) Documentation that a personal interview with each member of the applicant's household has been completed;

(c) Discussion of the attitude of each member of the applicant's household toward placement of a child;

(d) Observation of the functioning of the applicant's household, including interpersonal relationships and patterns of interaction; and

(e) Assurance that the applicant is willing to accept a child's relationship with the child's family of origin.

(7)[~~(10)~~] An applicant approved as a foster or adoptive parent or respite care provider by another state[~~,~~] or by a child-placing agency as described by KRS 199.011(7) shall:

(a) Meet the requirements provided within Sections 2 and 3 of this administrative regulation;

(b) Be assessed by cabinet staff to ascertain the applicant's level of skill as a potential Kentucky foster or adoptive[~~resource home~~] parent;

(c)[~~(b)~~] Provide verification of the closure and a statement to indicate whether the closure was at the request of the foster or adoptive[~~resource home~~] parent, the other state, or the agency; and

(d)[~~(c)~~] Not be required to complete training in accordance with 922 KAR 1:495[~~the family preparation process~~] for approval as a Kentucky foster or adoptive[~~resource home~~] parent if cabinet staff:

1. Determine that the applicant possesses the necessary skills for fostering; and

2. Obtain records and recommendation from the other state or child-placing agency.

(8) Following initial training as specified in 922 KAR 1:495,[~~(11)~~] if cabinet staff determines that an applicant or adult household member[~~described in subsection (4) or (10) of this section~~] lacks the necessary skills to become a foster or adoptive[~~resources home~~] parent, an individualized training[~~preparation~~] curriculum shall be developed to fulfill unmet training needs.

(9)[~~(12)~~](a) A foster or adoptive[~~resource home~~] parent shall request the recommendation of cabinet staff prior to enrolling in training specified in 922 KAR 1:495, Section 4(1) or 6(1)[~~Section 5(1)(c), 6(1)(d), 7(1)(d), or 8(1)(d) of this administrative regulation~~]; and

(b) Cabinet staff may recommend the foster or adoptive [~~resource home~~] parent to receive training specified in 922 KAR 1:495, Section 4(1) or 6(1)[~~Section 5(1)(c), 6(1)(d), 7(1)(d), or 8(1)(d) of this administrative regulation~~] if the[~~resource home~~] parent possesses the aptitude to care for a child described in Section 4(1)(b) or 5(1)(b) of this administrative regulation[~~:~~

~~1. Section 5(1)(b) of this administrative regulation;~~

~~2. 6(1)(b) of this administrative regulation;~~

~~3. 7(1)(b) of this administrative regulation; or~~

~~4. 8(1)(b) of this administrative regulation~~].

Section 7.[~~10.~~] Completion of the Foster or Adoptive[~~Resource Home~~] Approval Process. (1) Designated cabinet staff in a supervisory role shall approve a foster or adoptive[~~resource home~~] applicant if:

(a) The applicant provides written and signed information pertaining to family history and background;

(b) The applicant completes training requirements[~~family preparation~~] as required by 922 KAR 1:495[~~Section 9(2) of this administrative regulation~~];

(c) The information required in Section 2(8)[~~3(8)~~] through (10) and (13) through (17) of this administrative regulation has been obtained;

(d) Designated cabinet staff recommends approval; and

(e) The applicant's ability to provide a foster, adoptive, or respite care service is consistent with the:

1. Cabinet's minimum foster or adoptive[~~resource~~] home requirements established in this administrative regulation; and

2. Needs of the families and children served by the cabinet.

(2) If the designated cabinet staff determines that an applicant

does not meet the minimum requirements for approval as a foster or adoptive[~~resource home~~] parent, the cabinet shall recommend that the applicant withdraw the request.

Section 8.[~~11.~~] Denial of a Foster or Adoptive[~~Resource~~] Home Request. (1) Designated cabinet staff shall notify an applicant, in writing, if the request to become a foster or adoptive[~~resource home~~] parent is not recommended for one (1) of the following reasons:

(a) The applicant is unwilling to withdraw the request to become a foster or adoptive[~~resource home~~] parent after receiving a recommendation to withdraw; or

(b) The applicant desires to adopt, but is unwilling to adopt a child under the custodial control of the cabinet.

(2) If the foster or adoptive[~~resource home~~] applicant disagrees with the cabinet's recommendation to not accept the applicant as a foster or adoptive[~~resource~~] home, designated cabinet staff shall review the request to become a foster or adoptive[~~resource home~~] parent and issue a final written determination regarding the cabinet's recommendation.

Section 9.[~~12.~~] Expectations of a Foster or Adoptive Home[~~Resource Homes Providing Foster Care Services~~]. A foster or adoptive home providing services for a child in the custody of the cabinet[~~resource home parent providing foster care services~~] shall:

(1) Provide a child placed by the cabinet with a family life, including:

(a) Nutritious food;

(b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;

(c) Affection;

(d) Life skills development[~~training~~];

(e) Recreational opportunities;

(f) Educational opportunities;

(g) Nonmedical transportation;

(h) Independent living services[~~,~~] for a child age twelve (12) and older; and

(i) Opportunities for development consistent with their religious, ethnic, and cultural heritage;

(2) Permit cabinet staff to visit;

(3) Share with cabinet staff pertinent information about a child placed by the cabinet;

(4) Comply with the general supervision and direction of the cabinet concerning the care of a child placed by the cabinet;

(5) Report immediately to the cabinet if there is a:

(a) Change of address;

(b) Hospitalization or life-threatening accident or illness **of a child placed by the cabinet**[~~Medical condition, accident or death of a child placed by the cabinet~~];

(c) Change in the number of people living in the home;

(d) Significant change in circumstances in the foster or adoptive[~~resource~~] home, such as income loss, marital separation, or other household stressor;

(e) Child placed in the home that is absent[~~An absence~~] without official leave;

(f)[~~A~~] Suicide attempt **of a child placed by the cabinet**; or

(g) Criminal activity by the child **placed by the cabinet*[requiring notification of law enforcement]***;

(6) Notify the cabinet if:

(a) Leaving the state with a child placed by the cabinet for more than twenty-four (24) hours[~~two (2) nights~~]; or

(b) A child placed by the cabinet is to be absent from the foster or adoptive[~~resource~~] home for more than twenty-four (24) hours[~~three (3) days~~];

(7) Cooperate with the cabinet if a contact is arranged by cabinet staff between a child placed by the cabinet and the child's birth family including:

(a) Visits;

(b) Telephone calls; or

(c) Mail;

(8) Surrender a child to the authorized representative of the cabinet upon request;

(9) Keep confidential all personal or protected health information as shared by the cabinet, in accordance with KRS 194A.060, 620.050, and 45 C.F.R. Parts 160 and 164[~~,~~] concerning a child placed by the cabinet or the child's birth family;

(10) Support an assessment of the service needs of a child placed by the cabinet;

(11) Participate in case-planning conferences concerning a child placed by the cabinet;

(12) Cooperate with the implementation of the permanency goal established for a child placed by the cabinet;

(13) Notify the cabinet at least fourteen (14)[~~ten (10)~~] calendar days in advance of the home's intent to**[~~transfer to~~]** become[~~home becoming~~] certified to provide foster care or adoption services through a private child-placing agency in accordance with 922 KAR 1:310;

(14) Treat a child placed by the cabinet with dignity;

(15) Arrange for respite care services in accordance with Section 10(5)[~~13(5)~~] of this administrative regulation;

(16) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;

(17) Facilitate the delivery of medical care to a child placed by the cabinet as needed, including:

(a) Administration of medication to the child and daily documentation of the medication's administration; and

(b)[~~Annual~~] Physicals and examinations for the child;[~~and~~]

(18) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030;

(19) Comply with KRS 620.360(2); and

(20) Have appeal rights in accordance with 922 KAR 1:320.

Section 10.[~~13.~~] Reimbursements for Foster Homes[~~Resource Homes Providing Foster Care Services~~]. (1) Types of per diem reimbursement. The cabinet shall approve a foster[~~resource~~] home as specified in Sections 2 and 3[~~and 4~~] of this administrative regulation and authorize a per diem reimbursement as established in this subsection.[~~follows:~~]

(a) A basic per diem reimbursement shall be:

1. Based on the age of a child placed by the cabinet in the foster[~~resource~~] home; and

2. Made to the foster[~~resource~~] home[~~parent~~] that:

a. **Meets[~~Does not meet~~]** criteria specified in paragraphs (b) through (j) of this subsection; and

b. Meets annual training requirements in accordance with 922 KAR 1:495, Section 3[~~required in Section 15(1)(a) of this administrative regulation~~].

(b) An advanced per diem reimbursement shall be:

1. Made to a foster[~~resource~~] home that has:

a. Been approved for two (2) years as a foster or adoptive parent; and

b. Met training requirements in accordance with 922 KAR 1:495, Section **3[~~3(1)~~]**[~~who:~~

~~a. Has completed twenty-four (24) hours of advanced training, including training on child sexual abuse, beyond the family preparation, specified in Section 9(2) of this administrative regulation; and~~

~~b. Completes twelve (12) hours of ongoing cabinet-sponsored training or cabinet-approved training each year~~]; and

2. Based on the age of the child placed by the cabinet[~~in the resource home~~].

(c)[~~An emergency shelter per diem reimbursement shall:~~

~~1. Be made to a resource home parent who:~~

~~a. Meets criteria specified in Section 5 of this administrative regulation; and~~

~~b. Cares for a child, described in Section 5(1)(b) of this administrative regulation, who is placed by the cabinet; and~~

~~2.a Be reimbursed for no more than fourteen (14) days, unless an extension is granted in accordance with Section 5(1)(b)2 of this administrative regulation; or~~

~~b. After fourteen (14) days revert to:~~

~~(i) A basic per diem reimbursement, described in paragraph (a) of this subsection; or~~

~~(ii) An advanced per diem reimbursement, if the resource home foster parent meets training requirements specified in~~

~~paragraph (b)1a and b of this subsection.~~

~~(d)~~] A basic medically complex[~~medically-fragile~~] per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Meets criteria specified in Section 4[~~6~~] of this administrative regulation; and

2. Provides for the care of a[~~medically-fragile~~] child with medical complexity.

(d)[~~(e)~~] An advanced medically complex[~~medically-fragile~~] per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Meets criteria specified in Section 4[~~6~~] of this administrative regulation;

2. Has been approved for two (2) years as a foster or adoptive parent;

3. Has met training requirements in accordance with KRS 922 KAR 1:495, Section **3[~~3(1)~~]**[~~Maintains a current license as a licensed practical nurse in accordance with KRS 314.011(9)~~]; and

4.[~~3.~~] Provides for the care of a[~~medically-fragile~~] child with medical complexity.

(e)[~~(f)~~] A degreed medically complex[~~medically-fragile~~] per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Meets criteria specified in Section 4[~~6~~] of this administrative regulation;[~~and~~]

2. Maintains a current license as a[~~:~~

~~a. Registered nurse in accordance with KRS 314.011(5); or~~

~~b.~~] health professional; and

3. Provides for the care of a[~~medically-fragile~~] child with medical complexity.

(f)[~~(g)~~] A basic care plus foster[~~resource~~] home per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Meets criteria specified in Section 5[~~7~~] of this administrative regulation; and

2. Provides for the care of a child described in Section 5(1)(b)[~~7(1)(b)~~] of this administrative regulation.

(g)[~~(h)~~] An advanced care plus foster[~~resource~~] home per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Meets criteria specified in Section 5[~~7~~] of this administrative regulation;

2. Has been approved for two (2) years as a foster or adoptive parent;

3. Has met training requirements in accordance with 922 KAR 1:495, Section 3(1)[~~Has one (1) year of experience as a care plus resource home~~]; and

4.[~~3.~~] Provides for the care of a child described in Section 5(1)(b)[~~7(1)(b)~~] of this administrative regulation.

(h) A[~~(i) An advanced~~] specialized medically complex[~~medically-fragile~~] per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Meets criteria specified in Section 4[~~8~~] of this administrative regulation; and

2.[~~Maintains a current license as a licensed practical nurse in accordance with KRS 314.011(9); and~~

~~3.~~] Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition[~~specialized medically-fragile child~~].

(i)[~~(j)~~] A degreed specialized medically complex[~~medically-fragile~~] per diem reimbursement shall be made to a foster[~~resource home~~] parent who:

1. Maintains a current license as a health professional[~~:~~

~~a. Licensed registered nurse in accordance with KRS 314.011(5); or~~

~~b. Physician in accordance with KRS 311.720(9)~~];

2. Meets criteria specified in Section 4[~~8~~] of this administrative regulation; and

3. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition[~~specialized medically-fragile child~~].

(j)[~~(k)~~] Upon placement of a child by the cabinet, a per diem reimbursement shall:

1. Be specified in a contract between an approved[~~resource~~] foster home and the cabinet; and

2. Provide for the care of a child placed by the cabinet, to include:

a. Housing expenses;

b. Food-related expenses;

c. Nonmedical transportation;

d. Clothing;

e. Allowance;

f. Incidentals;

g. Babysitting, excluding childcare authorized in subsection (4)(b) of this section;

h. Sports, recreation, and school activities;

i. One (1) day of respite care per child per month; and

j. School expenses.

(2) Medical coverage.

(a) Cabinet staff may authorize payment for medical expenses for a child in the custody of the cabinet after verification is provided that the child is not covered by health insurance, Medicaid, or the Kentucky Children's Health Insurance Program ([“]K-CHIP[”]).

(b) Designated cabinet staff shall approve **or deny** authorization of payment for a medical treatment greater than $500.

(3) Child care services.

(a) The cabinet shall review requests for child care services every six (6) months for a working foster parent[~~resource home parent who provides foster care services~~].

(b) Designated cabinet staff may approve requests for child care services for a nonworking foster parent if[~~resource home parent who provides foster care services~~]:

1. [~~If~~] A medical crisis affects the foster[~~resource home~~] parent; or

2. The child care is appropriate to support the foster home or child[~~To allow for an adjustment period for the child~~].

(c) Designated cabinet staff shall review approved requests for child care services for a nonworking foster[~~resource home~~] parent every three (3) months.

(d) Reimbursements shall not be made simultaneously to the same provider for foster care and child care services.

(e) A foster parent shall not simultaneously be used as a licensed or certified health care or social service provider for a child placed in ***the foster parent's[~~their~~]*** care by the cabinet.

(4) Training. To the extent funds are available[~~and in accordance with Section 15(4) of this administrative regulation~~], the cabinet shall provide a reimbursement to an approved foster or adoptive home[~~resource home that provides foster care services~~] for ongoing training expenses commensurate with the foster or adoptive[~~resource home~~] parent's training needs, including:

(a) Mileage;

(b) Babysitting; and

(c) Tuition or fees up to the amount of:

1. $100 per parent per year; or

2. $200 per parent per year for a:

a. Medically complex foster or adoptive home; or

b. Care plus foster or adoptive home.

(5) Respite care.

(a)[~~Except for a child in an emergency shelter resource home,~~] Respite care shall be available for a child placed by the cabinet in a foster home[~~resource home that provides foster care services~~].

(b) A foster home[~~resource home that provides foster care services~~] shall be eligible for one (1) day of respite care per month per child.

(c) A foster[~~resource~~] home that cares for a child in the custody of the cabinet and meets criteria established in Sections 4 and 5[~~6 through 8~~] of this administrative regulation shall be eligible for three (3) days of respite care per month per child.

(d) Designated cabinet staff may extend a foster parent's

respite care use[~~up~~] to fourteen (14) days[~~,~~] if designated cabinet staff document that the:

1. Foster[~~Resource home~~] parent requires the additional respite care:

a. To stabilize the child's placement in the foster home[~~resource home that provides foster care services~~]; or

b. Due to unforeseen circumstances that may occur, such as:

(i) Death in the family;

(ii) Surgery; or

(iii) Illness; or

2. Child placed in the foster[~~resource~~] home requires additional respite care to allow for a period of adjustment.

(e) The cost of respite care shall not exceed the per diem for the child.

(f) A respite care provider shall be approved in accordance with Section 17[~~21~~] of this administrative regulation.

(6) Appeals. A foster or adoptive[~~resource home~~] parent may appeal the timeliness of reimbursement in accordance with 922 KAR 1:320.

Section 11.[~~14.~~] Home Study Requests. (1) Upon receipt of a request from another state's Interstate Compact on the Placement of Children Administrator in the interest of a child in the legal custody of that state's public agency, the cabinet shall complete the foster or adoptive home approval process as specified in Section 7 of this administrative regulation[~~a home study as specified in 922 KAR 1:010, Section 7~~].

(2) The cabinet shall share a previously approved home study in accordance with the Kentucky Open Records Act, KRS 61.870-61.884 and 42 U.S.C. 671(a)(23).

(3) An individual may request an administrative hearing in accordance with 922 KAR 1:320 for failure of the cabinet to act in accordance with subsections (1) and (2) of this section.

[~~Section 15. Annual Resource Home Training Requirement. (1) Before the anniversary date of the original approval as a resource home, a resource home parent shall be required to complete:~~

~~(a) At least six (6) hours of annual cabinet-sponsored training or training approved in advance by the cabinet; and~~

~~(b) Training necessary to obtain certifications required by Sections 6(1)(f) and 8(1)(f) of this administrative regulation shall count towards the annual training requirement.~~

~~(2) An individualized curriculum may be developed for a resource home parent who is unable to participate in annual group training because of employment or other circumstances.~~

~~(3)(a) Except for a resource home parent with whom a child has developed a significant emotional attachment and is approved by designated cabinet staff, the resource home whose parent fails to meet the annual training requirement shall be closed.~~

~~(b) Additional children shall not be placed in the home until the training requirement has been satisfactorily met.~~

~~(4) To the extent that funds are available, designated cabinet staff shall approve reimbursement for a resource home parent who has a child placed in their home under the custody and control of the cabinet and is participating in ongoing cabinet-sponsored or cabinet-approved training for the following expenses:~~

~~(a) Mileage;~~

~~(b) Babysitting; and~~

~~(c) Tuition or fees up to the amount of:~~

~~1. $100 per family per year; or~~

~~2. $200 per family per year for a:~~

~~a. Medically-fragile resource home;~~

~~b. Specialized medically-fragile resource home; or~~

~~c. Care plus resource home.~~

~~(5) Training hours required by Sections 6(6)(a), 7(3)(a), and 8(4)(a) of this administrative regulation may be used by the cabinet to reapprove the resource home for more than one (1) type of resource home.~~]

Section 12. Foster or Adoptive[~~16. Resource~~] Home Annual Reevaluation. (1) Prior to or during the month of the anniversary date of the initial approval as a foster or adoptive parent, the foster or adoptive parent shall be required to complete annual training requirements as specified in 922 KAR 1:495.

(2)(a) Failure to meet training requirements specified in subsection (1) of this section shall lead to closure unless an exception is granted by the designated cabinet staff for a foster parent caring for a child in the custody of the cabinet ***and it is determined that it is in the best interest of a child placed in the foster home***.

(b) If an exception is approved as specified in paragraph (a) of this subsection, a new or additional child shall not be placed in the home until the foster parent has met the training requirement.

(3) A cabinet staff member shall conduct a personal, in-home interview with a foster or adoptive[~~resource home~~] parent prior to or during[~~before~~] the month of the anniversary date of the initial[~~original~~] approval as a foster or adoptive[~~resource~~] home. The interviewer shall assess:

(a) Any change in the foster or adoptive[~~resource~~] home;

(b) The ability of the foster or adoptive[~~resource~~] home parent to meet the needs of a child placed in the home; and

(c) Continuing compliance with the requirements of Sections 2 and 3[~~and 4~~] of this administrative regulation.

(4) The cabinet staff person shall document requirements of subsection (3) of this section to include:

(a) A list of persons residing in or frequently in the home within the past twelve (12) months;

(b) A list of all foster children placed in the home within the past twelve (12) months and exit reasons for the children no longer in the home;

(c) Use of formal and informal support systems including:

1. Respite;

2. Extended family support; and

3. Friends or community partners;

(d) Description of parenting and discipline strategies;

(e) Changes in the physical environment including:

1. Address change; and

2. School district change;

(f) Discussion of stressors within the home to include:

1. Pregnancy or birth;

2. Physical or mental health conditions;

3. Employment changes;

4. Financial changes;

5. Death, grief, or loss;

6. Childhood trauma; and

7. Divorce or personal relationship changes;

(g) Alcohol or drug use and any substance abuse treatment;

(h) Functioning of relationships within the household;

(i) Assessment of the family's ability to meet the needs of the children placed in the home;

(j) List of foster or adoptive home reviews;

(k) Areas of concern or actions to be addressed that may exist within the household; and

(l) Placement recommendations[~~(2) The interviewer shall complete a DPP-1289, Annual Strengths/Needs Assessment for Resource Families, during the interview~~].

Section 13.[~~17.~~] Foster or Adoptive[~~Resource~~] Home Reviews. (1) Upon notification of a factor that may place unusual stress on the foster or adoptive[~~resource~~] home or create a situation that may place a child at risk, cabinet staff shall:

(a) Immediately asses the health and safety risk of the child; and

(b) Complete a review of the foster or adoptive[~~resource~~] home within thirty (30) calendar days.

(2) Factors that shall result in a review of a foster or adoptive[~~resource~~] home shall include:

(a) Death or disability of a family member;

(b) Sudden onset of a health condition that would impair a foster or adoptive[~~resource home~~] parent's ability to care for a child placed in the home by the cabinet;

(c) Change in marital status or home address;

(d) Sudden, substantial decrease in, or loss of, income;

(e) Childbirth;

(f) Use of a form of punishment that includes:

1. Cruel, severe, or humiliating actions;

2. Corporal punishment inflicted in any manner;
3. Denial of food, clothing, or shelter;
4. Withholding implementation of the child's treatment plan;
5. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; and
6. Assignment of extremely strenuous exercise or work;
(g) A report of abuse, neglect, or dependency that results in a finding that:
1. Is substantiated; or
2. Reveals concern relating to the health, safety, and well-being of the child;
(h) If the foster or adoptive[~~resource home~~] parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense; or
(i) Other factor identified by cabinet staff that jeopardizes the physical, mental, or emotional well-being[~~well being~~] of the child.
(3) The narrative of the review shall contain:
(a) Identifying information;
(b) Current composition of the household;
(c) Description of the situation that initiated the review;
(d) An evaluation of the foster or adoptive[~~resource~~] home's family functioning to determine if the child's needs are met; and
(e) A plan for corrective action that may include a recommendation for closure of the foster or adoptive[~~resource~~] home.

Section 14.[~~18.~~] Closure of an Approved Foster or Adoptive[~~Resource~~] Home. (1) A foster or adoptive[~~resource~~] home shall be closed if:
(a) Cabinet staff determines that the family does not meet the general requirements, as specified in Sections 2 and 3[~~and 4~~] of this administrative regulation, for a foster or adoptive[~~resource~~] home;
(b) A situation exists that is not in the best interest of a child;
(c) Sexual abuse or exploitation by the foster or adoptive[~~resource home~~] parent or by another resident of the household[~~resource home~~] is substantiated;
(d) Substantiated child abuse or neglect by a resident of the household occurs that is serious in nature or warrants removal of a child;
(e) A serious physical or mental illness develops that may impair or preclude adequate care of the child by the foster or adoptive[~~resource home~~] parent; or
(f) The cabinet has not placed a child in the home within the preceding two (2) year period.
(2) A foster or adoptive[~~resource~~] home may be closed according to the terms of the contract between the cabinet and the foster or adoptive[~~resource~~] home.
(3) If it is necessary to close an approved foster or adoptive[~~resource~~] home, the reason shall be stated by cabinet staff in a personal interview with the family, unless the family refuses or declines the personal interview.
(4) The cabinet shall:
(a) Confirm, in a written notice to the foster or adoptive[~~resource home~~] parent, the decision to close a home; and
(b) Deliver the notice to the foster or adoptive home within fourteen (14) calendar days[~~. The notice shall be delivered within thirty (30) calendar days~~] of the interview with a foster or adoptive[~~resource home~~] parent.
(5) The written notice for closure of a foster or adoptive[~~resource~~] home shall include:
(a) Notice that the cabinet shall not place a child in the home; and
(b) The reason why the foster or adoptive[~~resource~~] home is being closed.

Section 15.[~~19.~~] Reapplication. (1) A former foster or adoptive[~~resource~~] home parent whose home was closed pursuant to Section 14(1)(a)[~~18(1)(a)~~] through (f) of this administrative regulation may be considered for reapproval if the cause of closure has been resolved.
(2) To reapply, a former foster or adoptive[~~resource home~~] parent shall:
(a) Attend an informational meeting; and
(b) Submit the:
1. Names of references specified in Section 2(13)[~~3(13)~~] of this administrative regulation; and
2. Authorization for criminal records release specified in Section 2(17)[~~3(17)~~] of this administrative regulation.
(3) A reapplying former foster or adoptive[~~resource home~~] parent shall reenroll and complete training requirements[~~family preparation~~], as specified in Section 6[~~9~~] of this administrative regulation, unless:
(a) The former foster or adoptive[~~resource home~~] parent[~~:(a)~~] has previously completed training requirements[~~family preparation~~], as specified in Section 6(2)[~~9(2)~~] of this administrative regulation; and
(b) An exception to reenrollment is provided by designated cabinet staff which have ascertained that the former foster or adoptive parent otherwise meets the necessary skill level[~~Is considered a placement resource for children.~~
~~(4) An adoptive family may be reconsidered for adoptive placement pursuant to 922 KAR 1:100, Section 9~~].

Section 16.[~~20.~~] Placement Considerations[~~Resource Home Parent Adoption~~]. (1) Unless an exception is approved pursuant to subsection (2) of this section ***because a placement is in the best interest of the child and specific support services will be provided, the requirements established by this subsection shall[, the following requirements]*** apply to foster homes***.[:]***
(a)***[No]*** More than five (5) children, including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall ***not*** reside in a foster home***.[:]***
(b)***[No]*** More than two (2) children under age two (2), including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall ***not*** reside in a foster home***.[; and]***
(c) A child with medical complexity shall be placed in an approved medically complex home.
(2) To request an exception ***to the[in accordance with]*** criteria established ***by[within]*** subsection (1) of this section, cabinet staff shall submit the DPP-112A, DCBS Placement Exception Request, to designated cabinet staff prior to the proposed placement documenting:
(a) The reason the placement is in the best interest of the child; and
(b) Specific support services to be provided.
(3) **If an exception to subsection (1) or (2) of this section is necessary for a placement to occur outside of normal business hours:**
(a) Cabinet staff shall verbally provide all information contained within the DPP-112A to designated cabinet staff prior to the placement;
(b) A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and
(c) The completed DPP-112A shall be submitted on the first business day following placement.
(4) Cabinet staff shall inform the foster parent of conditions related to the child in accordance with:
(a) KRS 605.090(1)(b); and
(b) KRS 605.090(6).
(5)[(4)] A foster or adoptive[~~resource home~~] parent may adopt a child for whom parental rights have been terminated if:
(a) Foster or adoptive[~~Resource home~~] parent adoption is determined by cabinet staff to be in the best interest of the child;
(b) The child resides in the foster or adoptive[~~resource~~] home; and
(c) Criteria in 922 KAR 1:100 are met.
(6)[(5)][(~~2~~)] If a foster or adoptive[~~resource home~~] parent expresses interest in adopting a foster child currently placed in the home and an alternative permanent placement is in the child's best interest, cabinet staff shall meet with the foster or adoptive[~~resource home~~] parent prior to selection of an adoptive home to explain:
(a) Why an alternative permanent placement is in the child's

best interest; and

(b) The foster or adoptive[resource home] parent's right to submit a request to the cabinet to reconsider the recommendation.

[(3) If a resource home parent is not approved for adoptive placement of a child currently placed in the home, cabinet staff shall meet with the resource home parent to explain the reason that the resource home parent adoption is not in the best interest of the foster child.]

Section 17.[21.] Requirements for Respite Care Providers. (1) A respite care provider shall:

(a) Be:

1. An approved foster or adoptive[resource] home; or

2. Approved in accordance with subsection (2) of this section; and

(b) Receive preparation for placement of a child, including information in accordance with:

1. KRS 605.090(1)(b); and

2.[a.] Section 4(1)(e)[6(1)(e)] through (g) of this administrative regulation, if the child is designated as medically complex[a medically-fragile child; or

b. Section 8(1)(e) through (g) of this administrative regulation, if the child is a specialized medically-fragile child].

(2) If a foster or adoptive[resource home] parent chooses a respite care provider who is not an approved foster or adoptive[resource] home, the respite care provider shall:

(a)1. Meet criteria established in Sections 2(1)[3(1)], (2), (17), (18) and 3[4] of this administrative regulation if respite care is provided outside the home of the foster or adoptive[resource home] parent; or

2. Meet criteria established in Section 2(1)[3(1)], (2), (17), and (18) of this administrative regulation if respite care is provided inside the home of the foster or adoptive[resource home] parent; and

(b)1. If providing respite care for a child described in Section 5(1)(b)[7(1)(b)] of this administrative regulation, have:

a. Child-specific[Professional experience or] training in the mental health treatment of children or their families; or

b. A certificate of completion for twelve (12)[twenty-four (24)] hours of care plus training specified in 922 KAR 1:495, Section 6(1)[provided by the cabinet or approved in advance by the cabinet]; or

2. If providing respite care for a[medically-fragile] child with medical complexity or specialized medical complexity:

a.[(i)] Meet training requirements in accordance with 922 KAR 1:495, Section 7;

b. Hold a current certificate in first aid;

c. Hold a current certificate in infant, child, and adult CPR; and

d. Receive child specific training from a health professional or a foster parent who has been trained by a health professional in how to care for the specific medical needs of the child[specified in Section 6 of this administrative regulation; or

(ii) Be a health professional; and

b. Undergo health screenings as specified in Section 3(8) and (9) of this administrative regulation; or

3. If providing respite care for a specialized medically-fragile child:

a. Be a health professional; and

b. Undergo health screenings as specified in Section 3(8) and (9) of this administrative regulation].

(3) A respite care provider:

(a) May attend **pre-service training[family preparation]** as specified in Section 6[9] of this administrative regulation; and

(b)[If the respite care provider is caring for a medically-fragile or specialized medically-fragile child, shall receive training to meet the specific needs of the child from a health professional or a resource home parent trained by a health professional in how to care for the child; and

(c)] Shall comply with **Sections 16 and 17[Section 16]**[2] of this administrative regulation.

Section 18.[22.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DPP-107, Health Information Required for Foster or Adoptive Parents,[Resource Home] Applicants, or Adult Household Members", 10/15[edition 02/08"];

(b) "DPP-108, Health Information Required for Foster or Adoptive Parents or[Resource Home] Applicants Regarding Dependent Children", 10/15[edition 02/08"]; and

(c) "DPP-112A, DCBS Placement Exception Request", 10/15[edition 02/08";

(d) "DPP-112B, Placement Exception Plan, edition 02/08"; and

(e) "DPP-1289, Annual Strengths/Needs Assessment for Resource Families, edition 6/06"].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

TERESA C. JAMES, LCSW, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: September 9, 2015

FILED WITH LRC: September 11, 2015 at 3 p.m.

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, email tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, October 13, 2015)

922 KAR 1:495. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

RELATES TO: KRS 61.870, 158.135(1)(c), 194A.005(1), 199.011(9), 199.464, 199.640, 311.720(9), 311.840(3), 314.011(5), (7), 600.020, 620.360. 45 C.F.R. Parts 160, 164, 42 U.S.C. 671(a)**,[(24), 42 U.S.C.]** 675

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472, 199.640(5), 605.100(1), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 199.472 authorizes the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for adoptive parenthood. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. In addition, 42 U.S.C. 671(a)(24) includes a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child. This administrative regulation establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

Section 1. Definitions. (1) "Adoptive parent" means an individual who is seeking to adopt a child placed in the custody of the cabinet.

(2) "Applicant" means an individual or family, subject to approval by the cabinet, or by a private child-placing agency, as a foster or adoptive home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(6).

(4) "Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in 922 KAR 1:350, Section 5.

(5) "Foster home" means:

(a) A "foster family home" as defined by KRS 199.011(9) and 600.020(28), if referring to a physical structure; or

(b) If referring to an individual, any individual approved as a foster parent by:

1. A child-placing agency in accordance with 922 KAR 1:310; or

2. The cabinet in accordance with 922 KAR 1:350.

(6) "Health professional" means a person actively licensed as a:

(a) Physician as defined by KRS 311.720(9);

(b) ***Physician[Physician's]*** assistant as defined by KRS 311.840(3);

(c) Advanced practice registered nurse as defined by KRS 314.011(7); or

(d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(7)[(6)] "Medically complex" means a foster care program for a child who is determined to have a medical condition as specified in 922 KAR 1:350, Section 4.

(8)[(7)] "Professional experience" means paid employment or volunteer work in a setting where there is supervision or periodic evaluation.

(9)[(8)] "Reasonable and prudent parent standard" is defined by 42 U.S.C. 675***(10)***.

(10)[(9)] "Respite care" means temporary care provided by another individual or family:

(a) To provide relief to a foster or adoptive parent approved in accordance with 922 KAR 1:310 or 922 KAR 1:350; and

(b) With the expectation of a child's return to the current foster or adoptive home.

(11)[(10)] "Therapeutic foster care" is defined by KRS 158.135(1)(c).

(12)[(11)] "Trauma informed care" means training developed using an organizational strengths-based framework to recognize and respond to the impact of traumatic stress on children, caregivers, and service providers with a goal to facilitate and support the recovery and resiliency of the child and family.

Section 2. General Training Requirements. (1) The purpose of the foster or adoptive parent training shall be to:

(a) Orient the applicant to the philosophy and process of the foster care or adoption programs;

(b) Develop greater self-awareness on the part of the applicant to determine strengths and needs;

(c) Sensitize the applicant to the kinds of situations, feelings, and reactions that are apt to occur with a child in the custody of the cabinet;

(d) Effect behavior so that an applicant may better fulfill the role as a foster or adoptive parent to a child; and

(e) Emphasize:

1. Self-evaluation; and

2. Experiential learning**[~~through:~~**

~~a. Participation in small group exercises; and~~

~~b. Discussion with experienced foster parents~~].

(2)(a) A foster or adoptive parent applicant shall complete a minimum of fifteen (15) hours of curricula in the following topic areas:

1. Information about the rights, responsibilities, and expectations of a foster or adoptive parent;

2. The importance of birth parents and culture;

3. The process of a child entering foster care;

4. Types of child maltreatment;

5. Impact of childhood trauma;

6. Stages of grief;

7. Long term effects of separation and loss;

8. Permanency planning for a child, including independent living for transitioning youth;

9. Importance of attachment on a child's growth and development and the way a child maintains and develops a healthy attachment;

10. Family functioning, values, and expectations of a foster or adoptive home;

11. Cultural competency;

12. Emergency preparedness;

13. Child development;

14. Basic discipline and behavior management skills; **and**

15. Reasonable and prudent parent standard**[~~; and~~**

~~16. Supporting independent living skills~~].

(b) ***Beginning[~~Effective~~]*** July 1, 2016, training curricula specified in paragraph (a) of this subsection shall be:

1. Provided by the cabinet; or

2. Approved by the cabinet in accordance with Section 8 of this administrative regulation.

(c) **Unless justification is documented pursuant to paragraphs (d) and (e) of this subsection, foster or adoptive parent training for placement of a child in the custody of the cabinet shall be completed in a group setting by each adult who resides in the household and may provide routine care to a child in the custody of the cabinet.**

(d) A justification to provide foster or adoptive parent training other than in a group setting pursuant to paragraph (c) of this subsection shall:

1. Include the circumstance, which prevents the foster or adoptive parent training from occurring in a group setting; and

2. Be documented utilizing the DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training.

(e) A justification completed in accordance with paragraph (d) of this subsection shall be placed in the foster or adoptive parent's case file.

(f) An applicant shall not receive more than eight (8) hours of individualized training during a twenty-four (24) hour period[~~Unless an exception is approved pursuant to paragraph (d) of this subsection~~, ~~foster or adoptive parent training for placement of a child in the custody of the cabinet shall be completed in a group setting by each adult who resides in the household and may provide routine care to a child in the custody of the cabinet.~~

~~(d) An exception to group foster or adoptive parent training requirements provided within paragraph (c) of this subsection may be requested:~~

~~1. Due to a scheduling conflict involving work, military service, or extraordinary circumstance, which prevents foster or adoptive parent training in a group setting; and~~

~~2. Utilizing the DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training, with submission to designated cabinet staff who shall issue a decision within five (5) business days.~~

~~(e) If an exception is approved in accordance with paragraph (d) of this subsection, the foster or adoptive parents shall complete a curriculum approved by the cabinet~~].

(3) In addition to initial training requirements in subsection (2)(a) of this section, a foster or adoptive parent applicant shall complete the following electronic courses provided by the cabinet prior to approval:

(a) Pediatric Abusive Head Trauma;

(b) First Aid and Universal Precautions;

(c) Medication Administration; and

(d) Medical Passports.

(4) First aid certification may substitute for the training requirement provided within subsection (3)(b) of this section if the foster or adoptive parent applicant provides documentation of current certification.

Section 3. General Annual Training Requirements. (1) **Prior to or during the *month of the second anniversary date[~~second anniversary month~~]* of a foster or adoptive parent's initial approval, the foster or adoptive parent shall complete a minimum of thirty (30) hours of training in the following areas:**

(a) Trauma informed care curriculum provided or

approved by the cabinet *in accordance with Section 8 of this administrative regulation*;

(b) Psychotropic medications curriculum provided by the cabinet;

(c) Sexual abuse curriculum provided or approved by the cabinet *in accordance with Section 8 of this administrative regulation*; and

(d) Behavior management and skill development.

(2) If a private child-placing agency provides training in accordance with subsection (1) of this section prior to a foster or adoptive home's approval, the thirty (30) hours shall be in addition to the fifteen (15) hours of pre-service training required by Section 2(2) of this administrative regulation.

(3) A foster or adoptive home approved prior to the adoption of this administrative regulation shall complete the training described in subsection (1) of this section within two (2) years of the effective date of this administrative regulation.

(4) If training requirements of subsections (1) through (3) of this section are met, a foster or adoptive parent shall complete the following prior to or during each subsequent anniversary of the foster or adoptive parent's initial approval:

(a) Ten (10) hours of private child-placing agency or cabinet-sponsored training *related to knowledge or skills relevant to foster parenting*, or training approved in advance by the private child-placing agency or the cabinet; and

(b) *If applicable,* training as specified in Section 2(3)(a) of this administrative regulation once every five (5) years in accordance with KRS 199.464.

(5) A foster or adoptive parent shall complete training regarding the reasonable and prudent parent standard in accordance with 42 U.S.C. 671(a) and Section 2(2)(a)15 of this administrative regulation within one (1) year of the effective date of this administrative regulation[~~(a) Prior to the first anniversary month of a foster or adoptive parent's initial approval, the foster or adoptive parent shall complete a minimum of twelve (12) hours of annual training.~~

~~(b) Prior to the second anniversary month of a foster or adoptive parent's initial approval, the foster or adoptive parent shall complete a minimum of thirty (30) hours of training, which includes all hours completed in accordance with paragraph (a) of this subsection.~~

~~(c) With the exception of subparagraph 2 of this paragraph which shall be provided by the cabinet, the training prescribed in paragraphs (a) and (b) of this subsection shall be curricula provided or approved by the cabinet in the following areas:~~

~~1. Trauma informed care;~~

~~2. Psychotropic medications;~~

~~3. Sexual abuse; and~~

~~4. Behavior management and skill development.~~

~~(2) Prior to or during the month of the third anniversary of the foster or adoptive parent's initial approval and each subsequent year thereafter, the foster or adoptive parent shall complete ten (10) hours of:~~

~~(a) Private child-placing agency or cabinet-sponsored training, or training approved in advance by the private child-placing agency or the cabinet; and~~

~~(b) Training as specified in Section 2(3)(a) of this administrative regulation which shall be completed once every five (5) years~~].

Section 4. Medically Complex Foster Parent Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements specified in Section 3 of this administrative regulation, a medically complex foster parent applicant shall:

(a) Complete twelve (12) hours of cabinet-provided medically complex training in the following topic areas specific to children with medical complexity:

1. Growth and development;

2. An overview of procedures and techniques which may be utilized to provide care;

3. Observation and assessment;

4. Management of diet and environment;

5. Documentation of provided care;

6. Parenting skills; and

7. Permanency planning; and

(b) Hold a current certification in infant, child, and adult CPR and first aid.

(2) Prior to or during the anniversary month of the foster parent's initial approval as a foster parent **and annually thereafter**, an approved medically complex foster parent shall:

(a) Meet the requirements in subsection (1)(b) of this section;

(b) Complete the annual training requirements as specified in Section **3[~~3(1) and (2)~~]** of this administrative regulation; and

(c) Complete twelve (12) hours of ongoing cabinet-provided training related to the care of children with medical complexity.

(3) Professional experience related to the care of a child with medical complexity may substitute for the initial and annual medically complex training requirements specified in ***subsections[~~subsection~~]*** (1)(a) and (2)(c) of this section ***if approved by designated cabinet staff based on the foster or adoptive parent***:

(a) ***Being[~~Upon the approval of designated cabinet staff; and~~***

~~(b) If the foster or adoptive parent:~~

~~1. Is~~] a health professional; and

(b) Having[~~2. Has~~] completed **twelve (12) hours of** continuing education focusing on pediatrics within the past year that will assist the parent in the care of a child with medical complexity.

Section 5. Therapeutic Foster Care Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements specified in Section 3 of this administrative regulation, a therapeutic foster care applicant in accordance with 922 KAR 1:310 shall complete twelve (12) hours of private agency-sponsored training or training approved in advance by the child-placing agency in the following topic areas:

(a) Specific requirements and responsibilities of a therapeutic foster care home;

(b) Crisis intervention and behavior management;

(c) De-escalation techniques;

(d) Communication skills;

(e) Skill development;

(f)**[~~Cultural competency;~~**

~~(g)~~] The dynamics of a child who has experienced sexual abuse or human trafficking; and

(g)[~~(h)~~] The effect of substance use, abuse, or dependency by either the child or the child's biological parent.

(2)**[~~Prior to or during the anniversary month of the foster parent's initial approval as a foster parent,~~]** An approved therapeutic foster parent shall:

(a) Complete the annual training requirements as specified in Section **3[~~3(1) and (2)~~]** of this administrative regulation; and

(b) **Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter,** complete twelve (12) hours of private agency-sponsored training or training approved in advance by the private agency in **topic areas relevant to therapeutic foster care[~~the topic areas described in subsection (1) of this section~~]**.

(3) A therapeutic foster care applicant may concurrently complete general training requirements as specified in Section 2 of this administrative regulation and training requirements established in subsection (1) of this section.

Section 6. Care Plus Training Requirements. (1) In addition to the general training requirements specified in Section 2 of this administrative regulation and annual training requirements specified in Section 3 of this administrative regulation, a care plus applicant in accordance with 922 KAR 1:350 shall complete twelve (12) hours of cabinet-sponsored training or training approved in advance by the cabinet in the following topic areas:

(a) Specific requirements and responsibilities of a care plus foster home;

(b) Crisis intervention and behavior management;

(c) De-escalation techniques;

(d) Communication skills;
(e) Skill development;
(f) Cultural competency;
(g) The dynamics of a child who has experienced sexual abuse or human trafficking; and
(h) The effect of substance use, abuse, or dependency by either the child or the child's biological parent.
(2)**[~~Prior to or during the anniversary month of the foster parent's initial approval as a foster parent,~~]** An approved care plus foster parent shall:
(a) Complete the annual training requirements as specified in Section **3[~~3(1) and (2)~~]** of this administrative regulation; and
(b) **Prior to or during the anniversary month of the foster parent's initial approval as a foster parent and annually thereafter,** complete twelve (12) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet prior to or during the anniversary month of initial approval as a foster parent in the topic areas described in subsection (1) of this section.

Section 7. Respite Care Providers. If a respite provider is not approved as a foster or adoptive parent in accordance with 922 KAR 1:350 or 922 KAR 1:310, prior to initial approval as a respite care provider, the individual shall complete a minimum of two (2) hours of **cabinet or private child-placing agency provided[~~cabinet-provided electronic~~]** curriculum ***including an overview of the department and the policies and procedures of the agency related to the care of the child***.

Section 8. Preapproval of**[~~General or Annual~~]** Training Curricula. (1) If a private child-placing agency intends to offer curricula other than curricula provided by the cabinet as specified in Sections 2(2) or **3(1)[~~3(1)(c)~~]** of this administrative regulation, the private child-placing agency shall submit its curricula to the cabinet or its designee for consideration.
(2) The cabinet shall approve curricula that are:
(a) Comparable in content to curricula provided by the cabinet; or
(b) Recognized evidence-based practices.
(3) The cabinet shall make a determination:
(a) Within thirty (30) calendar days; or
(b) As a part of the child-placing agency's **initial** application **to provide services to a child in the custody of the cabinet[~~in accordance with 922 KAR 1:360~~]**.

Section 9. Incorporation by Reference. (1) "DPP-113, Request for Applicant or Adult Household Member to Attend Individualized Training", **11/15[~~10/15~~]**, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

TERESA C. JAMES, LCSW, Commissioner
AUDREY TAYSE HAYNES, Secretary
APPROVED BY AGENCY: September 9, 2015
FILED WITH LRC: September 11, 2015 at 3 p.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

GENERAL GOVERNMENT CABINET
Board of Pharmacy
(Amended After Comments)

201 KAR 2:220. Collaborative care agreements.

RELATES TO: KRS 315.010(4), 315.040(4), 315.191(1)(a)
STATUTORY AUTHORITY: KRS 315.191(1)(a)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the Board of Pharmacy to promulgate administrative regulations to regulate and control matters relating to pharmacists, pharmacist interns, pharmacy[~~pharmacist~~] technicians, pharmacies, wholesale distributors**,** and manufacturers. This administrative regulation establishes minimum requirements for the development and maintenance of collaborative care agreements between[~~an individual~~] pharmacist and[~~an individual~~] practitioner.

Section 1. A collaborative care agreement shall:
(1) Be in writing;
(2) Be signed and dated by the:
(a) Each[~~Individual~~] practitioner; and
(b) Each[~~Individual~~] pharmacist who is a party to the agreement;[~~and~~
~~(c) Patient or care giver;~~]
(3) Provide the method for referral of patients to be managed under the agreement[~~that upon termination of the agreement the individual practitioner or individual pharmacist shall notify the patient in writing~~]; **and**
(4) State the method for termination of the agreement**[~~; and~~**
~~(5) Contain the information specified by Section 2 of this administrative regulation~~].

Section 2. The following information relating to a patient managed under the collaborative care agreement shall be maintained by the pharmacist[~~A collaborative care agreement shall contain the following information~~]:
(1) [~~Patient~~]Name;
(2) [~~Patient~~]Address and phone[~~telephone~~] number;
(3) Emergency notification contact[~~Protocol, criteria, standing orders, or other method by which services are authorized~~];
(4) Date of birth, weight, height, and gender;[~~The method established for the assessment of patient outcomes, if appropriate; and~~]
(5) Medical history, including:
(a) Known diseases;
(b) Known allergies;
(c) Reactions and conditions relating to:
1. Prescription medications; and
2. Nonprescription medications;
(d) Current prescription regimen; and
(e) Current nonprescription regimen;
(6) Lab tests ordered, including results of lab tests;
(7) Assessment of patient outcomes;**[~~and~~]**
(8) Notes relating to the care and course of therapy of the patient**; and**
(9) Documentation of patient consent to receive care under the collaborative care agreement[~~Lab tests that may be ordered~~].

Section 3. **Documentation[~~Notes~~]** relating to the care and course of therapy of the patient **pursuant to the agreement**[~~The following information relating to a collaborative care agreement shall be maintained by a pharmacist~~]**[~~and~~]** shall be **documented in the patient's record maintained by the pharmacist,** provided to the collaborating practitioner**, and be readily available to other healthcare professionals providing care to the patient**[~~:~~
~~(1) Emergency notification contact;~~
~~(2) Date of birth, weight, height, and gender;~~
~~(3) Prescription regimen;~~
~~(4) Nonprescription regimen;~~
~~(5) Medical history; including:~~
~~(a) Known diseases;~~
~~(b) Known allergies; and~~
~~(c) Reactions and conditions relating to:~~
~~1. Prescription regimens; and~~
~~2. Nonprescription regimens;~~
~~(6) Lab tests ordered, including results of lab tests;~~
~~(7) Assessments of patient outcomes;~~
~~(8) Notes relating to contacts between the individual pharmacist and the individual practitioner concerning the care and course of therapy of the patient; and~~
~~(9) Documentation of the specific counseling information provided to the patient or care giver~~].

Section 4. A collaborative care agreement shall contain the following information:
(1) Protocol, criteria, standing orders, or other method by which services are authorized;
(2) The method established for the assessment of patient outcomes, if appropriate; and
(3) Lab tests that may be ordered.

Section 5. A collaborative care agreement and information and records required by the provisions of this administrative regulation[~~,~~] shall be maintained:
(1) At the pharmacist's practice site; and
(2) For at least five (5) years after termination.

JOEL THORNBURY, President
APPROVED BY AGENCY: October 15, 2015
FILED WITH LRC: October 15, 2015 at 4 p.m.
CONTACT PERSON: Steve Hart, Executive Director, Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Steve Hart
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements collaborative care agreements between practitioners and pharmacists.
(b) The necessity of this administrative regulation: This regulation is necessary to comply with KRS 315.010(4).
(c) How this administrative regulation conforms to the content of the authorizing statues: The regulation is in conformity with the authorizing statute that requires the board to promulgate administrative regulations that establishes the requirements for collaborative care agreements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will set the requirements for collaborative care agreements.
(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 will allow collaborative care agreements between multiple practitioner and multiple pharmacists.
(b) The necessity of the amendment to this administrative regulation: Pharmacists and practitioners can establish collaborative care agreements.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment authorizes the board to promulgate regulations regarding collaborative care agreements.
(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow collaborative care agreements between practitioner(s) and pharmacist(s).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates that all pharmacists will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Collaborative care agreements will be allowed between practitioner(s) and pharmacist(s).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost will be incurred by the entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Multiple practitioners and pharmacists will be allowed to establish a collaborative care agreement.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is required for implementation 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: No increase in fees or funding will be required to implement the changes made by this regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all pharmacists.

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 would impact the Kentucky Board of Pharmacy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.010(4), KRS 315.121 and 315.191 requires or authorizes the action taken by this administrative regulation.

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

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

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

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

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

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

Revenues (+/-): The Board anticipates no revenues.

Expenditures (+/-): The Board anticipates no expenditures.

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Board of Examiners of Psychology
(Amended After Comments)

201 KAR 26:175. Continuing education.

RELATES TO: KRS 319.032(1)(f), 319.050, 319.053, 319.064, 319.071

STATUTORY AUTHORITY: KRS 319.032(1)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(f) requires the board to promulgate an administrative regulation establishing a requirement for continuing education as a condition for renewal of a license. This administrative regulation establishes the continuing education requirements for renewal of a license.

Section 1. Definitions. (1) "Continuing education" means participation in an approved program beyond the basic educational requirements that meet the requirements established in Section 2(1) of this administrative regulation.

(2) "Continuing education (CE) hour" means a fifty-five (55) minute clock hour of instruction.

Section 2. (1) Each[~~license holder shall document the completion of at least thirty (30) continuing education hours approved by the board within each three (3) year renewal period. Commencing on the first license renewal date after June 30, 2013, each~~] license holder shall document the completion of at least thirty-nine (39) continuing education hours approved by the board within each[~~the~~] three (3) year renewal period[~~and for each subsequent renewal period~~].

(2) A person holding a license shall complete a minimum of six (6) hours of continuing education in suicide assessment, treatment, and management within the first year of licensure and every six (6) years thereafter as required by KRS 210.366.

(a) A person holding a license shall be exempted from the requirement to complete a continuing education course in suicide assessment, treatment, and management **for the licensee's first six (6) years of licensure** if the licensee **completes[**~~:~~

~~**1. Is a graduate of a psychology program accredited by the American Psychological Association;**~~

~~**2. Holds board certification from the American Board of Professional Psychology; or**~~

~~**3. Completed**~~**]** a three (3) semester hour graduate course in suicide and crisis assessment, prevention, and intervention during the course of the licensee's graduate education.

(b) A person holding a license shall be exempted from the requirement to complete a continuing education course in suicide assessment, treatment, and management **from the six year continuing education** if**, during the six (6) year requirement,** the licensee:

1. Is primarily employed in a clinical setting accredited by the Joint Commission or another nationally accrediting healthcare entity that requires the completion of a suicide risk assessment with each patient being seen within the setting;

2. Teaches a graduate-level psychology course in suicide**[**~~**and crisis**~~**]** assessment, **training, and management[**~~**prevention, and intervention**~~**]**; or

3. Teaches a continuing education course in suicide**[**~~**and crisis**~~**]** assessment, **training, and management[**~~**prevention, and intervention**~~**]** at least once during the six (6) year period.

(c) The continuing education course in suicide assessment, treatment, and management shall be approved in accordance with Section **5[**~~**3**~~**]** of this administrative regulation.

(3) The continuing education shall:

(a) Provide specific content planned and evaluated to improve the license holder's professional competence;

(b) Make possible the acquisition of new skills and knowledge required to maintain competence;

(c) Strengthen the habits of critical inquiry and balanced judgment; and

(d) Include a minimum of three (3) hours in either ethical practice or risk management with each three (3) year renewal

period.

(4)[~~(3)~~] Continuing educational hours shall not carry over from one (1) renewal period to the next.

(5)[~~(4)~~](a) Except as provided in paragraph (b) of this subsection, a licensed psychologist with the health service provider designation who provides supervision to an applicant for licensure, or a certified psychologist or a licensed psychological associate shall include as part of the **thirty-nine (39)[~~thirty (30)~~]** hours of continuing education required by subsection (1) of this section a minimum of three (3) continuing education hours in the area of supervision theory or techniques for each three (3) year renewal period.

(b) The requirement established in paragraph (a) of this subsection shall begin with the renewal period immediately following the period in which the original supervisory training required by 201 KAR 26:171, Section 4(1) and (2), is received.

Section 3. Hours required to satisfy the continuing education requirement shall be completed and reported at the time of license renewal. The license holder shall:

(1) Maintain and provide adequate records including certificates of attendance and documentation of completion of the required continuing education hours;[~~,~~] or

(2) Provide documentation through a board-approved registry which shall certify the name and license number of the license holder, date and title of each program and the number of hours earned, and confirmation that the programs were given by a board-approved provider.

Section 4. All continuing education activities approved by the board shall be accepted toward the continuing education requirements for renewal of a license. A license holder shall determine prior to attending a specific continuing education program that the program:

(1) Has been approved by the board; or

(2) Is offered or sponsored by an organization approved by the board to sponsor continuing education programs.

Section 5. Approved Sponsoring Organizations and Approved Programs. (1) Participation in a continuing education program that is offered or sponsored by an organization listed in this subsection shall be accepted toward the requirement for continuing education established in Section 2(1) of this administrative regulation:

(a) The American Psychological Association,[~~;~~] American Medical Association,[~~;~~] American Psychiatric Association,[~~;~~] National Association of Social Workers, or an affiliated state chapter;

(b) A recognized state, regional, national, or international psychological association; or

(c) A state or provincial psychology licensure board.[~~;~~]

(2) The following programs shall be approved for continuing education:

(a) A course for graduate-level academic credit or a workshop in psychology or psychiatry offered by a national, regional, or state accredited academic institution or an affiliated hospital or medical center;

(b) The Kentucky Mental Health Institute or the Kentucky School of Alcohol and Other Drug Studies sponsored by the Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities;

(c) Interactional videoconferencing, internet-based course or a home study course provided by an organization listed in subsection (1) of this section.

(3)(a) The board may approve an organization that is not listed in subsection (1) of this section[~~5(1) of this administrative regulation~~] as a sponsor of continuing education for a twelve (12) month period if the organization:

1. Files a written request for approval;

2. Pays an initial application fee of $250; and

3. Proposes to sponsor continuing education programs that meet the requirements established in Sections 2(1) and 6 of this administrative regulation.

(b) An approved sponsor shall submit an annual report of the continuing education programs offered during that year.

(c) A sponsor that is approved pursuant to paragraph (a) of this subsection may request renewal of its approval for subsequent years by filing a $150 renewal fee annually.

(4)(a) The board may approve a specific continuing education program that is not listed in subsection (2) of this section[~~5(2) of this administrative regulation~~] if the sponsor of the program:

1. Files a written request for approval;

2. Pays an application fee of fifty (50) dollars; and

3. Provides information about a continuing education program that it proposes to sponsor which meets the requirements established in Sections 2(1) and 6 of this administrative regulation.

(b) The approval of a program pursuant to paragraph (a) of this subsection shall permit the sponsor to offer the program one (1) time. The sponsor shall submit a request for renewal and a ten (10) dollar renewal fee for each subsequent request to offer the same approved program.

Section 6. A continuing education program which satisfies the requirements for license renewal shall meet the following criteria:

(1) The program shall be:

(a) Offered or sponsored by an organization which has been approved by the board; or

(b) A specific program approved by the board;

(2) The program shall:

(a) Have a clearly-stated purpose and defined content area; and

(b) Be consistent with the overall goals of continuing education as defined in Section 1 of this administrative regulation;

(3) A presenter shall be a professional qualified in the defined content area;

(4) The program's time shall be clearly stated. Actual contact time shall be a minimum of one (1) continuing education hour;

(5) Attendance shall be recorded by the program's sponsor;

(6) Documentation of completion shall be provided to the participant;

(7) A participant shall complete an evaluation of the program.

Section 7. Equivalencies. (1) A graduate-level psychology course taken at an accredited academic institution shall earn continuing education hours on the following basis:

(a) Each one (1) hour **quarter[~~semester~~]** course shall be the equivalent of fifteen (15) continuing education hours for the purposes of meeting the requirements of this administrative regulation; and

(b) Each one (1) hour quarter course shall be the equivalent of nine (9) continuing education hours for the purposes of meeting the requirements of this administrative regulation.

(2) A person who teaches a three (3) hour semester or quarter graduate-level course in psychology at an accredited academic institution shall:

(a) Earn six (6) continuing education hours for teaching the course; and

(b) Not receive:

1. Credit more than once for teaching a particular course during a renewal period; and

2. More than nine (9) total continuing education hours for these teaching activities.

(3) A person who teaches an approved continuing education workshop or program shall:

(a) Earn continuing education hours on a one (1) to one (1) basis; and

(b) Not receive:

1. Credit more than once for teaching a particular workshop or program during a renewal period; and

2. More than nine (9) total continuing education hours for these teaching activities.

(4) A person who completes home study or internet-based courses shall not receive:

(a) Credit for repeating a specific study course during a renewal period; and

(b) More than twelve (12) total continuing education hours through home study or internet-based courses in a renewal period.

(5) A person who participates in videoconferencing in an interactive setting shall:

(a) Earn one (1) continuing education hour for each clock hour of participation; and

(b) Not receive more than twenty-four (24) continuing education hours through interactive videoconferencing participation.

OWEN T. NICHOLS, Psy.D., MBA, ABPP, ABMP, Chairperson

APPROVED BY AGENCY: October 15, 2015

FILED WITH LRC: October 15, 2015 at 11 a.m.

CONTACT PERSON: Chessica Louden, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8812, fax (502) 696-5898.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Chessica Louden

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation governs the continuing education of a credential holder.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the scope of practice for a psychologist and how to handle a situation where an individual is licensed by this board and another mental health regulatory board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity with the authorizing statute regarding continuing education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in establishing the scope of practice for a psychologist and how to handle a situation where an individual is licensed by this board and another mental health regulatory board.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes the requirement for a license holder of the board to maintain a separate and distinct practice in relation to his practice under a license issued this board and another mental health regulatory board.

(b) The necessity of the amendment to this administrative regulation: The board recognizes that there is not a need for a licensed psychologist to differentiate the licensee's practice from that of a practice under a credential issued by another mental health regulatory board.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for certification.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in establishing the scope of practice for a psychologist and how to handle a situation where an individual is licensed by this board and another mental health regulatory board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are presently 1,021 licensed psychologists and 369 licensed psychological associates.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no actions needed to be taken for compliance 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): There is no cost associated with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and credential holders benefit by having the definitions of terms used within the regulations to clarify the regulations and put the licensee on clear notice.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

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

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Examiners of Psychology.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 319.032(1)(b), 319.050(7).

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

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Office of Occupations and Professions
Board of Licensure for Marriage and Family Therapists
(Amended After Comments)

201 KAR 32:025. Marriage and family therapist associate.

RELATES TO: KRS 335.332

STATUTORY AUTHORITY: KRS 335.320(9), 335.332(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.332(3) requires the board to promulgate administrative regulations establishing the fees and other requirements for a

marriage and family therapist associate permit. This administrative regulation establishes the requirements for marriage and family therapist associates.

Section 1. Marriage and Family Therapist Associate Application and Renewal. (1)(a) A person desiring to be a marriage and family therapist associate shall apply for and submit to the board an Application for Permit as a[~~Licensure as a Marriage and Family Therapist or~~] Marriage and Family Therapist Associate with a fee of fifty (50) dollars for the first year.

(b) The initial application shall include a copy of a supervisory contract(s)[~~contract~~] with the designated supervisor(s)[~~supervisor~~] for approval by the board.

(2)(a) An annual renewal fee of fifty (50) dollars for each subsequent year shall be submitted to the board.

(b) Contract renewal and extension shall be granted in accordance with Section 4 of this administrative regulation.

(c) **Notwithstanding previous associate experience,** effective January 1, 2016, **all current and future[~~the~~]** associate **permits[~~permit~~]** shall be limited to a total of five (5) years**[~~of practice~~]** as a marriage and family therapist associate to meet the requirements for licensure as a marriage and family therapist.**[~~An associate may submit in writing to the board a request for two (2) additional years to complete the requirements for licensure as a marriage and family therapist. Associate permit holders who have held a permit for seven (7) or more years prior to January 1, 2016, shall be granted an additional year to complete the requirements and apply for licensure as a marriage and family therapist and may submit a request in writing to the board for one (1) additional year to complete the requirements and apply for licensure as a marriage and family therapist.~~]**

(3) An associate desiring to renew a permit shall file a completed Marriage and Family Therapist Associate Permit Renewal Application[~~Form~~] and the completed supervision log(s)[~~log~~] to accompany the fee established in subsection (2) of this section.

(4) An associate who fails to renew by his or her expiration date shall have thirty (30) days to pay the renewal fee of fifty (50) dollars plus a late fee of twenty (20) dollars for a total of seventy (70) dollars.

(a) The fee shall be postmarked on or before the end of the thirty (30) day grace period in accordance with the expiration date indicated on the renewal form.

(b) Failure to renew the permit in a timely manner as established in this subsection shall result in termination of the permit.

Section 2. Supervisory Contract. (1) Prior to beginning a course of supervision for the purpose of meeting licensure requirements, a marriage and family therapist associate shall contract with an approved supervisor in writing.

(2) The approved supervisor shall enter into a Supervision Plan[~~of Supervision~~] for Clinical Experience with a person who meets the criteria for becoming a marriage and family therapist associate.

(3) The approved supervisor shall be responsible for the marriage and family therapist associate's development and the welfare of the clients served by the marriage and family therapist associate in accordance with the code of ethics established in 201 KAR 32:050 and the provisions in 201 KAR 32:035.

(4) If a new supervisory contract is entered into with a different supervisor, approval shall be obtained from the board.

(5)(a) If a supervision contract is terminated, the approved supervisor shall, within thirty (30) days, notify the board in writing that he or she is no longer the supervisor.

(b) The marriage and family therapist associate has thirty (30) days from the date of termination to submit the new supervisory contract to the board.

Section 3. Contract Information. The supervisory contract between the marriage and family therapist associate and the approved supervisor shall contain the following information:

(1) The name of the marriage and family therapist associate;

(2) The name and license number of the approved supervisor;

(3) The name and license number of any other approved supervisors;

(4) The agency, institution, or organization where the experience will be received;

(5) A detailed description of the nature of the practice including the type of:

(a) Clients to be seen;

(b) Therapies and treatment modalities that shall be used including the prospective length of treatment; and

(c) Problems or conditions that shall be treated;

(6) The nature, duration, and frequency of the supervision, including the:

(a) Number of hours of supervision per week;

(b) Amount of group and individual supervision; and

(c) Methodology for transmission of case information;

(7) The conditions or procedures for termination of the supervision; and

(8) A statement that:

(a) The approved supervisor understands that he or she shall be accountable to the board for the care given to the marriage and family therapist associate's clients; and

(b) The approved supervisor and other supervisors meet the criteria established in 201 KAR Chapter 32.

Section 4. Contract Renewal and Extension. (1) Upon approval of the board, a supervisory contract shall be issued for a term of one (1) year.[~~There shall not be a limit on the number of extensions that may be granted a marriage and family therapist associate.~~]

(2) Upon associate permit renewal, the supervisory contract shall be reaffirmed by written correspondence from the applicant and the approved supervisor or a new supervisory[~~supervisor~~] contract shall be supplied by the applicant.

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

(a) "Application for Permit[~~Licensure~~] as a Marriage and Family Therapist Associate", 8/2015;[~~10/2011; and~~]

(b) "Supervision Plan[~~of Supervision~~] for Clinical Experience", 6/2015[~~10/2011~~];

(c) "Marriage and Family Therapist Associate Permit Renewal[~~Form~~]", 6/2015; and

(d) "Supervisory Log", Form 6/2015[~~2008~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY BADAMI, Chairperson

APPROVED BY AGENCY: September 24, 2015

FILED WITH LRC: October 13, 2015 at 4 p.m.

CONTACT PERSON: Nicole S. Biddle, Board Counsel, Asst. Attorney General, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nicole S. Biddle

(1) Provide a brief summary of: This administrative regulation sets forth the requirements of Marriage and Family Therapist associate to meet the requirements for licensure as a marriage and family therapist.

(a) What this administrative regulation does: This administrative regulation sets forth the requirements of Marriage and Family Therapist licensees and associates.

(b) The necessity of this administrative regulation: These changes are allowed under KRS 335.332 and KRS 335.320(9).

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation sets forth the requirements for marriage and family therapist licensure.

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This administrative regulation sets forth the licensure limits.

(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 limits the years an associate can practice prior to meeting the requirements for licensure as a marriage and family therapist.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because it limits the years of practice as a marriage and family therapy associate.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is consistent with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide licensees and associates with clarity regarding practice limits.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Licensed marriage and family therapists (542) and licensed marriage and family therapist associates (152).

(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: Licensees and associates shall be limited in the time they may practice as marriage and family associates.

(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 costs to licensees and associates.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will have specific time limits to practice as marriage and family therapist associates.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

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

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

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

(9) TIERING: Is tiering applied? No. Tiering was not applied as the criteria apply to all licensees

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Licensure for Marriage and Family Therapists is housed for administrative purposes within the Public Protection Cabinet Office of Occupations and Professions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.332, 335.320(9).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Expenditures will not be affected by this amendment.

(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 from this 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? N/A

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

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

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

GENERAL GOVERNMENT CABINET
Board of Licensure For Marriage And Family Therapists
(Amended After Comments)

201 KAR 32:035. Supervision of marriage and family therapist associates.

RELATES TO: KRS 335.300, 335.320(6), 335.330, 335.332

STATUTORY AUTHORITY: KRS 335.320(4), (5), (9)

NECESSITY FUNCTION AND CONFORMITY: KRS 335.320(9) requires the board to promulgate administrative regulations to implement KRS 335.300 to 335.399. KRS 335.320(4) requires the board to license applicants who satisfy the experience and educational requirements and who have paid the fee. KRS 335.320(5) requires the board to review and approve supervision contracts between marriage and family therapy associates and their approved supervisors. This administrative regulation establishes the supervision requirements for marriage and family therapy associates and their board-approved supervisors.

Section 1. Definitions. (1) "Group supervision" means supervision of three (3) to six (6) supervisees with the supervisor.

(2) "Individual supervision" means supervision of one (1) or two (2) supervisees with the supervisor.

(3) "Qualified mental health professional" means a licensed marriage and family therapist, licensed psychologist, licensed psychiatrist, licensed professional clinical counselor, or licensed clinical social worker.

(4) "Raw data" means video recorded sessions, live observation, or co-therapy with a board-approved supervisor.

Section 2. Qualifications for Board-Approved Supervisors Status. (1) Until December 31, 2015, a board-approved supervisor shall be:

(a) An American Association for[~~of~~] Marriage and Family Therapy[~~Therapists~~] (AAMFT) approved supervisor in good standing;

(b) An AAMFT supervisor candidate[~~in training~~]; or

(c) A marriage and family therapist[~~licensed in Kentucky and~~] in good standing, who is licensed in Kentucky and has[~~with~~] a minimum of five (5) years of post licensure experience in the practice of marriage and family therapy[~~; or~~

~~(d) A person licensed and in good standing with a minimum of five (5) years of experience as a marriage and family therapist in another state, and who meets the licensure requirements for Kentucky~~].

(2) Effective January 1, 2016, a board-approved supervisor shall be:

(a) An American Association for[~~of~~] Marriage and Family Therapy[~~Therapists~~] (AAMFT) approved supervisor in good standing, who is licensed in Kentucky and has a minimum of two (2) years of post licensure experience in the practice of marriage and family therapy[~~has been licensed in Kentucky for a minimum of~~

~~five (5) years~~];

(b) An AAMFT supervisor candidate in good standing who is licensed in Kentucky and has three (3) years of post licensure experience in the practice of marriage and family therapy[~~in training who has been licensed in Kentucky for a minimum of five (5) years~~]; or

(c) A marriage and family therapist[~~licensed in Kentucky and~~] in good standing, who is licensed in Kentucky and has[~~with~~] a minimum of five (5) years of post licensure experience in the practice of marriage and family therapy, with the last eighteen (18) months of experience being in Kentucky.

(3) AAMFT approved supervisors, AAMFT supervisor candidates, and non-AAMFT board approved supervisors, approved as of December 31, 2015, shall maintain their board approved status, notwithstanding the requirement of subsection (2) of this section.

(4) To obtain initial board-approved supervisor status, an applicant who is not an AAMFT supervisor or supervisor candidate[~~in training~~] in good standing shall provide proof of completion of six (6) hours of board-approved continuing education courses in supervision.

(a) The course shall be taken within the two (2) years preceding the date of application to become a board-approved supervisor.

(b) This requirement shall be in addition to the hours of continuing education required for licensure renewal.

(c) Each approved course shall be live or online and shall include:

1. Kentucky law governing the practice of marriage and family therapy, both in KRS 335.300 to 335.399 and 201 KAR Chapter 32;

2. Theories of supervision;

3. Ethical issues involved in supervision; and

4. Supervisor responsibilities such as logs, treatment planning, and recording.

(5)[~~(4)~~] To maintain board-approved supervisor status, a non-AAMFT approved supervisor shall complete at least two (2) hours of continuing education in supervision every year. These two (2) hours shall be included in the hours of continuing education required for licensure renewal.

(a) Each approved course shall be live or online and shall include:

1. Kentucky law governing the practice of marriage and family therapy, both in KRS 335.300 to 335.399 and 201 KAR Chapter 32;

2. Theories of supervision;

3. Ethical issues involved in supervision; and

4. Supervisor responsibilities such as logs, treatment planning, and recording.

(6)[~~(5)~~] To renew as a board-approved supervisor, an AAMFT approved supervisor or supervisor candidate[~~in training~~] shall complete at least one (1) hour of continuing education every year in Kentucky law governing the practice of marriage and family therapy found both in KRS 335.300 to 335.399 and 201 KAR Chapter 32. The course shall be attended live or on-line. The one (1) hour shall be included in the hours of continuing education required for licensure renewal.

Section 3. Clinical Supervision. (1) Clinical supervision shall:

(a) Be equally distributed throughout the qualifying period and shall average at least four (4) hours per month as specified in the supervision contract;

(b) Be clearly distinguishable from psychotherapy, didactic enrichment, or training activities;

(c) Focus on raw data from the supervisee's clinical work within in the last twelve (12) months;

(d) Be direct, face-to-face contact between the supervisor and supervisee, unless an alternative form of supervision has been approved by the board based on undue burden for the supervisor or supervisee such as in cases of serious illness or injury; and

(e) Continue until the supervisee is licensed by the board.

(2) The supervision process shall focus on:

(a) Accurate diagnosis of client problems leading to proficiency in applying professionally recognized nomenclature and developing a plan for treatment as established in[~~**DSM-4-TR: Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (2000), or**~~] DSM 5: Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (2013)[~~DSM-IV-TR: Diagnostic and Statistical Manual of Mental Disorders, 4th Edition (2000), or DSM-V: Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (2013)~~];

(b) Development of treatment skills appropriate to the therapeutic process;

(c) Development of sensitivity to context and issues relating specifically to the family or individual being counseled;

(d) Acknowledgment of an awareness of the use of the professional self of the therapist in the process of therapy;

(e) Increased theoretical and applied knowledge for the therapist;

(f) Acquisition of a greater depth of knowledge and range of techniques in the provision of marriage and family therapy; and

(g) Awareness of ethical issues in practice, in order to safeguard and enhance the quality of care available to marriage and family therapy clients.

Section 4. Standards for Raw Data Used for Supervision. The use of raw data in a supervision session shall constitute a minimum of fifty (50) hours of the 200 hours of required supervision.

Section 5. In a therapy session involving a board-approved supervisor and supervisee:

(1) The role of the board-approved supervisor as a supervisor or co-therapist shall be clearly defined prior to beginning a therapy session; and

(2) The supervisees shall receive credit for client contact hours and supervision hours.

Section 6. Documentation Requirements. (1) The board-approved supervisor and marriage and family therapist associate shall maintain copies of the completed Supervisory[~~Supervision~~] Log, which shall document:

(a) The frequency and type of supervision provided; and

(b) The method of supervision utilized, such as observation, dialogue and discussion, and instructional techniques employed.

(2) No more than 100 hours of supervision shall take place in group supervision.

(3) At least 100 hours shall take place in individual supervision.

Section 7. Number of Supervisees. (1) A board-approved supervisor shall not supervise more than six (6) marriage and family therapist associates at the same time, unless approved by the board.

(2) A request to supervise more than six (6) marriage and family therapist associates shall be submitted to the board for approval and shall demonstrate in writing the supervisor's plan and ability to supervise additional marriage and family therapist associates.

Section 8. Temporary Supervision. (1) In extenuating circumstances, if a marriage and family therapist associate is without supervision, the associate may continue working up to ninety (90) calendar days under the supervision of a qualified mental health professional while an appropriate board-approved supervisor is sought and a new supervision contract is submitted to the board. Extenuating circumstances include situations such as death or serious illness of the board-approved supervisor, a leave of absence by the supervisor, or the termination of the supervisor's employment.

(2)(a) Within thirty (30) calendar days of a change in status of board-approved supervision, the supervisee shall:

1. Notify the board of these circumstances; and

2. Submit, in writing, a plan for resolution of the situation.

(b) The written plan shall include:

1. The name of the temporary supervisor;

2. Verification of the credential held by the temporary supervisor;

3. An address for the temporary supervisor; and

4. A telephone number for the temporary supervisor.

Section 9. Board-approved Supervisor's Responsibilities to Clients and Supervisees. (1) A board-approved supervisor shall be responsible for ensuring the proper and appropriate delivery of marriage and family therapy services to clients.

(2) A board-approved supervisor shall be responsible for fostering the professional competence and development of the marriage and family therapist associates under his or her supervision.

(3) A board-approved supervisor shall be responsible for compliance with the code of ethics established in 201 KAR 32:050 and take steps to ensure that supervisees comply with the code of ethics as well.

Section 10. Incorporation by Reference. (1) "Supervisory Log", 6/2015["~~Supervision Log", 8/2014~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY BADAMI, Chairperson

APPROVED BY AGENCY: September 24, 2015

FILED WITH LRC: October 13, 2015 at 4 p.m.

CONTACT PERSON: Nicole S. Biddle, Board Counsel, Asst. Attorney General, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nicole S. Biddle

(1) Provide a brief summary of: This administrative regulation sets forth the requirements for supervision of marriage and family therapist associates.

(a) What this administrative regulation does: This administrative regulation sets forth the requirements of supervision of marriage and family therapist associates.

(b) The necessity of this administrative regulation: These changes are allowed under 335.320(5) and KRS 335.320(9).

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation sets forth the requirements for supervision of marriage and family therapist associates.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the supervisory requirements for a board approved supervisor.

(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 sets forth the requirements for a board approved supervisor.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because it clarifies the definition of a "board approved supervisor".

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is consistent with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide licensees and associates with clarity regarding board approved supervisors.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Board approved supervisors (approximately 100).

(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 clarifies the requirements of a board approved supervisor.

(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 costs to licensees and associates.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will have specific requirements to qualify as a board approved supervisor.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

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

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Licensure for Marriage and Family Therapists is housed for administrative purposes within the Public Protection Cabinet Office of Occupations and Professions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.320(4), (5), (9).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Expenditures will not be affected by this amendment.

(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 from 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? N/A

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

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

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

GENERAL GOVERNMENT CABINET
Office of Occupations and Professions
Board of Licensure For Marriage and Family Therapists
(Amended After Comments)

201 KAR 32:045. Examination.

RELATES TO: KRS 335.320, 335.332(1)

STATUTORY AUTHORITY: KRS 335.320(9), 335.330

NECESSITY, FUNCTION, AND CONFORMITY[~~AND~~

~~FUNCTION~~]: KRS 335.330 requires an applicant to pass a written examination prescribed by the board. This administrative regulation establishes the process for taking the examination.

Section 1. Examination for Licensure. (1) An applicant for licensure shall submit to a written examination in accordance with subsections (2) and (3) of this section.

(2) An applicant shall submit a completed Application for Permit as a Marriage and Family Therapist Associate[~~complete "Application for Licensure as a Marriage and Family Therapist." Once the application is approved by the Board, the applicant's name shall be sent to the testing agency. The applicant shall then contact the testing agency to schedule the examination~~].

(3) The applicant shall be required to pass the national exam offered through the Association of Marriage and Family Therapy Regulatory Board[~~The board shall contract with a testing agency that tests on the requirements in KRS 335.330(1) and (2) and 335.340(2). The test shall be administered to an applicant upon completion of the requirements of KRS 335.330(1) and (2) and 335.340(2). Upon receipt of the test results from the testing agency, the Board shall notify the applicant of the applicant's results~~].

(4) If an applicant for licensure fails the objective examination, the candidate shall, with payment of the required fee, be permitted[~~rescheduled~~] to retake[~~take~~] the examination[~~at its next regularly scheduled date~~].

(5) The candidate may continue to function as a marriage and family therapist associate under the supervision of the board-approved supervisor until:

(a) The examination is successfully completed;

(b) The supervisory contract is terminated; or

(c) The candidate ceases to practice as a marriage and family therapist associate and notifies the board in writing.

(6) Any request for deferment of the examination shall be made by the applicant directly to the testing agency, who shall have full discretion to grant or deny the request.

Section 2.[~~3.~~] Incorporation by Reference. (1) "Application for Permit[~~Licensure~~] as a Marriage and Family Therapist Associate", 6/2015[~~10/2011 Edition, Board of Marriage and Family Therapists~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY BADAMI, Chairperson

APPROVED BY AGENCY: September 24, 2015

FILED WITH LRC: October 13, 2015 at 4 p.m.

CONTACT PERSON: Nicole S. Biddle, Board Counsel, Asst. Attorney General, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nicole S. Biddle

(1) Provide a brief summary of: This administrative regulation sets forth the examination requirements for licensure as a marriage and family therapist.

(a) What this administrative regulation does: This administrative regulation sets forth the process for taking the board approved examination.

(b) The necessity of this administrative regulation: These changes are allowed under KRS 335.320(9).

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation sets forth the written examination requirements 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 written examination process for marriage and family therapist 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 sets forth the process for taking the written examination.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because it clarifies the definition of a "board approved supervisor".

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is consistent with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide applicants with clarity regarding the written examination.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky marriage and family therapy applicants (approximately 80 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: This amendment clarifies the requirements of a licensed marriage and family therapist.

(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 costs to licensees and associates.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees are required to take a written examination.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

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

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

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

(9) TIERING: Is tiering applied? No. Tiering was not applied as the same criteria apply to all licensees and applicants.

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 Board of Licensure for Marriage and Family Therapists is housed for administrative purposes within the Public Protection Cabinet Office of Occupations and Professions.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.330(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. Expenditures will not be affected by this amendment.

(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 from this 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? N/A

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

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

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

GENERAL GOVERNMENT CABINET
Board of Licensure of Marriage and Family Therapists
(Amended After Comments)

201 KAR 32:060. Continuing education requirements.

RELATES TO: KRS 194.540, 210.366, 335.340

STATUTORY AUTHORITY: KRS 335.320(4), (9), 335.340(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.340(7) authorizes the board to promulgate administrative regulations to establish the fees and other requirements for a permit as a marriage and family therapist and associate[~~requiring marriage and family therapists to complete continuing education requirements as a condition of renewal of their license~~]. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Accrual of Continuing Education Hours; Computation of Accrual. (1) Effective January 1, 2017, a minimum of fifteen (15) approved continuing education hours shall be accrued by each licensee and a minimum of ten (10) approved continuing education hours shall be accrued by each associate during each[~~the~~] one (1) year renewal period[~~licensure period for renewal~~].

(2) All hours shall be in [~~or related to~~] the field of marriage and family therapy as defined in KRS 335.300(4) and shall relate to the professional application of psychotherapeutic and systems theories and techniques in the delivery of services to individuals, couples, and families.

(3) Three (3) hours of the fifteen (15) hours required by subsection (1) of this section shall be accrued in the field[~~fields~~] of professional ethics.

(4) **Commencing on January 1, 2017, each licensee and associate shall be required to show proof of completion of six (6) hours of continuing education in suicide assessment, treatment, and management every six (6) years beginning January 1, 2015[~~Every six (6) years licensees and associates shall be required to show proof of completion of six (6) of the hours of continuing education on suicide assessment, treatment, and management~~]** as required by KRS 210.366. These hours shall be in addition to the requirements set forth in subsection (1) of this section unless preapproved by the board as meeting the requirements set forth in subsection (2) of this section or meets requirements of Section 2 of this administrative regulation.

(5) Within three (3) years of initial licensure or certification, all mental health professionals shall successfully complete a three (3) hour training which covers dynamics of domestic violence, elder abuse, neglect, and exploitation; effects of domestic violence and elder abuse, neglect, and exploitation on adult and child victims; legal remedies for protection; lethality and risk issues; model protocols for addressing domestic violence and elder abuse, neglect, and exploitation; available community resources and victim services and reporting requirements as required by KRS 194.540.

Section 2. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license or permit shall be directly related to the professional growth and development of marriage and family therapy practitioners and associates. They may be earned by completing any of the[~~following~~] educational activities established in this subsection.[~~:~~]

(1) Programs not requiring board review and approval. Programs from the following sources shall be deemed to be relevant to the practice of marriage and family therapy and shall be approved without further review by the board:

(a) Programs provided or approved by the American Association for Marriage and Family Therapy (AAMFT) and its state affiliates;

(b) Academic courses as defined in 201 KAR 32:010; and

(c) Continuing education programs offered by Commission on Accreditation for Marriage and Family Therapy Education accredited institutions.

(2) Programs requiring board review and approval. Programs from the following sources shall be reviewed and may be determined to be relevant and therefore subsequently approved by the board:

(a) Relevant programs may include online study courses, manualized training, and face-to-face workshops,[~~including home study courses and in-service training provided~~] by other organizations, educational institutions, or other service providers approved by the board;

(b) Relevant programs or academic courses presented by the licensee. Presenters of relevant programs or academic courses may earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course; and

(c) Relevant publications in a professionally recognized or juried publication. Credit shall not be granted except for those publications that were published within the one (1) year period immediately preceding the renewal date. A licensee shall earn one-half (1/2) of the continuing education hours required for a relevant publication. More than one (1) publication shall not be counted during each renewal period[~~; and~~

~~(d) Related areas not specifically a part of the field of marriage and family therapy may be approved for up to two (2) continuing education hours out of the fifteen (15) required if the board believes the related areas may serve to enhance the licensee's ability to practice~~].

Section 3. Continuing Education Sponsors. (1) Any entity seeking to obtain approval of a continuing education program prior to its offering shall pay the fee as established in 201 KAR 32:030, Section 7, and submit an [~~"~~]Application for Continuing Education Sponsor Approval[~~"~~] to the board at least sixty (60) days in advance of the program. The application shall include the:

(a) Type of learning activity;

(b) Subject matter;

(c) Names and qualifications of the instructors; and

(d) Number of continuing education hours offered.

(2) A continuing education activity shall be qualified for preapproval if the board determines the activity being presented:

(a) Is an organized program of learning;

(b) Pertains to subject matters which integrally relate to the practice of marriage and family therapy;

(c) Contributes to the professional competency of the licensee or associate; and

(d) Is conducted by individuals who have educational training or experience acceptable to the Board.

Section 4. Responsibilities and Reporting Requirements of Licensees and Associates. (1) Licensees and associates shall:

(a) Be responsible for obtaining required continuing education hours;

(b) Identify personal continuing education needs;

(c) Take the initiative in seeking continuing professional education activities to meet these needs; and

(d) Seek ways to integrate new knowledge, skills, and attitudes.

(2) Each person holding a license or permit shall:

(a)[~~A licensee shall be responsible for obtaining required~~

~~continuing education hours. He shall identify his own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills and attitudes. Each person holding licensure shall:~~

~~(1)~~] Select approved activities by which to earn continuing education hours;

(b) An individual licensee or associate seeking to obtain approval of a continuing education program for which the sponsor has not applied or been approved by the board may submit an application to the board for consideration. The application shall include the:

1. Agenda that is detailed, timed, and includes topics and presenters;

2. Presenter(s) bio which contains education;

3. Credentials of all presenters;

4. All presenters' experience related to topic;

5. Description of training; and

6. Objectives and goals;

(c)[~~(2) Submit to the board when applicable a request for approval for continuing education activities not approved by the board as set forth in Section 3 of this administrative regulation;~~

~~(3)~~] Maintain records of continuing education hours. Each licensee and associate shall maintain, for a period of one (1) year from the date of renewal, all documentation verifying successful completion of continuing education hours. During each[~~licensure~~] renewal period, up to fifteen (15) percent of all licensees and associates 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. Verification of continuing education hours shall not otherwise be reported to the board;

(d)[~~(4)~~] Document attendance and participation in a continuing education activity in the form of official documents including transcripts, certificates, or affidavits signed by instructors[~~, receipts for fees paid to the sponsor, or less formal evidence including written summaries of experiences that are not otherwise formally or officially documented in any way~~]. The type of documentation required shall vary depending on the specific activity submitted to the board for approval; and

(e)[~~(5)~~] Fully comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.340(7) and may result in the refusal to renew, suspension, or revocation of the license or permit[~~licensure~~].

Section 5. Carry-over of Continuing Education Hours, Prohibited. There shall not be a carry-over of continuing education hours earned in excess of those required under Section 1 of this administrative regulation into the immediately following[~~licensure~~] renewal period.

Section 6. Board to Approve Continuing Education Hours; Appeal When Approval Denied. In the event of denial, in whole or part, of any application for approval of continuing education hours, the licensee or associate shall have the right to request reconsideration by the board of its decision. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

Section 7. Waiver or Extensions of Continuing Education. (1) The board may, in individual cases involving medical disability, illness, or undue hardship as determined by the board, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the same or make the required reports.

(2) A request for waiver or extension shall be in writing[,] and submitted within the[~~ninety (90) day license~~] renewal grace period.

(3) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the licensee or associate[~~and shall be~~] accompanied by a verifying document signed by a licensed physician**, a physician's assistant, or a nurse practitioner,** and shall be received by the board within the grace period.

(4) A waiver of the minimum continuing education requirements or an extension of time within which to fulfill the continuing education requirements may be granted by the board for a period of time not to exceed one (1) calendar year.

(5) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee or associate shall reapply for the waiver or extension in writing prior to the expiration of the previous extension or waiver.

Section 8. Incorporation by Reference. (1) "Application for Continuing Education Program Sponsor Approval", 10/2011 Edition, Board of Marriage and Family Therapists, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY BADAMI, Chairperson

APPROVED BY AGENCY: September 24, 2015

FILED WITH LRC: October 13, 2015 at 4 p.m.

CONTACT PERSON: Nicole S. Biddle, Board Counsel, Asst. Attorney General, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nicole S. Biddle

(1) Provide a brief summary of: This regulation sets forth the continuing education requirements of Marriage and Family Therapy licensees and associates, including required training in suicide assessment, treatment, and management.

(a) What this administrative regulation does: This regulation sets forth the continuing education requirements of Marriage and Family Therapy licensees and associates, including required training in suicide assessment, treatment, and management.

(b) The necessity of this administrative regulation: These changes are required under KRS 210.366 and KRS 194.540.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation sets forth the requirements in Section 1.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the procedure for acquiring continuing education hours required by statute.

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

(a) How the amendment will change this existing administrative regulation: This regulation requires additional suicide and domestic violence training under KRS 210.366 and KRS 194.540.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because it sets forth the required continuing education course for licensees and associates.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is consistent with the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide licensees and associates with additional required hours of suicide and domestic abuse training.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Licensed marriage and family therapists and licensed marriage and family therapist associates.

(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: Licensees and associates shall be required to show proof of completion of six (6) hours every six (6) years in the field of suicide assessment, treatment and management and three (3) hours within three (3) years of licensure of domestic violence training as set forth in KRS 194.540.

(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 costs to licensees and associates.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The new amendment will provide necessary training for licensees and associates.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

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

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply to all licensees

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Licensure for Marriage and Family Therapists is housed for administrative purposes within the Public Protection Cabinet Office of Occupations and Professions.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.320(9), 335.320(4), 335.340(7)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Expenditures will not be affected by:

(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 from this 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? N/A

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

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

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

Revenues (+/-): N/A

Expenditures (+/-):N/A

Other Explanation: N/A

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amended After Comments)

501 KAR 6:050. Luther Luckett Correctional Complex.

RELATES TO: KRS 72.020, 72.025(5), 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 Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Luther Luckett Correctional Complex.

Section 1. Incorporation by Reference. (1) "Luther Luckett Correctional Complex policies and procedures", **October 14[~~August 7~~]**, 2015[~~November 14, 2014~~], are incorporated by reference. Luther Luckett Correctional Complex Policies and Procedures include:

LLCC 02-05-03	Inmate Canteen Committee (Amended 5/15/12)
LLCC 02-05-05	Inmate Canteen (Amended 5/15/12)
LLCC 02-06-01	Inmate Control of Personal Funds (Amended 5/15/12)
LLCC 02-06-02	Storage and Disposition of Monies Received on Weekends, Holidays and between 4 p.m. and 8 a.m. Weekdays (Amended 5/15/12)
LLCC 05-02-02	Outside Consultation and Research (Amended 5/15/12)
LLCC 06-01-01	Offender Information (Amended **10/14/15[~~8/7/15~~]**[~~9/15/14~~])
LLCC 06-02-01	Open Records (Amended 5/15/12)
LLCC 08-04-01	Fire Safety (Amended 7/10/12)
LLCC 09-14-02	Guidelines for Contractors (Amended 7/10/12)
LLCC 09-18-01	Search Plan (Amended 5/15/12)
LLCC 09-18-03	Contraband Control: Collection, Preservation, Disposition of Contraband, and Identification of Physical Evidence (Amended 5/15/12)
LLCC 09-25-01	Procedure for Maintaining Current Inmate Photographs (Amended 11/14/14)
LLCC 09-29-01	Inmate Death (Amended 7/10/12)
LLCC 10-01-01	Special Management Inmates (Amended **10/14/15[~~8/7/15~~]**[~~11/14/14~~])
LLCC 11-01-01	Dining Room Guidelines (Amended 8/7/15 [~~7/26/13~~])
LLCC 11-02-01	Food Services: Security (Amended 5/15/12)
LLCC 11-03-01	Food Services: General Guidelines (Amended 5/15/12)
LLCC 11-04-01	Food Service Meals (Amended 5/15/12)
LLCC 11-04-02	Food Service: Menu, Nutrition and Special Diets (Amended 5/15/12)
LLCC 11-05-02	Health Requirements of Food Handlers (Amended 5/15/12)
LLCC 11-06-01	Food Services: Inspections and Sanitation (Amended 8/7/15 [~~7/10/12~~])
LLCC 11-07-01	Food Services: Purchasing, Storage and Farm Products (Amended 5/15/12)
LLCC 12-01-01	Sanitation, Living Condition Standards and Clothing Issues (Amended 11/14/14)
LLCC 12-02-01	Laundry Services (Amended 7/10/12)
LLCC 12-03-01	Vermin and Insect Control (Amended 5/15/12)
LLCC 12-04-01	Personal Hygiene Items: Issuance and Replacement Schedule (Amended 5/15/12)
LLCC 13-02-01	Access to Healthcare (Amended 8/7/15 [~~5/15/12~~])
LLCC 13-02-02	Specialized Health Services (Amended 8/7/15 [~~5/15/12~~])
LLCC 13-02-03	Vision Care, Prostheses and Orthodontic Devices (Amended 8/7/15 [~~7/10/12~~])
LLCC 13-02-05	Medical Services Co-pay (Amended 8/7/15 [~~11/12/13~~])
LLCC 13-03-01	Mental Health Services (Amended 5/15/12)
LLCC 13-03-02	Use of Psychotropic Medications (Amended 5/15/12)

LLCC 13-04-01 Inmate Medical Screenings and Health Evaluations (Amended 7/26/13)
LLCC 13-04-02 Health Education and Special Health Programs (Added 7/26/13)
LLCC 13-04-06 Psychological and Psychiatric Records (Added 5/15/12)
LLCC 13-05-02 Self-Administration of Medication (Inmate) (Amended 7/26/13)
LLCC 13-06-01 Health Records (Amended 7/26/13)
LLCC 13-06-03 Notification of Inmate Family of Serious Illness, Surgery or Inmate Death (Amended 7/26/13)
LLCC 13-07-01 Serious and Infectious Diseases (Amended 7/26/13)
LLCC 13-07-02 Medical Waste Management (Amended 8/7/15 [~~5/15/12~~])
LLCC 13-08-01 Restraint Approval (Amended 5/15/12)
LLCC 13-09-01 Substance Abuse and Chemical Dependency Program (Amended 5/15/12)
LLCC 14-03-01 Inmate Legal Services (Amended 8/7/15 [~~11/14/14~~])
LLCC 15-01-02 Inmate Housing Assignment (Amended 5/15/12)
LLCC 15-01-03 Operational Procedures of the Units (Amended 5/15/12)
LLCC 15-01-04 Rules of the Unit (Amended 11/14/14)
LLCC 15-01-08 Searches and Control of Excess Property (Amended 7/26/13)
LLCC 15-01-09 Laundry Unit Services (Amended 9/15/14)
LLCC 16-01-01 Inmate Correspondence (Amended 5/15/12)
LLCC 16-01-02 Inmate Privileged or Legal Mail (Amended 5/15/12)
LLCC 16-01-03 Inmate Packages (Amended 5/15/12)
LLCC 16-02-01 Inmate Visiting (Amended 7/26/13)
LLCC 16-02-02 Extended and Special Visits (Amended 5/15/12)
LLCC 16-02-03 Restricted Visitation Privileges (Amended 5/15/12)
LLCC 16-03-04 Parole Hearings: Media and Visitors (Amended 5/15/12)
LLCC 17-01-01 Inmate Transportation, Reception and Discharge Process (Amended 5/15/12)
LLCC 17-03-01 Assessment and Orientation (Amended 8/7/15 [~~11/14/14~~])
LLCC 17-04-01 Personal Property Control (Amended 5/15/12)
LLCC 17-04-02 Missing or Stolen Inmate Personal Property (Amended 5/15/12)
LLCC 17-05-01 Appliances to Outside Dealers for Repair (Amended 7/10/12)
LLCC 18-01-01 Meritorious Housing (Amended 7/26/13)
LLCC 18-02-01 Minimum Security Unit Operations (Amended 7/26/13)
LLCC 18-02-03 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 10/14/15)
LLCC 19-01-02 Job Assignments and Dismissals (Amended 11/14/14)
LLCC 20-01-01 Educational Programs (Amended 7/26/13)
LLCC 21-01-01 Library Services (Amended 5/15/12)
LLCC 22-01-01 Recreation and Inmate Activities (Amended 9/12/14)
LLCC 22-02-01 Inmate Clubs and Organizations (Amended 8/7/15 [~~5/15/12~~])
LLCC 22-02-02 Inmate Photographs Project (Amended 8/7/15 [~~5/15/12~~])
LLCC 22-05-02 Arts and Crafts Program (Amended 8/7/15 [~~5/15/12~~])
LLCC 23-01-01 Religious Program (Amended 11/14/14)
LLCC 23-01-03 Inmate Family Emergency Notification (Amended 11/14/14)
LLCC 24-01-01 Counseling and Social Services (Amended 7/26/13)
LLCC 25-01-01 Final Release (Amended 8/7/15[~~5/15/12~~])
LLCC 26-01-01 Citizen Involvement and Volunteer Services Program (Amended 9/15/14)
LLCC 26-02-01 Use of Students (Amended 5/15/12)
LLCC 26-02-02 Student and Volunteer Identification Badges (Amended 5/15/12)
LLCC 26-03-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, Students, and Volunteers (Amended 5/15/12)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner
APPROVED BY AGENCY: September 30, 2015
FILED WITH LRC: October 14, 2015 at 4 p.m.
CONTACT PERSON**:** Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker
(1) Provide a brief summary of
(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the operation of Luther Luckett Correctional Complex regarding the rights and responsibilities of Luther Luckett Correctional Complex employees and the inmate population.
(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020 and to meet ACA accreditation requirements.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of Luther Luckett Correctional Complex.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to Luther Luckett Correctional Complex employees and the inmate population as to employee duties, inmate responsibilities, and the procedures to govern operations of the institution.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates the policies and procedures to reflect changes in operations at the institution, clarify language, make changes to conform to KRS Chapter 13A, and update ACA standards.
(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020
(c) How the amendment conforms to the content of the authorizing statutes: The statutes permit the Commissioner or her authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of Luther Luckett Correctional Complex.
(d) How the amendment will assist in the effective administration of the statutes: It makes changes to conform to Chapter 13A, to allow a clearer understanding of the policies by the Luther Luckett Correctional Complex employees and inmate population, thereby impacting the safety and security of the institution.
(3) Type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation: 229 employees of the Luther Luckett Correctional Complex, 1,101 inmates, volunteers, contract staff and all visitors to Luther Luckett Correctional Complex.
(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 institution, employees, and inmates will have to change their actions to comply with any operational changes made in the policies and procedures incorporated by reference in this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost is anticipated in implementing any of the policy changes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the institution.

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

(a) Initially: No additional cost is anticipated.

(b) On a continuing basis: No additional cost is anticipated.

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

(7) Provide an assessment to 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: No increase in fees or funding is anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation establishes fees for medical and dental copays, copies of records, and personal property repair. The amendment does not change any of the fees.

(9) TIERING: Is tiering applied No Tiering was not appropriate in this administrative regulation because the administrative regulations applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendment to this regulation impacts the operation of Luther Luckett Correctional Complex.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The regulation generally impacts prison operations. It does include a few fees or cost repayment mechanisms which in a past year generated approximately the following in revenue: medical and dental copays $8,447, records copy costs $860, and personal property repair $60.00. The funds are returned to the general fund and reallocated to DOC.

(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 revenues generated are expected to remain similar in amounts to that listed in (a).

(c) How much will it cost to administer this program for the first year? The amendment to this regulation impacts how the Luther Luckett Correctional Complex operates, but does not increase costs from what was previously budgeted to the Department of Corrections.

(d) How much will it cost to administer this program for subsequent years? The amendment to this regulation impacts how Luther Luckett Correctional Complex operates, but is not expected to increase costs from what will be budgeted to the Department of Corrections.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Amended After Comments)

505 KAR 1:100. Department of Juvenile Justice Policies and Procedures: admissions.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.069, 15A.160, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.069, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

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

(a) The "Department of Juvenile Justice Policy and Procedures Manual: Admissions", **October 15[~~July 1~~],** 2015[~~April 15, 2~~009], which includes the following:

200 Definitions[~~Classification~~](Amended **10/15/15[~~7/01/15~~]**[~~4/15/09~~]);

200.1 Classification [~~Day Treatment Admissions~~] (Amended **10/15/15[~~7/01/15~~]**[~~1/15/09~~]);

201 Day Treatment Admissions (Added **10/15/15[~~7/01/15~~]**);

202 Youth Placement Priority [~~Waiting List~~] (Amended 7/01/15[~~1/15/09~~]);

204 Daily Census and Population (Amended 7/01/15[~~1/15/09~~]);

206 Administrative Transfers (Amended **10/15/15[~~7/01/15~~]**[~~1/15/09~~]);

208 Youth Rights [~~/Orientation~~] (Amended 7/01/15[~~1/15/09~~]);

209 Youth Access to Outside Investigative Agencies (Amended 7/01/15[~~04/15/09~~]);

210 Interstate Referrals (Amended 7/01/15[~~1/15/09~~]);

211 Interstate Runaways, Escapees and Absconders (Amended 7/01/15[~~1/15/09~~]);

212 Interstate Purchase of Care (Amended 7/01/15[~~1/15/09~~]);

213 Interstate Travel (Amended 7/01/15[~~1/15/09~~]);

214 Interstate Revocations and Case Closure (Amended 7/01/15[~~1/15/09~~]); and

217 Advanced Care Unit Admissions and Release (Amended 7/01/15[~~01/15/09~~]); and

(b) The "Classification and Placement Manual", Amended **10/15/15[~~7/01/15~~]**[~~05/12/09;~~

~~(c) The "Youth Level of Service/Case Management Inventory (YLS/CMI), User's Manual", 01/13/06;~~

~~(d) The "Child and Adolescent Service Intensity Instrument (CASII)", also known as "Child and Adolescent Level of Care Utilization System (CALOCUS)", 01/13/06;~~

~~(e) The "Estimate of Risk of Adolescence Sex Offense Recidivism (ERASOR)", 01/13/06; and~~

~~(f) The "Juvenile Sex Offender Assessment Protocol (J-SOAP)", 01/13/06~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive,

Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

BOB D. HAYTER, Commissioner

APPROVED BY AGENCY: October 15, 2015

FILED WITH LRC: October 15, 2015 at 11 a.m.

CONTACT PERSON: LaDonna Koebel, Assistant General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-2738, fax (502) 573-0836.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: LaDonna Koebel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the operation of the Department of Juvenile Justice including the classification and placement of juveniles committed to the Department.

(b) The necessity of this administrative regulation: To conform to the requirements of SB 200 "2014" and the amendments to the Unified Juvenile Code as well as KRS 15A.065, 15A.0652 and 15A.069.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the management, policy and coordination of all matters relating to the classification, evaluation, and placement of juvenile committed to or detained by the Department of Juvenile Justice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By providing clear and concise direction and information to the Department of Juvenile Justice employees and the residential as to the classification, placement and transportation of youth.

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

(a) How the amendment will change this existing administrative regulation: The amendment shall bring the Department of Juvenile Justice into compliance with statutory amendments to the Unified Juvenile Code as established through SB 200 "2014".

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 15A.065, 15A.0652 and 15A.069.

(c) How the amendment conforms to the content of the authorizing statues: The amendments establish and amend practices and procedures relating to the classification, evaluations, and placement of juveniles committed to the Department of Juvenile Justice.

(d) How the amendment will assist in the effective administration of the statues: The amendment will help the Department of Juvenile Justice classify and place youth within the new statutory mandates under SB 200 and KRS 635.060 [effective July 1, 2015].

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 1,400 employees of the Department in community and residential settings, approximately 2,267 youth in all programs, and all visitors and volunteers to Department of Juvenile Justice facilities

(4) Provide analysis of how the entities identified in question (3) will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment, including: To ensure youth are placed in the least restrictive placement based on their assessed risk and treatment needs, and to provide a clearer understanding of the policies and procedures by employees and residents regarding the classification, placement, and timeframes for commitment and out of home treatment.

(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: Community staff will administer a risk and needs assessment on all adjudicated youth, residential staff and the community will have a clear understanding of the classification and placement of youth in the least restrictive placement based on their treatment needs and level risk to reoffend which is commensurate with the severity of the committing offense.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Estimated costs to the Department of Juvenile Justice to implement all policy revisions to come into compliance with the provisions of SB 200 "2014" are estimated as follows: Salaries & Staffing Costs: Approximately $847,591.00. Training Costs: Approximately $300,000.00. Validation of Risk Assessment tools: Approximately $250,000.00. CourtNet Access to AOC data to complete risk assessments: $28,200.00. Approximate Total Estimated Costs: $1,425,791.00.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Youth who are committed to the Department of Juvenile Justice will remain in placement and commitment to the Department for shorter periods of time and in the least restrictive placement which can meet their treatment needs consistent with the severity of their committing offense. The benefit to the revised classification and placement is to reduce the length of stay in out of home placements for youth, reduce the costs of out of home placements by the Department, and reduce recidivism by returning lower level offending youth to the community sooner. A child who is adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender or an offense involving a deadly weapon may only be committed for a period not to exceed twelve (12) months, and may only receive treatment in an out of home placement for up to four (4) months [unless treatment needs require additional treatment in an out of home setting, not to exceed the maximum length of commitment]. A child who is adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender or an offense involving a deadly weapon may only be committed for a period not to exceed eighteen (18) months, and may only receive treatment in an out of home placement for up to eight (8) months [unless treatment needs require additional treatment in an out of home setting, not to exceed the maximum length of commitment].

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

(a) Initially: Approximately $1,425,791.00

(b) On a continuing basis: $925,791.00

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Department of Juvenile Justice General Funds and Restricted Funds if necessary.

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

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

(9) Tiering: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as the Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) 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? Response: Department of Juvenile Justice

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Response: KRS 15A.065(1), KRS 15A.0652, KRS

15A.0654, KRS 15A.067, KRS 15A.069, KRS 600.040, KRS 605.080, KRS 605.090, KRS 605.095, KRS 605.100, KRS 605.110, KRS 605.150, KRS 610.100, KRS 635.095, KRS 635.100, KRS 635.060, KRS 635.520, KRS 640.120, KRS 645.250

(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 revised administrative regulations will only impact the Department of Juvenile Justice. The anticipated expenditures associated with implementing the provisions of SB 200 "2014" and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

(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?
Response: 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?
Response: None

(c) How much will it cost to administer this program for the first year? Response: The anticipated expenditures associated with implementing the provisions of SB 200 "2014" and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

(d) How much will it cost to administer this program for subsequent years? Response: The anticipated expenditures associated with implementing the provisions of SB 200 "2014" and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

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

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Amended After Comments)

505 KAR 1:110. Department of Juvenile Justice Policy[~~Policies~~] and Procedures Manual: program services.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 200.115, 605.150, 635.095, 635.100(7), 635.500, 635.505(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy [~~Policies~~] and Procedures Manual: Program Services", **October 15[~~July 1~~],** 2015[~~October 14, 2014~~] is incorporated by reference and includes the following:

300 Definitions (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
300.1 Programs and Services (Amended 7/01/15[~~10/14/14~~]);
300.2 Correspondence to the Court System (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
301 Intake and Orientation (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
301.1 Youth's Personal Property, Dress Code, and Facility Issued Property (Amended 7/01/15[~~10/14/14~~]);
301.2 Hair and Grooming (Amended 7/01/15[~~10/14/14~~]);
302 Individual Treatment Plan and Aftercare Plan (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
303 Treatment Team Composition, Function, and Responsibility (Amended 7/01/15[~~10/14/14~~]);
306 Treatment Track and Level[~~Phase~~] System (Amended **10/15/15[~~7/01/15~~]**[~~05/14/14~~]);
307 Counseling Services (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
308 Advanced Care Unit (Amended 7/01/15[~~10/14/14~~]);
309 Family Engagement (Amended 7/01/15[~~05/14/14~~]);
310 Family and Community Contacts: Mail, Telephone, and Visitation (Amended 7/01/15[~~10/14/14~~]);
311 Cadet Leadership and Education Program (C.L.E.P.) (Added **10/15/15[~~7/01/15~~]**);
314 Youth Council (Amended 7/01/15[~~05/14/14~~]);
315 Use of Non-Governmental Funds and Youth Activity Funds Account (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
316 Youth Allowances and Work Details (Amended 7/01/15[~~10/14/14~~]);
317 Recreation (Amended 7/01/15[~~10/14/14~~]);
318 Behavior Management (Amended 7/01/15[~~10/14/14~~]);
318.1 Graduated Responses, Sanctions, and Incentives[~~Discipline~~] (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
318.2 Disciplinary Review (Amended 7/01/15[~~10/14/14~~]);
[~~318.3 Discipline: Level 5~~][~~V~~]**[~~Youth Development Center (Amended 7/01/15~~]**[~~10/14/14~~]**[~~);~~]**
319 Staff Requirements for the Supervision of Youth (Amended 7/01/15[~~10/14/14~~]);
319.1 Facility Capacities (Amended 7/01/15[~~05/14/14~~]);
320 Transportation of Youth (Amended **10/15/15[~~7/01/15~~]**[~~05/14/14~~]);
321 Incident Reporting (Amended 7/01/15[~~10/14/14~~]);
322 Drug Screening and Testing (Amended 7/01/15[~~10/14/14~~]);
323 Isolation (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
324 Restraints (Amended 7/01/15[~~10/14/14~~]);
325 Searches (Amended 7/01/15[~~10/14/14~~]);
326 Contraband, Seizure, and Chain of Custody (Amended 7/01/15[~~10/14/14~~]);
327 Escape and Absent Without Leave (Amended 7/01/15[~~10/14/14~~]);
328 Individual Client Records (Amended 7/01/15[~~10/14/14~~]);
329 Progress Notes (Amended 7/01/15[~~10/14/14~~]);
330 Log and Shift Reports (Amended 7/01/15[~~05/14/14~~]);
331 Grievance Procedure (Amended 7/01/15[~~10/14/14~~]);
332 Authorized Leave:[~~Off-grounds Activities,~~] Day Releases[~~,~~] and Furloughs; Supervised Off-grounds Activities (Amended **10/15/15[~~7/01/15~~]**[~~10/14/14~~]);
333 Day Treatment Admissions (Amended **10/15/15[~~7/01/15~~]**[~~Added 05/14/14~~]);
334 Youth Development Centers Educational and Vocational Programming, Assessment, and Transition (Amended **10/15/15[~~7/01/15~~]**[~~5/14/14~~]);
334.1 Day Treatments: Educational Programming, Assessment, and Transition (Amended 7/01/15[~~05/14/14~~]);
334.2 Group Homes: Educational Services (Amended 7/01/15[~~10/14/14~~]);
335 Youth Development Center Educational and Vocational Records; Day Treatment Educational Records (Amended **10/15/15[~~7/01/15~~]**[~~5/14/14~~]);
339 Youth Development Center and Day Treatment Instructional Staffing (Amended 7/01/15[~~05/14/14~~]);
341 Youth Development Center and Day Treatment Evaluation of Integrated Educational and Vocational Plan (Amended 7/01/15[~~Added 05/14/14~~]);
343 Technical Education Safety (Amended 7/01/15[~~05/14/14~~]);

344 Library Services (Amended 7/01/15[~~10/14/14~~]);
345 Religious Programs (Amended 7/01/15[~~10/14/14~~]);
346.1 Youthful Offenders (Amended 7/01/15[~~Added 05/14/14~~]);
347.1 Educational and Meritorious Good Time Credit for Youthful Offenders (Amended 7/01/15[~~10/14/14~~]);
351 Youthful Offender Parole (Amended 7/01/15[~~10/14/14~~]); and
352 Youthful Offender Transfer (Amended 7/01/15[~~05/14/14~~]).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

BOB D. HAYTER, Commissioner

APPROVED BY AGENCY: October 15, 2015

FILED WITH LRC: October 15, 2015 at 11 a.m.

CONTACT PERSON: LaDonna Koebel, Assistant General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-2738, fax (502) 573-0836.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: LaDonna Koebel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the operation of the Department of Juvenile Justice including the rights and responsibilities of the Department of Juvenile Justice employees, treatment providers and the residential population, and implements revisions to Department residential treatment programs to come into compliance with revisions to the Unified Juvenile Code under SB 200 (2014).

(b) The necessity of this administrative regulation: To conform to the requirements of SB 200 (2014) and the amendments to the Unified Juvenile Code.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs every aspect of program services within residential and day treatment programs in the Department.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By providing clear and concise direction and information to the Department of Juvenile Justice employees, the residential and community population as to their duties, rights, privileges and responsibilities.

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

(a) How the amendment will change this existing administrative regulation: The amendment will bring the Department of Juvenile Justice into compliance with the amendments to the Juvenile Code, KRS Chapter 635 as amended by SB 200 [2014].

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 15A.065 and 15A.067, and to bring the Department into compliance with SB 200 [2014].

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or authorized representative to implement practices and procedures to ensure the safe and efficient operation of Department residential and day treatment programs.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will restructure residential treatment programs within the Department of Juvenile Justice to ensure that public offenders will be able to complete treatment in shorter timeframes consistent with the requirements of SB 200 [2014] and KRS 635.060 [effective July 1, 2015].

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 1,335 employees of residential programs, 353 youth in DJJ residential programs, and all visitors and volunteers to DJJ facilities.

(4) Provide analysis of how the entities identified in question (3) will be impacted by the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The amendments provide policies and procedures which provide for reduced timeframes in out of home placement by restructuring the residential treatment for public offenders, ensuring use of graduated sanctions, and less out of home treatment for the lowest level offenders.

(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: DJJ residential programs will need to update their facility Standard Operating Procedures to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each program will absorb the cost of updating procedures and training staff on updated policies. Estimated costs to the Department of Juvenile Justice to implement all policy revisions to come into compliance with the provisions of SB 200 [2014] are estimated as follows: Salaries & Staffing Costs: Approximately $847,591.00. Training Costs: Approximately $300,000.00. Validation of Risk Assessment tools: Approximately $250,000.00. CourtNet Access to AOC data to complete risk assessments: $28,200.00. Approximate Total Estimated Costs: $1,425,791.00.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Youth who are committed to the Department of Juvenile Justice will remain in placement and commitment to the Department for shorter periods of time and in the least restrictive placement which can meet their treatment needs consistent with the severity of their committing offense. The benefit to the revised policies for the residential population is to reduce the length of stay in out of home placements for youth, reduce the costs of out of home placements by the Department, and reduce recidivism by returning lower level offending youth to the community sooner. Under the provisions of SB 200 [2014], a child who is adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender or an offense involving a deadly weapon may only be committed for a period not to exceed twelve (12) months, and may only receive treatment in an out of home placement for up to four (4) months [unless treatment needs require additional treatment in an out of home setting, not to exceed the maximum length of commitment]. A child who is adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender or an offense involving a deadly weapon may only be committed for a period not to exceed eighteen (18) months, and may only receive treatment in an out of home placement for up to eight (8) months [unless treatment needs require additional treatment in an out of home setting, not to exceed the maximum length of commitment].

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

(a) Initially: Approximately $1,425,791.00

(b) On a continuing basis: $925,791.00

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Department of Juvenile Justice General Fund and Restricted Funds if necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None

(9) Tiering: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due

process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as the Sections 2 and 3 of the Kentucky Constitution.

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? Response: Department of Juvenile Justice

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Response: KRS 15A.065(1), KRS 15A.0652, KRS 15A.0654, KRS 15A.067, KRS 600.040, KRS 605.090, KRS 605.095, KRS 605.100, KRS 605.110(3), KRS 605.150, KRS 635.060, KRS 635.095, 635.100, 635.520, KRS 640.120, KRS 645.250

(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 revised administrative regulations will only impact the Department of Juvenile Justice. The anticipated expenditures associated with implementing the provisions of SB 200 [2014] and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

(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? Response: 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? Response: None

(c) How much will it cost to administer this program for the first year? Response: The anticipated expenditures associated with implementing the provisions of SB 200 [2014] and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

(d) How much will it cost to administer this program for subsequent years? Response: The anticipated expenditures associated with implementing the provisions of SB 200 [2014] and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

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

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Amended after Comments)

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

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, 635.100[~~(7)~~], 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095, 635.100, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Juvenile Services in Community", **October 15[~~July 1~~]**, 2015[~~February 10, 2014~~], is incorporated by reference and includes the following:

600 Definitions (Amended 7/01/15[~~2/10/14~~]);
601 Initial Contact &[~~and~~] Court Support for Public Offenders (Amended **10/15/15[~~7/01/15~~]**[~~2/10/14~~]);
601.1 Initial Contact &[~~and~~] Court Support for Youthful Offenders (Amended 7/01/15[~~11/14/13~~]);
601.2 Case Management Screens and Assessments (Added **10/15/15[~~7/01/15~~]**);
602 Individual Client Record (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
603 Service Complaints (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
604 Case Planning and Participation in Treatment Planning[~~Individual Treatment Plan~~] (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
605 Community Supervision (Amended **10/15/15[~~7/01/15~~]**[~~2/10/14~~]);
606 Probation of Public Offenders (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
607 Commitment of Public Offenders (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
608 Drug Screening and Confirmation Testing (Amended 7/01/15[~~11/14/13~~]);
609 Youth's[~~Children's~~] Benefits (Amended 7/01/15[~~11/14/13~~]);
609.1 Title IV-E Federal Foster Care Maintenance Payments (Amended 7/01/15[~~2/10/14~~]);
609.2 Trust Funds (Amended 7/01/15[~~11/14/13~~]);
610 Transportation of Committed Youth (Amended 7/01/15[~~11/14/13~~]);
610.1 Out-of-State Travel (Amended **10/15/15[~~7/01/15~~]**[~~2/10/14~~]);
611 Electronic Monitoring (Amended 7/01/15[~~11/14/13~~]);
612 Authorized Leave for Public Offenders**, Juvenile Sexual Offenders,** and Youthful Offenders in Placement (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
613 Supervised Placement Revocation (Amended 7/01/15[~~11/14/13~~]);
[~~614 Intensive Aftercare Program (Amended 11/14/13)~~]
615 Juvenile Intensive Supervision Team (JIST) (Amended 7/01/15[~~11/14/13~~]);
616 Youthful Offenders-Confined, Shock Probated, and Transferred to the Department of Corrections (Amended 7/01/15[~~11/14/13~~]);
616.1 Probation of Youthful Offenders (Amended 7/01/15[~~11/14/13~~]);
616.2 Parole of Youthful Offenders (Amended 7/01/15[~~11/14/13~~]);
617 Incident Reports (Amended 7/01/15[~~11/14/13~~]);
618 AWOL or Escape (Amended 7/01/15[~~11/14/13~~]);
620 Use of Self-Protection Skills[~~Force and Searches~~] (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
621 Mental or Behavioral Health Services, Referrals, and Psychiatric Hospitalization (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]);
622 Community Mental Health Operations (Amended **10/15/15[~~7/01/15~~]**[~~11/14/13~~]); and
623 Health and Safety for Community and Mental Health Services (Amended 7/01/15[~~2/10/14~~]).

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BOB D. HAYTER, Commissioner
APPROVED BY AGENCY: October 15, 2015
FILED WITH LRC: October 15, 2015 at 11 a.m.

CONTACT PERSON: LaDonna Koebel, Assistant General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-2738, fax (502) 573-0836.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: LaDonna Koebel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the community operations of the Department of Juvenile Justice including the assessment, supervision and case management of juveniles probated or committed to the Department.

(b) The necessity of this administrative regulation: To conform to the requirements of SB 200 "2014" and the amendments to the Unified Juvenile Code as well as KRS 15A.065, 15A.0652, KRS 15A.067, KRS 605.150, KRS 635.095 and KRS 635.100.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation governs every aspect of the program services for the community population of the Department of Juvenile Justice.

(d) How this administrative regulation currently assists, or will assist, in the effective administration of the statutes: By providing clear and concise direction and information to the Department of Juvenile Justice employees and the community population as to their duties, rights, privileges, and responsibilities.

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

(a) How the amendment will change this existing administrative regulation: The amendment shall bring the Department of Juvenile Justice into compliance with statutory amendments to the Unified Juvenile Code as established through SB 200 "2014".

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 15A.065, KRS 15A.0652, 15A.067, 605.150, 635.095 and 635.100 and come into compliance with statutory amendments to the Unified Juvenile Code as established through SB 200 "2014".

(c) How the amendment conforms to the content of the authorizing statutes: The policy revisions update the practices or procedures to ensure youth committed or probated to the Department of Juvenile Justice are properly served. Revises timeframes for supervision and commitment and responsibilities of community and mental health staff.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will help the Department of Juvenile Justice to operate consistent with statutory revisions implanted under SB 200 "2014" and amendments to KRS Chapter 635 which become effective July 1, 2015.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 250 employees of the Department of Juvenile Justice, approximately 1,800 youth in all programs, and all visitors and volunteers to Department of Juvenile Justice.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: By providing and implementing these policies and procedures, the Department of Juvenile Justice will be providing services more effectively and consistently. Policy amendments will ensure that youth are placed and supervised in the least restrictive placement based on their assessed risk and treatment needs, and to provide staff a clearer understanding of the timeframes for commitment and out of home treatment.

(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: Community staff will administer a risk and needs assessment on all adjudicated youth. Agency employees will provide services to the youth in the community and all programs in accordance with the procedures outlined in the regulation and the materials incorporated by reference.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Estimated costs to the Department of Juvenile Justice to implement all policy revisions to come into compliance with the provisions of SB 200 "2014" are estimated as follows: Salaries & Staffing Costs: Approximately $847,591.00. Training Costs: Approximately $300,000.00. Validation of Risk Assessment tools: Approximately $250,000.00. CourtNet Access to AOC data to complete risk assessments: $28,200.00. Approximate Total Estimated Costs: $1,425,791.00

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Youth who are committed to the Department of Juvenile Justice will remain in placement and commitment to the Department for shorter periods of time and in the least restrictive placement which can meet their treatment needs consistent with the severity of their committing offense. The benefit to the revised classification and placement is to reduce the length of stay in out of home placements for youth, reduce the costs of out of home placements by the Department, and reduce recidivism by returning lower level offending youth to the community sooner.

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

(a) Initially: Approximately $1,425,791.00

(b) On a continuing basis: $925,791.00

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Juvenile Justice General Fund and Restricted Funds if necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None.

(8) State whether or not this administrative regulation established any fees, or directly or indirectly, increased any fees: None

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated, as well as the Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) 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? Response: Department of Juvenile Justice

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Response: KRS 15A.065, KRS 15A.0652, KRS 15A.067, KRS 15A.160, KRS 15A.210, KRS 15A.305(5), KRS 200.115, KRS 605.150, KRS 635.060, KRS 635.095, KRS 635.100, KRS 640.120, and KRS 645.250.

(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 revised administrative regulations will only impact the Department of Juvenile Justice. The anticipated expenditures associated with implementing the provisions of SB 200 "2014" and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

(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? Response: 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? Response: None.

(c) How much will it cost to administer this program for the first year? Response: The revised administrative regulations will only impact the Department of Juvenile Justice. The anticipated expenditures associated with implementing the provisions of SB 200 "2014" and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

(d) How much will it cost to administer this program for subsequent years? Response: The revised administrative regulations will only impact the Department of Juvenile Justice. The anticipated expenditures associated with implementing the provisions of SB 200 "2014" and revisions to the Unified Juvenile Code are approximately $1,425,791.00 for the first year and $925,791.00 annually thereafter.

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

Revenues (+/-): No revenue will be generated from this regulation.

Expenditures (+/-): Expenditures relate to training staff and auditing programs to ensure compliance.

Other Explanation: This regulation will provide a clear and concise policies and procedures for all youth receiving services from the Department of Juvenile Justice, and reflect the treatment and practice of the agency.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(Amended After Comments)

601 KAR 1:113. Transportation Network Company.

RELATES TO: KRS 17.500, 61.878(1)(c)1., 61.930(6), 61.931(6), 186.050, 186.281, 189.290, 189A.010, 281.600, 281.630, 281.6301, 281.631, 281.640, 281.650, 281.655, 281.656, 281.912, 281.990, 304.3-070, 304.10-010-304.10-070, 304.39-020(2), 304.39-040, 304.39-320, 532.060

STATUTORY AUTHORITY: KRS 281.600, 281.630, 281.655

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Department of Vehicle Regulation to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor carriers. KRS 281.630 authorizes the department to establish requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to establish standards for pre-trip acceptance policies and prearranged ride liability policies for transportation network companies. This administrative regulation establishes the standards and application requirements for a transportation network company to operate in Kentucky.

Section 1. Definitions. (1) "Basic reparation benefits" is defined by KRS 304.39-020(2).

(2) "Certificate" is defined by KRS 281.010(8).

(3) "Driver" is defined by KRS 281.010(20).

(4) "Mobile application" is defined by KRS 281.010(30).

(5) "Motor carrier" is defined by KRS 281.010(31).

(6) "Motor carrier vehicle" is defined by KRS 281.010(32).

(7) "Operating Authority" means the authority granted to operate as a TNC in the commonwealth through the application process with the department.

(8) "Passenger" is defined by KRS 281.010(36).

(9) "Personal information is defined by KRS 61.931(6)

(10) "Prearranged ride" is defined by KRS 281.010(39).

(11) "Pre-trip acceptance liability policy" is defined by KRS 281.010(40).

(12) "Regular seat" is defined by KRS 281.010(44).

(13) "Street hail" is defined by KRS 281.010(45).

(14) "Transportation network company" or "TNC" is defined by KRS 281.010(51).

(15) "Transportation network company driver" or "TNC driver" is defined by KRS 281.010(53).

(16) "Transportation network company service" or "TNC service" is defined by KRS 281.010(54).

(17) "Transportation network company vehicle" or "TNC vehicle" is defined by KRS 281.010(55).

(18) "Underinsured vehicle coverage" is defined by KRS 304.39-320(1).

(19) "Uninsured vehicle coverage" is defined by KRS 304.20-020(2).

Section 2. Application and Renewal. (1) A TNC shall register as a business organization with the Kentucky Secretary of State unless the applicant is a sole proprietor.

(2) The department may waive the filing of the certificate of assumed name if a TNC:

(a) Demonstrates compliance with the relevant provisions of KRS Chapter 365;

(b) Certifies in writing to the department that Kentucky law either prohibits or does not require the filing; and

(c) States the reasons in writing why the filing is not required.

(3) In order to apply for a certificate to operate, a TNC shall submit **directly** to the Division of Motor Carriers:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of $250 pursuant to KRS 281.630(3)(b); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(4) **A TNC with fifty-one (51) or more vehicles may qualify vehicles to operate by providing to the department through an online data access point:**

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of $250 pursuant to KRS 281.630(3)(b); and

(c) A calendar year bulk qualification fee pursuant to the following schedule:

1. $3,000 for fifty-one (51) to 100 vehicles;
2. $4,500 for 101 to 150 vehicles;
3. $6,000 for 151 to 200 vehicles;
4. $7,500 for 201 to 250 vehicles;
5. $9,000 for 251 to 300 vehicles;
6. $10,500 for 301 to 350 vehicles;
7. $12,000 for 351 to 400 vehicles;
8. $15,000 for 401 to 500 vehicles; and
9. $22,500 for 501 or more vehicles.

(5) A TNC shall annually submit the following to the Division of Motor Carriers to renew a certificate:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605;

(b) A certificate renewal fee of $250 pursuant to KRS 281.630(4)(d); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle **prorated for the month the vehicle is qualified** pursuant to KRS 281.631(3)(a)1. and (8).

(6) If a TNC elects to use the bulk vehicle registration payment option in the TNC's initial or renewal TNC application, the TNC shall not be required to submit additional vehicle qualification information and fees to the Division of Motor Carriers in connection with vehicles that are added during the duration of the period for which the bulk payment was made.

(7) A TNC shall pay a renewal bulk fee by December 15 of each calendar year.

(8)[~~(5)~~] A TNC vehicle shall be added by submitting the following to the Division of Motor Carriers:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605; and

(b) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(9)[~~(6)~~] An application may be submitted electronically, by mail, or by hand delivery.

(10)[~~(7)~~] Operating authority obtained pursuant to this section shall not be transferable.

(11)[~~(8)~~] The TNC shall submit the following documents if submitting an application for certificate, annual renewal, or adding a driver during the year:

(a) An affidavit from the corporate officer in charge of Kentucky operations certifying that the national criminal background check of TNC drivers established in KRS 281.630 and 281.6301 shall be completed prior to allowing the TNC driver to accept rides through the TNC mobile application; and

(b) One (1) copy of the current contractual agreement between the TNC and TNC drivers.

(12)[~~(9)~~] 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) A TNC shall maintain primary automobile insurance that:

(a) Recognizes that a driver is a TNC driver or using a vehicle to transport passengers for compensation; and

(b) Provides insurance coverage for a TNC driver who is:

1. Logged on to the TNCs mobile application; or

2. Engaged in a prearranged ride.

(2) The following pre-trip acceptance liability automobile insurance requirements shall apply if a TNC driver is logged on to the TNC's mobile application and available to receive transportation requests but not engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(12);

(b) Basic reparation benefits **in accordance with KRS 304.39-020**;

(c) Uninsured vehicle coverage **in accordance with KRS 304.20-020**; and

(d) Underinsured vehicle coverage **in accordance with KRS 304.39-320**.

(3) The pre-trip acceptance liability insurance coverage requirements of KRS 281.655(12) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(4) The following automobile insurance requirements shall apply while a TNC driver is engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(4);

(b) Basic reparation benefits **in accordance with KRS 304.39-020**;

(c) Uninsured vehicle coverage **in accordance with KRS 304.20-020**; and

(d) Underinsured vehicle coverage **in accordance with KRS 304.39-320**.

(5) The prearranged ride liability insurance coverage requirements of KRS 281.655(4) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(6) If the insurance maintained by a TNC driver has lapsed or does not provide the required coverage, the TNC shall provide the required insurance coverage beginning with the first dollar of a claim. The TNC shall have the duty to defend a claim for damages.

(7) Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer or policy first denying a claim.

(8) The insurance required by this section shall be placed with 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.

(9) A TNC driver shall carry proof of insurance coverage satisfying KRS Chapter 304, KRS 281.655, and this administrative regulation during his or her use of a vehicle in connection with a TNC's mobile application. In the event of an accident, and upon request, a TNC driver shall provide this insurance coverage information directly to interested parties, automobile insurers, and investigating police officers.

(10) A TNC driver shall disclose directly to interested parties, automobile insurers, the department, and investigating police officers, whether he or she was logged on to the TNC's mobile application or on a prearranged ride at the time of an accident.

Section 4. Insurance Exclusions. (1) A Kentucky automobile insurer may exclude the following coverage under a TNC driver's insurance policy for loss or injury that occurs while a TNC driver is logged on to a TNC's mobile application or while a TNC driver provides a prearranged ride:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage as established in KRS Chapter 304;

(c) Uninsured and underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

(2) Nothing in this administrative regulation shall require a personal automobile insurer to provide coverage while a driver is:

(a) Logged on to the TNC mobile application;

(b) Engaged in a prearranged ride; or

(c) Using a vehicle to transport passengers for compensation.

(3) Nothing in this administrative regulation shall preclude an insurer from providing coverage for the TNC driver's vehicle.

(4) An automobile insurer whose policy excludes coverage for a TNC vehicle or TNC driver shall have no duty to defend or indemnify a claim for personal or property damages.

(5) An automobile insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver.

(6) In a claims coverage investigation, the TNC and an insurer potentially providing coverage shall cooperate to facilitate the exchange of relevant information with directly involved parties.

(7) Information relevant to a claims coverage situation may include:

(a) The name of the insurer or potential insurer of the TNC driver;

(b) The precise times the TNC driver logged off and on the TNC mobile application in the twelve (12) hour period immediately before and after the incident; and

(c) A complete description of the insurance coverage including the exclusions and limits.

Section 5. 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 submitting the fees required 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 inspection **approved** by an automotive technician who holds a valid automotive service excellence (A.S.E.) certification from the National Institute for Automotive Service Excellence.

(3) The annual inspection shall be completed on one (1) of the following forms:

(a) The vehicle inspection form provided in Transportation Network Company Authority Application, TC 95-627;

(b) Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605; or

(c) An equivalent form provided by the TNC and approved by the Division of Motor Carriers.

(4) 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.

(5) 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 personal or proprietary information pursuant to KRS 61.878(1)(c)1 and 61.931(6).

(6) A vehicle used to provide TNC services shall be readily identifiable by the following:

(a) A **company specific emblem or** decal affixed to the front windshield on the passenger side of the vehicle provided by the **TNC**~~[department to the TNC to distribute to qualified vehicles]~~; **and**

(b) **An electronic copy of the current TNC certificate**~~[An optional decal or trade dress that is company specific and issued by the TNC; and~~

~~(c) A vehicle fee receipt card that shall be presented on inspection]~~.

(7) A driver who is no longer providing TNC service shall **destroy or** return the~~[department issued]~~ decal **or emblem**~~[and the vehicle fee receipt card]~~ to the TNC~~[who shall return it to the Division of Motor Carriers]~~.

(8) 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 6. TNC Drivers. (1) A TNC shall require each driver to undergo a national criminal background check before providing TNC services pursuant to KRS 281.6301.

(2) The TNC shall certify the criminal background check during the application process established in 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;

(b) Is the owner or lessee of the TNC vehicle or has a statement from the registered owner authorizing the use of the vehicle for TNC services pursuant to KRS 281.631;

(c) Is listed as an insured of the TNC vehicle;

(d) Has a valid state-issued driver's license and vehicle registration;

(e) Has personal automobile insurance coverage as established in Section 3 of this administrative regulation;

(f) Has completed an annual driver safety training course approved by the department;

(g) Provides a written or electronic affirmation that he or she is fit and able to operate a motor vehicle to provide TNC services; and

(h) 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**; and**

(j) A copy of the most current vehicle inspection.

Section 7. 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; and

(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) The expected cost of the trip if requested by a potential passenger;

(b) The first name and a photograph of the TNC driver accepting the ride request; and

(c) 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 8. 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 9. Penalties. (1) A TNC that operates in violation of the requirements of this administrative regulation shall be fined $200 pursuant to KRS 281.990(1).

(2) A TNC that operates in violation of the terms of its certificate or permit or operates without a valid permit shall be fined $500 per occurrence pursuant to KRS 281.990(2).

(3) A TNC that fails to produce requested records and information pursuant to KRS 281.820 within forty-eight (48) hours of the request by the department shall be fined $200.

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

(a) "Transportation Network Company Authority Application," TC 95-627, November, 2014; and

(b) "Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application," TC 95-605, May, 2015.

(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, 8:00 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: October 14, 2015

FILED WITH LRC: October 14, 2015 at 3 p.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. KRS 281.630 authorizes the department to establish the requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to set standards for pre-trip acceptance liability policies and prearranged ride liability insurance policies for transportation network company vehicles.

(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:

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 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 281.630.

(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: Fees shall be pursuant to statute.

(9) TIERING: Is tiering applied? Yes. A vehicle qualification fee for a TNC is tiered pursuant to the number of vehicles for qualification.

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, 281,630, 281.655

(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 toexplain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amended After Comments)

804 KAR 4:015. Interlocking substantial interest between licensees prohibited.

RELATES TO: KRS 243.030, 243.040, 243.110, 244.240, **244.570,** 244.590

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 241.060, the board has authority to promulgate administrative regulations regarding matters over which the board has jurisdiction. The control of alcoholic beverages in the Commonwealth of Kentucky, as codified in Chapters 241 - 244 of the Kentucky Revised Statutes, has been established by the Kentucky legislature as a "three tiered" system. The three (3) tiers of this system are designated as manufacturer/producer[~~producer~~], wholesaler[~~wholesale~~]/distributor, and retailer[~~retail~~]. Each of these three (3) levels operates[~~operate~~] separately**, distinctly,** and apart from each other for the purpose of control. In order for this control to be effectively administered by this board, it is necessary to prevent any type of interlocking substantial interest by and among[~~between~~] the three (3) separate **tier** levels. The purpose of this administrative regulation is to **provide additional detail regarding incompatible licenses and prohibited[~~describe~~]**[~~clarify the~~] interlocking substantial interests **among the tiers[~~which will be prohibited by this board~~]**.

Section 1. Definitions. As used in this administrative regulation unless otherwise specified:

(1) "Manufacturer" means any person **or entity** who is a distiller, rectifier, blender, winery, brewer, or who **otherwise** produces alcoholic beverages,[~~"Manufacturers" include distillers, rectifiers, blenders, wineries, and brewers~~] whether located within or without this state.

(2) "Retailer" means any person **or entity** who sells alcoholic beverages at retail, whether located within or without this state, excepting manufacturers with limited retail privileges **or the right to hold certain retail licenses**.

(3) "Substantial interest" means:

(a) **Membership in, or** a direct or indirect ownership interest in,**[~~or membership in,~~]**a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity, **whether individually, or by a spouse, or in combination with a spouse,** which amounts to **ten (10)[~~five (5)~~]** percent or greater of the total ownership or membership interests;

(b) A common officer, director,**[~~or~~]** manager**, or employee with managerial responsibilities,** in a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity;

(c) A common owner, partner, or member, including **a spouse[~~an immediate family member~~]**, the aggregate share of which is **ten (10)[~~five (5)~~]** percent or greater of the total ownership of, or membership in, a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity; **or**

(d) Any other direct or indirect interest which provides an ability to control **or influence** decisions by a business, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or other legal entity.

(4) "Wholesaler" means any person **or entity** who is a wholesaler, distributor, or who sells alcoholic beverages at wholesale[~~"Wholesalers" include wholesalers of distilled spirits and wine and distributors of malt beverages~~], located within this state.

Section 2. No manufacturer**[~~, or their immediate family members,~~]**[~~of distilled spirits or wine~~] shall have or acquire a substantial interest[~~a financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation,~~] in the establishment, maintenance, or operation of[~~in~~] the business of a [~~liquor and wine~~] wholesaler or a retailer. No manufacturer**[~~, or their immediate family members,~~]** shall have or acquire, by ownership, leasehold, mortgage, or otherwise, directly or indirectly, a **substantial[~~financial~~]** interest in the premises of a retailer.

Section 3. No[~~manufacturer or~~] wholesaler**[~~, or their immediate family members,~~]** shall have or acquire a substantial interest [~~a financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation, or otherwise,~~] in the establishment, maintenance, or operation of[~~in~~] the business of a manufacturer or retailer. No[~~A manufacturer or~~] wholesaler**[~~, or their immediate family members,~~]** shall have or[~~not~~] acquire, by ownership, leasehold, mortgage, or otherwise, directly or indirectly, a **substantial[~~financial~~]** interest in the premises of a retailer.

Section 4. No retailer**[~~, or their immediate family members,~~]** shall have or acquire a substantial interest in the establishment, maintenance, or operation of the business of a manufacturer or wholesaler.

Section 5. The malt beverage administrator and[~~or~~] distilled spirits administrator**, as appropriate,** shall[~~may~~] examine **every applicant for a new or renewal license to determine whether issuance or renewal of the license is prohibited under applicable law or this administrative regulation. If the issuance or renewal of the license is prohibited, the appropriate administrator shall not issue or renew the license[~~the ownership and management of new applicants or existing licensees to determine the presence of any substantial~~]**[~~an interlocking~~]**[~~interest herein prohibited prior to issuance or renewal of licenses~~]**.

Section 6.[~~5.~~] This administrative regulation shall not apply to**:**

(1) Prohibit any affiliated business arrangement which meets the requirements provided in 804 KAR 4:280, Section 2;

(2) A license issued prior to June 24, 2015, for any prohibited substantial interests resulting from the ownership interests of a spouse; or

(3) A license[~~licenses~~] issued prior to December 1, 1976.

FREDERICK A. HIGDON, Commissioner
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: October 14, 2015

FILED WITH LRC: October 15, 2015 at 11 a.m.

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 administrative regulation addresses impermissible interlocking interests.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define impermissible substantial interlocking interests among the various tiers of Kentucky's three-tier alcohol distribution system.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 241.060 authorizes the board to promulgate regulations relating to the supervision and control of the manufacture, sale, transportation, and trafficking of alcoholic beverages, and all other matters over which the board has jurisdiction.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes. This administrative regulation will assist the board and the licensees with determining what interactions are impermissible as among the tiers.

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

(a) How the amendment will change this existing administrative regulation: The amendment adds definitions and it also defines what interests are impermissible among the three tiers.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with statutory changes which take effect on June 24, 2015.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment addresses activities that the board is directly authorized to regulate pursuant to KRS 241.060.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist the board and the licensees with determining what interlocking substantial interests are impermissible as among the tiers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All licensees were previously affected by this regulation. The amendments will specifically address interlocking substantial interests that are impermissible between malt beverage producers and distributors.

(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 licensees will have to ensure that they are in compliance with the statutory requirements which pertain to their license in order for their license to be renewed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are not expected to be any additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There are no financial benefits to this administrative regulation amendment.

(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 amend 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 amendment 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 amend this administrative regulation.

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

(9) TIERING: Is tiering applied? No tiering is applied because this regulation applies equally to the regulated entities.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments or school districts) will be impacted by this administrative regulation? The Department of Alcoholic Beverage Control is the only government agency 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 and KRS 243.110 establishes incompatible license types.

(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. Expenditures are not expected to increase. No 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.

PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amended After Comments)

820 KAR 1:027. Quarterly reports of a licensed distributor[~~and a licensed manufacturer~~].

RELATES TO: KRS 238.530, 238.560(3)

STATUTORY AUTHORITY: KRS 238.515(4), (9), 238.530(5), 238.560(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.530(5) authorizes the department to promulgate an administrative regulation to require a licensed distributor**[~~and a licensed manufacturer~~]** to report all activities relating to the sale, rental, lease or furnishing of charitable gaming supplies and equipment[~~furnished~~]. This administrative regulation establishes the method and time of filing the required reports.

Section 1. Quarterly Reports. A quarterly report shall:

(1) Be submitted on Form CG-DIS**[~~for a licensed distributor, or Form CG-MAN for a licensed manufacturer~~]**;

(2) Be submitted for each quarter that the distributor**[~~or manufacturer~~]** is licensed;

(3) Be completed in ink or typed;

(4) Include the original signature and printed name or, if submitted electronically, the typewritten name of the chief executive officer of the license holder; and

(5) Include the original signature and printed name or, if submitted electronically, the typewritten name of the preparer, if prepared by an individual other than the chief executive officer.

Section 2. Reporting Period Defined. (1)(a) A complete, accurate, legible, and verifiable quarterly report, in accordance with Section 1 of this administrative regulation, shall be submitted by a licensed distributor**[~~or licensed manufacturer~~]** on or before the following dates:

1. April 30, for the quarter January 1 to March 31;
2. July 31, for the quarter April 1 to June 30;
3. October 31, for the quarter July 1 to September 30; and
4. January 31, for the quarter October 1 to December 31.

(b) If the due date is on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(2) The report shall be considered filed when due if it has been:

(a) Mailed to the department by first class mail, postage prepaid, to the correct address and postmarked by the due date;

(b) Received in the department by hand-delivery on or before the due date; or

(c) Received by the department electronically on or before the due date.

Section 3. Incorporation by Reference. (1)**[~~The following material is incorporated by reference:~~**

~~(a)~~] Form CG-DIS, "Licensed Charitable Gaming Distributor Quarterly Report", 5/15**, is incorporated by reference[~~; and~~**

~~(b) Form CG-MAN, "Licensed Charitable Gaming Manufacturer Quarterly Report", 5/15~~][~~11/13, is incorporated by reference~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Charitable Gaming, Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT JONES, Commissioner
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: October 14, 2015

FILED WITH LRC: October 15, 2015 at 11 a.m.

CONTACT PERSON: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires licensed charitable gaming distributors to file quarterly financial reports with the Department of Charitable Gaming in order for the department to be specifically apprised of all charitable gaming supplies being distributed in the state and which organizations they are going to.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to enable the department to be accurately and currently apprised of precisely what charitable gaming supplies are being distributed to distributors and licensed charitable organizations in Kentucky. Organizations are prohibited by law from purchasing charitable gaming supplies from non-licensed entities. All charitable gaming supplies are inventoried and contain identifying and tracking information. Quarterly reports by distributors enable the department to track charitable gaming supplies and ensure all gaming supplies utilized in the state are legal.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in order to carry out and implement KRS Chapter 238. KRS 238.530(5) authorizes the department to require licensed distributors to report on their activities, with the frequency and content of those reports to be determined by administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The department is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. In order to meet that responsibility, the department must have the means to monitor and track what gaming supplies are being distributed and to whom.

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

(a) How the amendment will change this existing administrative regulation: This amendment to the regulation updates the distributor report to include electronic pulltabs.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to the report to include electronic pulltabs.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. KRS 238.530(5) authorizes the department to require licensed distributors to report on their activities, with the frequency and content of those reports to be determined by administrative regulation. This amendment therefore conforms to the content of the authorizing statute.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the regulation will assist the department in knowing and tracking charitable gaming supplies and equipment, specifically electronic pulltabs and devices, being used in the Commonwealth in order to make sure the supplies and equipment being used in the state are from licensed manufacturers and distributors.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected by this administrative regulation: The sixteen (16) licensed distributors of charitable gaming supplies that are currently licensed in Kentucky if those distributors are distributing electronic pulltabs and devices. They are already filling out this report, this just incorporates electronic versions of paper pulltabs.

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

(a) List the actions that each of the regulated entities identified in Question (3) will have to take to comply with this administrative regulation or amendment: Distributors will file the same report as currently required but will be required to report on electronic pulltabs and devices as well.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities involved in Question (3): There should be no additional cost to distributors.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): Licensed distributors will simply meet their obligations under the law and will also be protected from illegal supplies and equipment coming into the state.

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

(a) Initially: There will be no additional cost.

(b) On a continuing basis: The cost will be the same on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: Currently there is no additional funding requested to implement the amendment to the administrative regulation.

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

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

(9) TIERING: Is tiering applied? No. All licensed distributors

are being treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation: The Kentucky Department of Charitable Gaming as the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(9); KRS 238.550(6), (7); and KRS 238.530(5).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts for the first full year the administrative regulation is to be in effect. This amendment to the administrative regulation will have no effect on the expenditures or revenues of any state or local agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment to the regulation will not generate any new or additional revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment to the regulation will not generate any new or additional revenues.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to administer this program.

(d) How much will it cost to administer this program in subsequent years? Same as (c) above.

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 Health Policy
(Amended After Comments)

900 KAR 6:055. Certificate of need forms.

RELATES TO: KRS 216B.015[~~216B.010-216B.130, 216B.330-216B.339, 216B.455, 216B.990~~]

STATUTORY AUTHORITY: KRS[~~194A.030, 194A.050,~~] 216B.040(2)(a)1[~~, 216B.330~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. This administrative regulation establishes the forms necessary for the orderly administration of the Certificate of Need Program.

Section 1. Definitions. (1) "Administrative escalation" means an approval from the cabinet to increase the capital expenditure authorized on a previously issued certificate of need.

(2) "Cabinet" is defined by KRS 216B.015(6)[~~(5)~~].

Section 2. Forms. (1) OHP - Form 1, Letter of Intent, shall be filed by an applicant[~~all applicants~~] for a certificate of need pursuant to the requirements established in 900 KAR 6:065.

(2) OHP - Form 2A, Certificate of Need Application, shall be filed by an applicant[~~applicants~~] for a certificate of need unless the application is for[~~other than~~] ground ambulance services,[~~providers or~~] change of location, replacement, or cost escalation.

(3) OHP - Form 2B, Certificate of Need Application For Ground Ambulance Service, shall be filed by an applicant[~~applicants~~] for a certificate of need for a ground ambulance service[~~providers~~].

(4) OHP - Form 2C, Certificate of Need Application For Change of Location, Replacement, Cost Escalation, or Acquisition, shall be filed by an applicant[~~applicants~~] for a certificate of need for change of location, replacement, cost escalation, or acquisition.

(5) OHP - Form 3, Notice of Appearance, shall be filed by a person who wishes[~~persons that wish~~] to appear at a hearing.

(6) OHP - Form 4, Witness List, shall be filed by a person who elects [~~persons that elect~~] to call a witness[~~witnesses~~] at a hearing.

(7) OHP - Form 5, Exhibit List, shall be filed by a person who elects[~~persons that elect~~] to introduce evidence at a hearing.

(8) OHP - Form 6, Cost Escalation Form, shall be filed by a facility[~~facilities~~] that elects[~~elect~~] to request an administrative escalation.

(9) OHP - Form 7, Request for Advisory Opinion, shall be filed by anyone electing to request an advisory opinion.

(10) OHP - Form 8, Certificate of Need Six Month Progress Report, shall be filed by a holder of a certificate of need whose project is not fully implemented.

(11) OHP - Form 9, Notice of Intent to Acquire a Health Facility or Health Service, shall be submitted by a person proposing to acquire an existing licensed health facility or service.

(12) OHP - Form 10A, Notice of Addition or Establishment of a Health Service or Equipment, shall be filed by any health facility which adds equipment or makes an addition to a health service for which there are review criteria in the State Health Plan but for which a certificate of need is not required.

(13) OHP – Form 10B, Notice of Termination or Reduction of a Health Service or Reduction of Bed Capacity, shall be filed by a health facility which reduces or terminates a health service[~~,~~] or reduces bed capacity.

(14) OHP - Form 11, Application for Certificate of Compliance for a Continuing Care Retirement Community (CCRC), shall be filed by a facility to obtain a certificate of compliance as a continuing care retirement community.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "OHP - Form 1, Letter of Intent", 05/2009;

(b) "OHP - Form 2A, Certificate of Need Application", 07/2015 [~~05/2009~~];

(c) "OHP - Form 2B, Certificate of Need Application For Ground Ambulance Service[~~Providers~~]", 05/2009;

(d) "OHP - Form 2C, Certificate of Need Application For Change of Location, Replacement, Cost Escalation, or Acquisition ", 05/2009;

(e) "OHP - Form 3, Notice of Appearance", **10/2015[~~05/2009~~]**;

(f) "OHP - Form 4, Witness List", **10/2015[~~05/2009~~]**;

(g) "OHP - Form 5, Exhibit List", **10/2015[~~05/2009~~]**;

(h) "OHP - Form 6, Cost Escalation Form", 05/2009;

(i) "OHP - Form 7, Request for Advisory Opinion", 05/2009;

(j) "OHP - Form 8, Certificate of Need Six Month Progress Report", 07/2015[~~05/2009~~];

(k) "OHP - Form 9, Notice of Intent to Acquire a Health Facility or Health Service", 07/2015[~~05/2009~~];

(l) "OHP - Form 10A, Notice of Addition or Establishment of a Health Service or Equipment", 05/2009;

(m) "OHP - Form 10B, Notice of Termination or Reduction of a Health Service or Reduction of Bed Capacity", 07/2015[~~05/2009~~]; and

(n) "OHP - Form 11, Application for Certificate of Compliance for a Continuing Care Retirement Community (CCRC)", 05/2009.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Office of Health Policy, 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC FRIEDLANDER, Acting Executive Director
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 8, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

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, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Diona Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference certificate of need forms. OHP- Form 2A is the certificate of need application for formal and nonsubstantive review. OHP - Form 8, the Certificate of Need Six Month Progress Report form is filed by a holder of a certificate of need whose project is not fully implemented to demonstrate compliance with statutory and regulatory certificate of need implementation requirements. OHP - Form 9, Notice of Intent to Acquire a Health Facility or Health Service is the form utilized to give notice of an acquisition of a health facility or service. OHP-Form 10B Notice of Termination or Reduction of a Health Service or Reduction of Bed Capacity is used by a health facility or service which reduces or terminates a health service or reduces bed capacity.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statute, KRS 216B.040(2)(a)1.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation incorporates by reference various forms required for the certificate of need program. OHP - Form 8 Certificate of Need Six Month Progress Report is required to be submitted by certificate of need holders to document progress toward implementation of outstanding certificates of need. OHP- Form 2A is the certificate of need application for formal and nonsubstantive review. OHP-Form 10B is used by a health facility or service which reduces or terminates a health service or reduces bed capacity. OHP - Form 9, Notice of Intent to Acquire a Health Facility or Health Service is the form utilized to give notice of an acquisition of a health facility or service. OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List are required to be submitted prior to hearings.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 216B.040(2)(a)1 requires the Cabinet to promulgate administrative regulations as necessary for the administration of the certificate of need program. OHP - Form 8 is utilized by certificate of need holders to report progress made toward implementation of outstanding certificates of need. OHP-Form 2A is the application for nonsubstantive and formal review applications. OHP - Form 9, Notice of Intent to Acquire a Health Facility or Health Service is the form utilized to give notice of an acquisition of a health facility or service. OHP-Form 10B is used by a health facility or service which reduces or terminates a health service or reduces bed capacity. OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List are required to be submitted prior to hearings.

(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 revises OHP - Form 8 Certificate of Need Six Month Progress Report to clarify certificate of need implementation requirements of 900 KAR 6:100. OHP-Form 2A is revised to require nonsubstantive review applicants to address consistency with the State Health Plan, if applicable. OHP-Form 9 is revised to require the license number instead of the certificate of need number. OHP-Form 10B is revised to address reduction of a health service and to require the license number instead of the certificate of need number. OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List are revised to clarify the required filing dates.

(b) The necessity of the amendment to this administrative regulation: The amendment revises OHP - Form 8 Certificate of Need Six Month Progress Report to clarify certificate of need implementation requirements of 900 KAR 6:100. OHP-Form 2A is revised to require nonsubstantive review applicants to address consistency with the State Health Plan, if applicable. OHP-Form 9 is revised to require the license number instead of the certificate of need number. OHP-Form 10B is revised to address reduction of a health service and to require the license number instead of the certificate of need number. OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List are revised to clarify the required filing dates.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by incorporating by reference the revised OHP-Form 2A Certificate of Need Application, OHP - Form 8 Certificate of Need Six Month Progress Report, OHP - Form 9, Notice of Intent to Acquire a Health Facility or Health Service, OHP-Form 10B Notice of Termination or Reduction of a Health Service or Reduction of Bed Capacity, OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List

(d) How the amendment will assist in the effective administration of the statutes: The revised OHP-Form 2A will be consistent with KRS 216B.095 in that nonsubstantive review applications shall be required to address consistency with the State Health Plan, if applicable. The revised OHP - Form 8 Certificate of Need Six Month Progress Report will clarify certificate of need implementation requirements of 900 KAR 6:100.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Annually, approximately 250 progress reports are required to be submitted by CON holders. Annually approximately 115 certificate of need applications are submitted.

(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: CON applicants will utilize OHP-Form 2A to submit a CON application. Entities which have certificates of need which have not been implemented are required to submit progress reports to the Cabinet utilizing OHP - Form 8. OHP-Form 9 will be used by an entity to notify the Cabinet of an acquisition of a licensed health facility or service. Licensed health services/facilities will utilize OHP-Form 10B to report a termination or reduction of a health service or a reduction of bed capacity. OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List are filed prior to hearings.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to entities to comply with this amendment.

(c) as a result of compliance, what benefits will accrue to the entities identified in question (3):The amendment revises OHP - Form 8 Certificate of Need Six Month Progress Report to clarify certificate of need implementation requirements of 900 KAR 9:100. Nonsubstantive review applications shall be required to address consistency with the State Health Plan when completing OHP-Form 2A. Reporting requirements of OHP-Form 9 and 10B will be clarified for reporting entities. Filing deadlines will be clarified for OHP – Form 3 Notice of Appearance, OHP- Form 4 Witness List, and OHP- Form 5 Exhibit List.

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

(a) Initially: No cost

(b) On a continuing basis: No cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary since there is no cost to implementing this administrative regulation.

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

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

This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

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 amendment impacts the Office of Health Policy as well as health care facilities owned by the state, county or city which hold unimplemented certificates of need are required to submit certificate of need six month progress reports. Health care facilities owned by the state, county or city will be required to submit certificate of need applications for the establishment or change in a health service.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040(2)(a)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? This amendment will not generate additional revenue for state or local government during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate additional revenue for state or local government during subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are necessary to administer this program during the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are necessary to administer this program for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Quality Living
(Amended After Comments)

910 KAR 1:240. Certification of assisted-living communities.

RELATES TO: KRS Chapter 13B, 17.165(1), (2), 194A.060(1), 194A.700-729, 209.030, 216.300(1), 216.595, 216.789, 216.793

STATUTORY AUTHORITY: KRS 194A.050(1), 194A.707(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth. KRS 194A.707(1) requires the cabinet to promulgate an administrative regulation establishing an initial and annual certification review process for assisted-living communities that shall include an on-site visit and procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B. This administrative regulation establishes the certification process for assisted-living communities.

Section 1. Definitions. (1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Ambulatory" means the ability to walk without assistance.

(3) "Applicant" means the owner or manager who represents a business seeking initial or annual certification as an assisted-living community.

(4)[~~(3)~~] "Assisted-living community" is defined by KRS 194A.700(4).

(5)[~~(4)~~] "Certification review" means the process of reviewing applications and issuing certification for an assisted-living community.

(6)[~~(5)~~] "Client", "resident", or "tenant" is defined by KRS 194A.700(5).

(7)[~~(6)~~] "Client's designated representative" means a person identified in a document signed and dated by the client, client's guardian, or attorney-in-fact identifying a representative authorized to prepare or direct medication pursuant to KRS 194A.700(3).

(8)[~~(7)~~] "Danger" is defined by KRS 194A.700(6).

(9)[~~**"Decision-making capacity" means the client's ability to communicate and understand the information the resident is given and make informed decisions based on that information.**~~

(10)[~~(8)~~] "Functional needs assessment" means the client data required by KRS 194A.705(5)(a) and (b).

(10)[~~**(11)**~~][~~(9)~~] "Instrumental activities of daily living" is defined by 194A.700(9).

(11)[~~**(12)**~~][~~(10)~~] "Licensed healthcare professional" is defined by KRS 216.300(1).

(12)[~~**(13)**~~][~~(11)~~] "Living unit" is defined by KRS 194A.700(10).

(13)[~~**(14)**~~] "Mobile non-ambulatory" is defined by KRS 194A.700(11).

(14)[~~**(15)**~~][~~(12)~~] "Plan of correction" is defined by KRS 194A.700(12).

(15)[~~**(16)**~~][~~(13)~~] "Statement of danger" is defined by KRS 194A.700(13).

(16)[~~**(17)**~~][~~(14)~~] "Statement of noncompliance" is defined by KRS 194A.700(14).

(17)[~~**(18)**~~][~~(15)~~] "Temporary condition" means a condition that affects a client as follows:

(a) The client loses mobility either before or after entering a lease agreement with the assisted-living community but is expected to regain mobility within six (6) months of loss of ambulation or mobile nonambulation; is documented by a licensed healthcare professional who is not the owner, manager, or employee of the assisted-living community; and the assisted-living community has a written plan in place to ensure that the client is not a danger; or

(b)1. The client loses mobility after entering a lease agreement;

2. The client is not expected to regain mobility;

3. Hospice or similar end-of-life services are provided in accordance with KRS 194A.705(2) documented by hospice or a licensed health care professional; and

4. The assisted-living community has a written plan in place to ensure that the client is not a danger.

Section 2. Application for Initial Certification Review. (1) For initial certification an applicant shall, at least sixty (60) days prior to a planned opening, file with the department:

(a) A completed DAIL-ALC-1, Assisted-Living Community Certification Application;

(b) A copy of a blank lease agreement and any documentation incorporated by reference into the lease agreement;

(c) A copy of written material used to market the proposed assisted-living community, including material that markets offered special programming, staffing, or training in accordance with KRS 194A.713(11);

(d) The floor plan of the proposed assisted-living community identifying the:

1. Living units, including features that meet the requirements of KRS 194A.703(1);

2. Central dining area;

3. Laundry facility; and

4. Central living room; and

(e) A nonrefundable certification fee:

1. Assessed by the department in accordance with KRS 194A.707(8);

2. Made payable to the Kentucky State Treasurer; and

3. Mailed to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.

(2) The applicant shall notify the department upon occupancy of five (5) residents in the assisted-living community[~~If an initial certification becomes effective on a date other than July 1, the certification fee shall be prorated by:~~

~~(a) Calculating the fee for a year by computing twenty (20) dollars per living unit~~

~~or the $300 minimum set forth in KRS 194A.707(8), whichever is greater, but no more~~

~~than the $1,600 maximum set forth in KRS 194A.707(8);~~

~~(b) Dividing the yearly fee by twelve (12) to obtain a monthly fee; and~~

~~(c) Multiplying the monthly fee by the number of months remaining until the annual renewal on July 1~~].

Section 3. Application for Annual Certification Review.[~~(1)~~] The department shall renew a certification if an assisted-living community:

(1)[~~(a)~~] Has obtained its initial certification in accordance with Section 5 of this administrative regulation; and

(2)[~~(b)~~] Submits to the department annually by July 1:

(a)[~~1.~~] A completed DAIL-ALC-1, Assisted-Living Community Certification Application;

(b)[~~2.~~] The documentation required by Section 2(1)(a) through (d) of this administrative regulation, if changes have occurred since the previous certification; and

(c)[~~3.~~] The nonrefundable certification fee required by Section 2(1)(e) of this administrative regulation.[~~(2) If an annual certification is due after the effective date of this administrative regulation and before or after the required annual certification date, the certification fee shall be prorated as specified in Section 2(2)(a),(b),and (c) of this administrative regulation.~~]

Section 4. Change in an Assisted-Living Community. (1) If there is an increase in the number of living units, an assisted-living community shall reapply for certification with the department:

(a) In accordance with Section 2(1) of this administrative regulation; and

(b) Not less than sixty (60) days prior to the increase.

(2) If the increase in units occurs before or after the required annual certification date, the certification fee shall be twenty (20) dollars per each additional unit[~~prorated in accordance with Section 2(2) of this administrative regulation~~].

(3) If there is a decrease in the number of living units, an assisted-living community shall notify the department within sixty (60) days of the decrease.

(4) If there is a change of more than fifty (50) percent interest in ownership of an assisted-living community, the new owner shall apply for certification:

(a) By following the procedures in Section 3 of this administrative regulation; and

(b) Within thirty (30) days of the change of owners.

(5) An assisted-living community shall:

(a) Notify the department in writing:

1. Within thirty (30) days of a name or mailing address change for the assisted-living community or the applicant; or

2. At least sixty (60) days prior to termination of operation; and

(b) Notify a client of termination of operation sixty (60) days prior to closure unless there is sudden termination due to:

1. Fire;

2. Natural disaster; or

3. Closure by a local, state, or federal agency.

Section 5. Initial Certification of an Assisted-Living Community. If department staff determines that an applicant for initial certification meets the application requirements specified in Section 2(1) of this administrative regulation, the department shall:

(1) Consider the application process complete;

(2) Notify the applicant of operation status within ten (10) business days of receipt of the completed DAIL-ALC-1, Assisted-Living Community Certification Application; and

(3) Conduct an announced on-site review.

Section 6. Annual Certification of an Assisted-Living Community. If department staff determines that an applicant for annual certification meets the application requirements specified in Section 3(1) of this administrative regulation, the department shall:

(1) Consider the application process complete; and

(2) Conduct an unannounced on-site review pursuant to KRS 194A.707(2)(b) or (c).

Section 7. On-Site Review of an Assisted-Living Community. (1)(a) A representative of the department conducting a certification review shall not disclose information made confidential by KRS 194A.060(1).

(b) A confidential interview with a client or access to a client's living unit shall be subject to the client's oral or written consent.

(2) The on-site review shall consist of:

(a) Review of staffing pursuant to KRS 194A.717(1);

(b) Review of employment records including:

1. An employment application that shall contain a criminal record check notice pursuant to KRS 216.793(1);

2. A criminal records check that shall be:

a. Requested in accordance with KRS 216.789(3);[~~and~~]

b. Applied for no sooner than forty-five (45) days prior to but no later than[~~within~~] seven (7) days following an employee's first day of work[~~from the date of an employee's hire~~];

c. Checked **every other year[~~annually~~]** through the Kentucky Justice Cabinet or Administrative Office of the Courts;

d. A**[~~national~~]** criminal record check upon hire **from any state in which[~~if~~]** the employee lived outside of Kentucky in the last three (3) years; and

e. A**[~~national~~]** criminal record check **at least every other year from the state in which the employee resides[~~annually~~]** if the employee maintains residency outside of Kentucky;

3. Employees, upon their initial date of hire and at least annually thereafter, shall be checked and not be found on the:

a. Central Registry;

b. Adult Protective Services Caregiver Misconduct Registry; and

c. Nurse Aide abuse registry.

4. An assisted living community may use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of this subsection.

5.[~~3.~~] Verification that an employee reads and agrees to the policy and procedures of the assisted-living community regarding communicable disease pursuant to KRS 194A.717(4); and

6.[~~4.~~] Documentation of:

a. Completion of employee orientation:

(i) Pursuant to KRS 194A.719(1); and

(ii) Within ninety (90) days of the date of hire; and

b. Annual in-service education pursuant to KRS 194.719(2);

(c) Verification of compliance with the applicable building and life safety codes in accordance with KRS 194A.703(3);

(d) Review of client records including:

1. A completed client functional needs assessment that shall:

a. Be completed:

(i) Upon move in;

(ii) Once every twelve (12) months thereafter; and

(iii) As needed due to a change in function or condition;

b. Be administered by a person with at least:

(i) A bachelor's degree in health or human service or a related field;

(ii) An associate's degree in health or human services or a related field and at least one (1) year of experience working with the elderly or conducting assessments; or

(iii) A high school diploma or its equivalency and two (2) years of experience working with the elderly or conducting assessments;

c. Assess**[~~the decision making capacity of the client~~]** to ensure **the client[~~he~~]** meets[~~that the client met~~] the eligibility requirements for assisted-living pursuant to KRS 194A.711 **and**

KRS 194A.700(2);[~~194A.705(5); and~~]

d. Reflect the client's ability to perform activities of daily living and instrumental activities of daily living pursuant to KRS 194A.705(5); and

e. Be[~~b. In which a copy was~~] provided to the client [~~upon move in~~] pursuant to KRS 194A.705(5)(a);

2.[~~An initial and at least annual functional needs assessment:~~

~~a. That reflects a client's ability pursuant to KRS 194A.705(5) to perform activities of daily living and instrumental activities of daily living; and~~

~~b. In which a copy was provided to the client after move in pursuant to KRS 194A.705(5)(b);~~

~~3. Current~~] Personal preferences and social factors updated at least every two (2) years;

3.[~~4.~~] A signed lease with all attachments;

4.[~~5.~~] Documentation of a client's designated representative, if applicable; and

5.[~~6.~~] Documentation that the client received a copy of the assisted-living community's cardiopulmonary resuscitation policies pursuant to KRS 194A.719(1)(d);

(e) Review of an assisted-living community's policies and procedures for compliance with KRS 194A.700 through 194A.729 using a DAIL-ALC-2, Assisted-Living Community Certification Checklist;

(f) Review of an assisted-living community's written service provision and practices related to:

1. Provisions of KRS 194A.705(1)(d) which, in the case of medications not preset in a medication organizer or single dose unit container as described in KRS 194A.700(3)(a), may include but shall not exceed the following staff actions if the client requests assistance:

a. Providing the client with a medication reminder;

b. Reading the medication's label to the client, and confirming that the medication is being taken by the client for whom it is prescribed; and

c. Opening the medication container or dosage package, but not handling or removing the medication;

2. Health services, delivered by assisted-living staff, which shall be reported in compliance with KRS 194A.709(1);

3. Documentation in a client's file:

a. From a licensed health care professional defined by KRS 216.300(1) or entity providing the health service to the client:

(i) Requested of the client by the assisted-living community; and

(ii) That states the client has a temporary condition pursuant to KRS 194A.711(1); and

b. From the assisted-living community to ensure that the client is not a danger, including if hospice or similar end-of-life services are provided; and

4. Compliance with KRS 194A.713(11), 194A.719(1)(j), and 216.595 regarding special programming, staffing, or training that may be provided to a client of an assisted-living community provided the assisted-living community:

a. Ensures a client's functional needs assessment that:

(i) Reflects the client's abilities as specified in paragraph (d)2 of this subsection; and

(ii) Shall be updated at least annually; and

b. Complies with the requirements of KRS 216.595; and

5. Compliance with a department approved waiver request in accordance with Section 8 of this administrative regulation; and

(g) Review of any documentation or records to ensure compliance pursuant to KRS 194A.707(10).

(3) The department may, pursuant to KRS 194A.707(10), request additional information to ensure an assisted-living community complies with KRS 194A.700-729 and 216.789(1).

(4) Prior to completion of the on-site visit at the assisted-living community, a department representative shall hold a meeting with the assisted-living community manager or designee to discuss the preliminary results of the on-site visit.

Section 8. Waiver of Building Requirements. (1) Pursuant to KRS 216.595(3), an assisted-living community may request a waiver from the department regarding building requirements to address the specialized needs of individuals with Alzheimer's disease or other brain disorders.

(2) The department shall:

(a) Review the waiver request for approval; and

(b) Not waive the building and life safety codes established in KRS 194A.703(3).

(3) An assisted-living community shall not alter the building requirements established in KRS 194A.703(1) and (2) without department approval.

Section 9. Assisted-living On-Site Review Findings. (1) The department shall:

(a) Document any noncompliance with KRS 194A.700 through 194A.729 or this administrative regulation found during an on-site review on the DAIL-ALC-2, Assisted-Living Community Certification Checklist; and

(b) Submit the finding of noncompliance to the applicant:

1. On a statement of noncompliance located on the DAIL-ALC-3, Statement of Noncompliance and Plan of Correction; and

2. Unless the finding is due to a client being a danger pursuant to subsection (9) of this section, within fifteen (15) business days upon completion of the on-site review.

(2)(a) The assisted-living community shall complete a plan of correction on the DAIL-ALC-3, Statement of Noncompliance and Plan of Correction and submit the form to the department within fifteen (15) business days of receipt of the notice of noncompliance.

(b) The assisted-living community shall specify in the plan the dates by which the noncompliance shall be corrected.

(3) The department shall notify the applicant in writing within fifteen (15) business days of receipt of the plan of correction:

(a) Whether the plan of correction is approved or not approved; and

(b) The reasons for the department's decision.

(4)(a) If the plan of correction is approved and the department determines a follow-up on-site review is unnecessary, the department shall issue a certification certificate.

(b) The assisted-living community shall post the certificate in a public area.

(5) If the plan of correction is not approved, the applicant shall submit to the department an amended plan of correction within fifteen (15) business days of receipt of notice the plan was not approved.

(6) If the department determines after reviewing the amended plan of correction that certification may be denied or revoked, the department shall notify the assisted-living community within ten (10) business days of the determination and with the:

(a) Opportunity for an informal dispute resolution meeting:

1. Between the department and the assisted-living community;

2. To be held within fifteen (15) days of the assisted-living community's receipt of the notice; and

3. To address a dispute, including the provision of additional documentation or support materials; and

(b) Appeal rights as specified in Section 12 of this administrative regulation if:

1. An informal dispute is not requested; or

2. A dispute is not resolved with the informal dispute resolution.

(7) If an applicant meets all the requirements on the DAIL-ALC-2, Assisted-Living Community Certification Checklist, the department shall issue a certification certificate verifying its status.

(8) The assisted-living community shall post the certification certificate in a public area.

(9) If the department finds during a complaint or certification review that a client is a danger, the department shall:

(a) Immediately notify the assisted-living community as established in Section 7(4) of this administrative regulation; and

(b) Provide the DAIL-ALC-4, Statement of Danger to the assisted-living community.

(10) Within forty-eight (48) hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the assisted-living community shall begin to implement a plan to correct the danger in accordance with Section 10(2)(e)1 or 2 of this

administrative regulation.

(11) The department shall make a report of suspected abuse, neglect, or exploitation to Adult Protective Services in accordance with KRS 209.030(3).

(12) The department may conduct additional on-site visits pursuant to KRS 194A.707(10).

Section 10. Denial and Revocation of Certification. (1) Certification shall be denied or revoked if:

(a)1. The department determines upon a complaint or certification review that an assisted-living community knowingly employs any individual convicted of an offense prohibited by KRS 216.789(1) or 216.789(2) as disclosed by the individual's employment application or a criminal records check and if the assisted-living community fails to immediately terminate the employment upon the department's finding; or

2. The same repeat violation of subparagraph 1 of this paragraph is found by the department within a three (3) year period; or

(b) An assisted-living community or applicant fails to submit a plan of correction to the department as specified in Section 9(2) through (7) of this administrative regulation.

(2) Certification may be denied or revoked if an assisted-living community:

(a) Fails to apply for certification as specified in Sections 2(1), 3(1), or 4(1) of this administrative regulation;

(b) Submits a completed DAIL-ALC-1, Assisted-Living Community Certification Application more than fifteen (15) days late for two (2) consecutive years;

(c) Fails to submit a completed DAIL-ALC-1, Assisted-Living Community Certification Application within thirty (30) days of July 1 annually;

(d) Fails to implement its most recent approved plan of correction:

1. Under current ownership; and

2. Within the plan of correction's specified timeframe on the DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction;

(e) Fails to comply with one (1) of the following requirements if the department finds that a client is a danger and the department initially verifies those findings in writing pursuant to Section 9(9)[~~(9)(9)~~] of this administrative regulation:

1. Within forty-eight (48) hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the assisted-living community shall submit a written response to the department that confirms how the danger has been eliminated or why the danger is disputed, with submission occurring via:

a. Email;

b. Facsimile transmission;

c. Delivery to the department by hand;

d. United States mail; or

e. Courier service; or

2. Within forty-eight (48) hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the assisted-living community shall:

a. Initiate a move-out notice and begin the process of assisting the client to find appropriate living arrangements pursuant to KRS 194A.705(4); and

b. Submit a written response to the department that confirms the assisted-living community took the required action, with submission occurring via:

(i) Email;

(ii) Facsimile transmission;

(iii) Delivery to the department by hand;

(iv) United States mail; or

(v) Courier service; or

(f) Except as provided in subsection (3) of this section, fails to initiate the requirements of paragraph (e)2 of this subsection, if the department:

1. Notifies the assisted-living community in writing that the client remains a danger; and

2. Does not accept the assisted-living community's written response pursuant to paragraph (e)1 of this subsection.

(3) If, after reviewing the assisted-living community's written response pursuant to subsection (2)(e)1 of this section, the department determines the client remains a danger, the department shall notify the assisted-living community in writing that:

(a) Certification may be denied or revoked;

(b) The assisted-living community has the right to an informal dispute resolution meeting:

1. Between the department and the assisted-living community;

2. For the purpose of attempting to resolve a dispute, including the provision of additional documentation or support materials; and

3. To be requested by the assisted-living community in writing within three (3) business days of receiving the department's written notice; and

(c) It has appeal rights pursuant to Section 12 of this administrative regulation if:

1. An informal dispute resolution meeting is not requested; or

2. A dispute is not resolved with the informal dispute resolution meeting.

(4) The department shall issue a written notice to the assisted-living community if the department determines:

(a)1. A danger is unsubstantiated; or

2. The danger has been eliminated; or

(b) To deny or revoke certification following an informal dispute resolution meeting pursuant to subsection (3)(b) of this section.

(5)(a) If an assisted-living community continues to operate after its certification is revoked and fails to request an informal dispute resolution meeting or an administrative hearing pursuant to Section 12 of this administrative regulation to resolve a danger dispute, the assisted-living community may be fined in accordance with KRS 194A.723.

(b) The fine shall be paid as specified in Section 11(1) of this administrative regulation.

Section 11. Collection of Fees and Fines. (1) An entity or business found to be in violation of KRS 194A.723 and pursuant to KRS 194A.724 assessed a penalty shall make a check payable to the Kentucky State Treasurer and mail it to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.

(2) A party aggrieved by a determination of the department may appeal the determination or the fine in accordance with KRS Chapter 13B.

(3) The fee established for the notification of conditional compliance to a lender after review of the architectural drawings and lease agreement, pursuant to KRS 194A.729, shall be $250.

Section 12. Right to Appeal Decision and Hearings. (1) If the department determines that a certification shall be denied or revoked, the applicant shall be notified of the right to appeal the determination:

(a) By certified mail; and

(b) Within ten (10) days of determination.

(2) To request an administrative hearing, an applicant shall send a written request to the department within thirty (30) days of receipt of a written notice of:

(a) Nonapproval of the amended plan of correction; or

(b) Denial or revocation of certification.

(3) After receipt of the request for a hearing, the cabinet shall conduct a hearing pursuant to KRS Chapter 13B.

(4) The denial or revocation of certification shall be effective upon the final decision of the secretary pursuant to KRS Chapter 13B.

(5) If the denial or revocation is upheld by the secretary, the assisted-living community shall cease to operate and the assisted-living community shall:

(a) Assist clients in locating alternate living arrangements pursuant to KRS 194A.705(4); and

(b) Ensure that all clients are relocated within thirty (30) days of final notice of revocation or denial.

(6) The commissioner of the department shall have the

authority to extend the time limit specified in subsection (5)(b) of this section, not to exceed an additional fifteen (15) days.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DAIL-ALC-1, Assisted-Living Community Certification Application", 06/2015[~~edition 7/10~~];

(b) "DAIL-ALC-2, Assisted-Living Community Certification Check List", **10/2015[~~06/2015~~]**[~~edition 7/12~~];

(c) "DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction",[~~edition~~] 2/09; and

(d) "DAIL-ALC-4, Statement of Danger", 06/2015[~~edition 2/09~~].

(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.

DEBORAH S. ANDERSON, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 8, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

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, 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 the certification requirements for Assisted Living Communities.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide the requirements for certification of Assisted Living Communities including resident eligibility, application, and application review, components of the lease agreement, living unit and physical plant requirements, live safety code requirements, employee requirements, and services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with the composition and functions of the Assisted Living Community Certification requirements as specified in KRS 194A.700-729.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the standards of certification for the Certification of Assisted Living Communities.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the application process, removing the prorating of certification fees, adds definitions to improve clarity, updates the requirements for background checks to be consistent with other long-term care requirements and updates the requirements for Functional needs assessments.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide more clarity through definitions, updating the application process and how fees are paid, requiring background checks that are more comprehensive due to the vulnerability of the population served in assisted living communities and requiring updates to the functional needs assessment of residents in the assisted livings to ensure they are being offered and provided services based on their current need, or being recommended for a higher level of care to meet their needs.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute KRS 194A.700 - 729 by establishing the certification process for assisted living communities.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist with the effective administration of the statutes as it provides clarification on certification requirements, updates definitions for clarity, expands the requirements for background checks to ensure no employee is listed on the Central Registry, Nurse Aid Abuse Registry, or Adult Protective Services Caregiver Misconduct Registry. An update to the Functional Needs Assessment conducted at least annually to ensure the residents remain appropriate to reside in an assisted living community.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 110 certified assisted living communities in Kentucky and approximately 4,804 certified living units. Each living unit could have double occupancy with mutual agreement; however, double occupancy is the exception.

(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. The current certified assisted living communities will have to conduct at least an annual functional needs assessment on each resident in the community. They will also have to conduct background checks on employees to include the Central Registry, Nurse Aid Abuse Registry, Adult Protective Services Caregiver Misconduct Register and if an employee has lived outside of Kentucky within the past three years criminal records check in any state the employee has resided within the last three years, rather than just an in state check. 2. Residents will have to be assessed at least annually to determine their service needs and to ensure they remain eligible to remain in the assisted living.

(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 a cost to conduct background checks by the assisted living community. The assisted living communities are agreeable to conducting the background checks and the costs to better address the safety of the residents.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The vulnerable aging and disabled population that reside in assisted living communities will have more protection due to the enhanced background checks that are required for every employee. The population of the assisted living will be assessed at least annually to ensure they are in the appropriate level of care and those requiring care beyond that allowed in an assisted living can be referred to the appropriate level of care. This will ensure the proper care is provided to all individuals.

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

(a) Initially: Approximately $185,000; there is no increase in funding for Assisted Living Certification.

(b) On a continuing basis: Approximately $185,000, it is anticipated that funding will remain consistent.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Restricted agency funds generated from the certification fees from the assisted living communities.

(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 due to this amendment.

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

(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? This administrative

regulation amendment will increase the requests for background checks on the Department for Community Based Services for background checks for the Central Registry and the Adult Protective Services Caregiver Misconduct Registry and the Board of Nursing for background check of the Nurse Aid Abuse Registry.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.707.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The amendment will not generate additional revenue or an increase in costs in expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The 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? The amendment, will not generate additional revenue.

(c) How much will it cost to administer this program for the first year? FY 15- approximately $185,000.

(d) How much will it cost to administer this program for subsequent years? FY 16- approximately $185,000.

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

PERSONNEL BOARD
(Amendment)

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. 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	Resort Park Manager I	12 months
20000563	Resort Park Manager II	12 months
20000564	Resort Park Manager III	12 months
20000570	Park Business Manager I	12 months
20000571	Park Business Manager II	12 months
20000572	Park Manager I/Historic Site Manager	12 months
20000573	Park Manager II	12 months
20000574	Park Manager III	12 months
20000609	Conservation Officer Recruit	12 months
20000616	Veterans Benefits Field Rep I	9 months
20000618	Veterans Benefits Regional Administrator	9 months
[~~20000638~~	~~Correctional Officer~~	~~8 months~~]
20000672	Facilities Security Sergeant	12 months
20000673	Facilities Security Lieutenant	12 months
20000676	State Park Ranger Recruit	12 months
20000680	Facilities Security Officer II	12 months
20000683	Mounted Patrol Officer Recruit	12 months
20000687	Police Telecommunicator I	12 months
20000688	Police Telecommunicator II	12 months
20000689	Police Telecommunications Shift Supervisor	12 months
20000690	Police Telecommunications Supervisor	12 months
20000692	CVE Inspector I	12 months
20000694	CJIS (Criminal Justice Information System) Compliance Specialist I	12 months
20000695	CJIS Compliance Specialist II	12 months
20000696	CJIS Compliance Specialist III	12 months
20000697	CJIS Compliance Supervisor	12 months
20000698	Transportation Operations Center Specialist I	12 months
20000703	Polygraph Examiner II	12 months
20000704	Polygraph Examiner I	12 months
20000713	Driver's Test Administrator	12 months
20000716	Fish and Wildlife Telecommunicator I	12 months
20000813	Boiler Inspector I	12 months
20000820	Fire Protection Systems Inspector	12 months
20000870	Financial Institutions Examiner I	12 months
20000871	Financial Institutions Examiner II	12 months
20000872	Financial Institutions Examiner III	12 months
20000873	Financial Institutions Examiner IV	12 months
20000874	Financial Institutions Examiner Specialist	12 months
20000888	Insurance Fraud Investigator II	12 months
20000889	Insurance Fraud Investigator III	12 months
20000890	Insurance Fraud Investigator Supervisor	12 months
20000938	Forensic Firearms and Toolmark Examiner I	12 months
20000940	Forensic Chemist I	12 months
20000941	Forensic Chemist II	12 months
20000943	Forensic Biologist I	12 months
20000944	Forensic Biologist II	12 months
20000693	Therapy Program Assistant	9 months
20000971	Houseparent I	12 months
20000972	Houseparent II	12 months
20000974	Audiologist I	12 months
20001001	Patient Aide I	9 months
20001037	Medical Investigator I	12 months
20001038	Medical Investigator II	12 months
20001077	Student Development Associate	12 months
20001076	Student Development Assistant	12 months
20001104	KSB/KSD (Kentucky School for the Blind/Kentucky School for the Deaf) Administrator I	12 months
20001105	KSB/KSD Administrator III	12 months
20001106	KSB/KSD Administrator IV	12 months
20001107	KSB/KSD Administrator V	12 months
20001108	KSB/KSD Administrator VI	12 months
20001122	Disability Adjudicator I	12 months
20001135	Juvenile Facility Superintendent I	12 months
20001136	Juvenile Facility Superintendent III	12 months
20001137	Facilities Regional Administrator	12 months
20001138	Youth Services Program Supervisor	12 months
20001139	Juvenile Facility Superintendent II	12 months
20001142	Human Rights Specialist	12 months
20001157	Administrative Hearing Officer I	12 months
20001159	Human Rights Enforcement Branch Manager	12 months
20001162	Human Rights Research/Information Compliance Supervisor	12 months
20001163	Human Rights Housing Compliance Supervisor	12 months
20001164	Human Rights Employment/Public Accommodations Compliance Supervisor	12 months
20001165	Human Rights Compliance Enforcement Officer II	12 months
20001166	Probation and Parole Officer I	12 months
20001171	Youth Worker I	12 months
20001174	Youth Worker Supervisor	12 months
20001175	Juvenile Services District Supervisor	12 months
20001480	Forestry Equipment Supervisor	12 months

20001481	Nursery Foreman	12 months
20001482	Nursery Superintendent	12 months
20001483	Forester	12 months
20001484	Forester Chief	12 months
20001485	Forester Regional	12 months
20001486	Rural Fire Suppression Technical Advisor	12 months
20001487	Forestry Program Specialist	12 months
20001488	Forestry Program Manager	12 months
20001489	Forestry Program Supervisor	12 months
20001492	Forest Ranger Technician I	12 months
20001493	Forest Ranger Technician II	12 months
20001494	Forest Ranger Technician III	12 months
20001495	Forest Ranger Technician Regional	12 months
20001841	Criminal Intelligence Analyst I	12 months
20001842	Criminal Intelligence Analyst II	12 months
20001882	Public Advocate Investigator I	12 months
20001895	Environmental Administrative Hearing Officer	12 months
20001899	Mitigation Specialist I	12 months
20001904	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 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: October 13, 2015

FILED WITH LRC: October 13, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 23, 2015, at 9:00 a.m. Eastern Time at the Kentucky Personnel Board, 28 Fountain Place, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 16, 2015, 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 wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the calendar day on November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Boyce A. Crocker

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation sets forth the classifications for which an initial probationary period in excess of six (6) months is required.

(b) The necessity of this administrative regulation: To establish the appropriate probationary periods for classifications throughout state government.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.0751(4)(e) requires the Personnel Board to promulgate an administrative regulation listing the job classifications for which an initial probationary period in excess of six (6) months is required. It also makes clear that a promotional probationary period shall mirror the initial promotional period for a particular job classification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth the classifications for which an initial probationary period in excess of six (6) months is required.

(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 proposed amendment would reduce the initial probationary period for Correctional Officer from eight months to six months.

(b) The necessity of the amendment to this administrative regulation: Secretary of the Personnel Cabinet has recommended changes to the classifications for which an initial probationary period in excess of six (6) months is required.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment consists of changes to the list of classifications for which an initial probationary period in excess of six (6) months is required. It also makes clear that a promotional probationary period shall mirror the initial promotional period for a particular job classification.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment would allow for a reduced probationary period for Correctional Officer.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state employees appointed to the listed classifications, and the state government agencies that employ them.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Justice and Public Safety

Cabinet, Department of Corrections, and Cabinet for Health and Family Services does not require an extended probationary period to evaluate the performance of a Correctional Officer and this change will aid retention.

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

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Not applicable.

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

(9) TIERING: Is tiering applied? This regulation must apply equally to all classified employees in all state agencies with classified employees.

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? Justice and Public Safety Cabinet, Department of Corrections, and Cabinet for Health and Family Services

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.0751 and KRS 18A.111

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Not applicable

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Not applicable

(c) How much will it cost to administer this program for the first year? Not applicable

(d) How much will it cost to administer this program for subsequent years? Not applicable

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 Architects
(Amendment)

201 KAR 19:035. Qualifications for examination and licensure.

RELATES TO: KRS 323.050(2), (3), 323.060, 323.120(1)(a)-(i)

STATUTORY AUTHORITY: KRS 323.210(1)(b), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 323.050(2) allows the board to prescribe the experience requirements for licensure. KRS 323.210(1)(b) and (2) require the board to promulgate administrative regulations governing the contents and conduct of examinations, the method and time for filing applications, and the time within which an applicant shall be examined after his application has been filed. This administrative regulation establishes the prerequisites for taking the examination and obtaining a license.

Section 1. Eligibility to Take the Architect Registration Examination (ARE)[~~State Board Examination~~]. A person who possesses the qualifications prescribed in KRS 323.050, and this administrative regulation, shall be eligible to take the examination.

Section 2. General Requirements. (1)(a) The board shall verify the good moral character of an applicant for examination with employers and registered architects who have knowledge of the applicant's[~~his~~] moral character.

(b) An applicant shall not be considered to be of good moral character if the applicant[~~he~~] has:

1. Committed an act specified in KRS 323.120(1)(a) through (i);

2. Chronic alcoholism, persistent drug abuse, or an act of behavior that would, if the applicant were licensed, jeopardize or impair the applicant's[~~his~~] judgment to meet professional responsibility as an architect to the public welfare and safety; or

3. Violated a provision of KRS Chapter 323 or a board administrative regulation either before or after admission to the examination.

(c) If an applicant has violated the registration laws of another jurisdiction, the board shall determine whether the violation adversely affected the moral character of the applicant.

(2) To be eligible for examination, an applicant shall submit to the board college transcripts and verification from the National Council of Architectural Registration Boards (NCARB)[~~employers and architects~~] that the applicant has:

(a) Met the requirements of KRS 323.050[~~and 323.060~~] and this administrative regulation;[~~and~~]

(b) Enrolled in NCARB's[~~Had well diversified and satisfactory training in architectural practice as evidenced by completion of the first year of the~~] Intern Development Program specified in Section 4 of this administrative regulation by establishing an NCARB record; and

(c) Enrolled and is eligible as an applicant with this board to take the ARE.

(3) The documentation required by subsection (2) of this section shall be verified, compiled, and transmitted in bound record form by the NCARB[~~National Council of Architectural Registration Boards~~].

Section 3. Education Requirements.[~~(1)~~] An applicant who has met the requirements of Section 2 of this administrative regulation shall hold a degree in architecture from a degree program that has been accredited by the National Architectural Accrediting Board not later than two (2) years after termination of enrollment.

Section 4. Training Requirements for Licensure. (1) An applicant who has passed the examination shall have successfully completed [~~satisfied~~] the Intern Development Program training requirements as provided by NCARB Intern Development Program Guidelines[~~Chapter 1, Section 3 of the National Council of Architectural Registration Boards "Handbook for Interns and Architects"~~] prior to final application for licensure.

(2) The documentation required by subsection (1) of this section shall be verified, compiled, and transmitted in bound record form by the NCARB[~~National Council of Architectural Registration Boards~~].

Section 5. Incorporation by Reference. (1) "Intern Development Program Guidelines", 2015 Edition["~~Handbook for Interns and Architects", 2008-2009 Edition~~], National Council of Architectural Registration Boards[~~Board~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Architects, 155 East Main Street, Suite 300, Lexington, Kentucky 40507, Monday through Friday, 8 a.m. to 4:00[~~4:30~~] p.m.

TIMOTHY A. MURPHY, President

APPROVED BY AGENCY: September 29, 2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 1:30 p.m., in the office of the Kentucky Board of Architects; 155 East Main Street, Suite 300, Lexington, Kentucky 40507 (859) 246-2069. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the calendar day (11:59 p.m.) on November 30, 2015. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: T. Rexford Cecil, Executive Director, Kentucky Board of Architects, 155 East Main Street, Lexington, Kentucky 40507, phone (859) 246-2069, fax (859) 246-2431.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: T. Rexford Cecil

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the prerequisites for taking the examination and obtaining a license.

(b) The necessity of this administrative regulation: The statutes require the board to promulgate regulations governing the contents and conduct of examinations, the method and time for filing applications, and the time within which an applicant shall be examined after his application has been filed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 323.050(2) allows the board to prescribe the experience requirements for licensure. KRS 323.210(1)(b) and (2) require the board to promulgate administrative regulations governing the contents and conduct of examinations, the method and time for filing applications, and the time within which an applicant shall be examined after his application has been filed.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation will assist by clarifying and establishing the qualifications for examination and licensure.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates the current Intern Development Program of the National Council of Architectural Registration Boards (NCARB) as approved jurisdictional members of NCARB, of which Kentucky is one, in order to provide uniformity and relevance to experience qualifications of the candidates for licensure.

(b) The necessity of the amendment to this administrative regulation: This amendment clarifies the requirements for examination and licensure.

(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation clearly specifies that applicants must be eligible to take the Architect Registration Exam, be enrolled in the National Council of Architectural Registration Boards Intern Development Program, and meet the requirements of KRS 323.050.

(d) How the amendment will assist in the effective administration of the statutes: The amended regulation clearly specifies all requirements for licensure and examination.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 2,500 persons licensed by the board, the number of applicants varies from year to 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: Applicants must be eligible to take the Architect Registration Exam, enrolled in the National Council of Architectural Registration Boards Intern Development Program, and meet the requirements of KRS 323.050.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The applicants will have to qualify and meet the requirements of this regulation as set forth in KRS 323.050 and provide uniformity and relevance to experience qualifications of the candidates for licensure with 53 other related regulatory boards in the United States.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

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

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

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

(9) TIERING: Is tiering applied? No tiering is applied, all applicants are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 323.050(2), (3), 323.060, 323.120(1)(a)-(i), and KRS 323.210(1)(b), (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. None

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Board of Architects
(Amendment)

201 KAR 19:087. Continuing Education.

RELATES TO: KRS 323.110(1), 323.120(1)(g), 323.210(3)
STATUTORY AUTHORITY: KRS 323.210(2), (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 323.210(3) authorizes the board to establish continuing education requirements. This administrative regulation establishes continuing education requirements and establishes[~~to establish~~] standards for the licensing of an architect[~~emeritus~~] for board licensees and the standards for licensure as an architect[~~emeritus~~].

Section 1. Definitions. (1) "Continuing education" or "CE" means post-licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety, and welfare[~~"Elective topic" means an additional topic of interest to the registrant that is related to the practice of architecture~~].
(2) "Continuing education hour[~~Professional development unit~~]" or "CEH[~~PDU~~]" means a:
(a) Unit equal to sixty (60)[~~fifty (50)~~] minutes clock time for the taking of an examination; or
(b) Customary time of completion prescribed by an examination vendor, if the board finds the time to be reasonable.
(3) "Health, safety, and welfare subjects" means technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment:
(a) Building Systems: Structural, Mechanical, Electrical, Plumbing, Communications, Security, Fire Protection;
(b) Construction Contract Administration: Contracts, Bidding, Contract Negotiations;
(c) Construction Documents: Drawings, Specifications, Delivery Methods;
(d) Design: Urban Planning, Master Planning, Building Design, Site Design, Interiors, Safety and Security Measures;
(e) Environmental: Energy Efficiency, Sustainability, Natural Resources, Natural Hazards, Hazardous Materials, Weatherproofing, Insulation;
(f) Legal: Laws, Codes, Zoning, Regulations, Standards, Life Safety, Accessibility, Ethics, Insurance to protect Owners and Public;
(g) Materials and Methods: Construction Systems, Products, Finishes, Furnishings, Equipment;
(h) Occupant Comfort: Air Quality, Lighting, Acoustics, Ergonomics;
(i) Pre-Design: Land Use Analysis, Programming, Site Selection, Site and Soils Analysis, Surveying; or
(j) Preservation: Historic, Reuse, Adaptation.
(4) "Relevant topic" means an area which is particularly focused on the health, safety, and welfare of the public utilizing structured educational activities intended to increase or update the architect's knowledge and competence in health, safety, and welfare subjects.
(5) "Structured educational activities" means educational activities in which at least seventy-five (75) percent of an activity's content and instructional time shall be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.
[~~(4) "Self-directed activity" means:~~
~~(a) An unstructured self-study visit to an architecturally significant site;~~
~~(b) A professional service to the public which draws on the registrant's expertise as an architect; or~~
~~(c) A business practice course related to new technology, offered by a person qualified by education or experience.~~
~~(5) "Structured activity" means a:~~
~~(a) College or university sponsored course;~~
~~(b) Seminar;~~
~~(c) Tutorial;~~
~~(d) Short course; or~~
~~(e) Professional or technical organization sponsored:~~
~~1. Program;~~
~~2. Course;~~
~~3. Self-study course; or~~
~~4. Monograph.~~]

Section 2. Purpose. The purpose of this continuing education program is to insure that all registered architects remain informed on technical and professional subjects that [~~which~~] the board deems appropriate to safeguard life, health, property, and welfare of the public.

Section 3. Scope and Exemptions. (1) To annually renew a[~~his~~] license, an architect registered in Kentucky shall comply with this administrative regulation unless the licensee[~~he~~] is exempted by one (1) of the following reasons:
(a) The licensee[~~He~~] is exempted as a first time registrant by:
1. Examination; or
2. Reciprocity;
(b) The licensee[~~He~~] has applied for or is renewing[~~reviewing~~] as an architect emeritus who:
1. Is at least sixty-five (65) years old;
2. Has requested architect emeritus status at the beginning of the license renewal period; and
3. Has retired from practice in all jurisdictions and is not conducting an active practice in any jurisdiction;
(c) The licensee[~~He~~] is a civilian who serves on active duty in the United States Armed Forces for a period of time exceeding ninety (90) consecutive days during the annual report period; or
(d) The licensee[~~He~~] is a registrant of another National Council of Architectural Registration Boards'[~~Board's~~] jurisdiction that has a required continuing education program, if:
1. It accepts Kentucky requirements to satisfy its continuing education requirements; and
2. The registrant certifies that all requirements for current continuing education compliance and registration have been met in that jurisdiction.
(2) A hardship case may be considered by the board.

Section 4. Requirements. (1) A registered Kentucky architect shall:
(a) Obtain a total of twelve (12) CEHs[~~PDU's~~] per year; and
(b) Report these credits as a condition for registration renewal.
(2) The continuing education requirement of subsection (1) of this section shall be satisfied during the period beginning January[~~July~~] 1 and ending December 31[~~June 30~~] of the previous calendar[~~following~~] year.
(3) CEHs shall not be carried over into the next reporting period for credit.
(4) A minimum of twelve (12) CEHs[~~eight (8) PDU's~~] shall consist of structured educational activities, addressing health, safety, and welfare subjects as referenced in Section 1(3) of this administrative regulation[~~the following relevant topics:~~
~~(a) Codes, statutes, and administrative regulations governing the practice of architecture;~~
~~(b) Environmental issues;~~
~~(c) Code of ethics;~~
~~(d) State registration law;~~
~~(e) Design proficiency;~~
~~(f) New technology, including construction:~~
~~1. Material;~~
~~2. Methods;~~
~~3. Systems; or~~
~~4. Concepts;~~
~~(g) Interface, other than normal day-to-day contact, with other design disciplines, including a:~~
~~1. Planner;~~

~~2. Consultant;~~
~~3. Specialist; or~~
~~4. Financier;~~
~~(h) Legal aspects, including:~~
~~1. Contract documents;~~
~~2. Insurance;~~
~~3. Bonds; and~~
~~4. Project administration;~~
~~(i) Specialization in:~~
~~1. Presentation;~~
~~2. Adaptive reuse; or~~
~~3. A building type; and~~
~~(j) Study or consultation opportunity.~~
~~(k) A passing score on the LEED Accredited Professional Examination shall qualify for eight (8) PDU's under this requirement.~~
~~(4) A maximum of four (4) PDU's may consist of self-directed activities, addressing the following elective topics:~~
~~(a) Business or practice efficiency;~~
~~(b) Business development;~~
~~(c) Personal skills;~~
~~(d) New skills; or~~
~~(e) General education~~].

Section 5. Reporting and Recordkeeping. (1) The following shall be submitted for renewal of a license:
(a) A completed continuing education certification statement of compliance with the annual continuing education requirements portion of the Architect License Renewal Form[~~Continuing Education Annual Report Form listing the completed courses~~];
(b) The Architect License Renewal Form or online renewal on the board's Web site[~~A renewal application~~]; and
(c) The renewal fee.
(2) The following shall be submitted for the reinstatement of a license previously administratively revoked:
(a) A completed continuing certification statement of compliance with the annual continuing education requirements portion of the Architect License Reinstatement-Restoration Application listing the completed courses for the number of credits required. A reinstatement of a license revoked for one (1) year or less shall require reporting twelve (12) CEHs minimum. A reinstatement of a license revoked for one (1) year or more shall require reporting twenty-four (24) CEHs minimum; and
(b) The reinstatement application fee plus the applicable annual renewal fee for each year since the date of revocation.
(3) The following shall be submitted for the restoration of a license previously voluntarily surrendered:
(a) A completed continuing education certification statement of compliance with the annual continuing education requirements portion of the Architect License Reinstatement-Restoration Application listing the completed courses for the number of credits required. The restoration of a license voluntarily surrendered for one (1) year or less shall require reporting twelve (12) CEHs minimum. The restoration of a license voluntarily surrendered for more than one (1) year shall require reporting twenty-four (24) CEHs minimum; and
(b) The applicable restoration application fee plus the current annual renewal fee.
(4) An incomplete submission shall be returned to the registrant.
(5)[~~(3)~~] A random sample of annual reports of architect's continuing education certifications shall be audited[~~reviewed~~] to ensure accuracy and compliance. Any registrant audited shall submit a completed Architect Continuing Education Annual Report issued by the board with proof of continuing education activities attached.
(6)[~~(4)~~] The registrant shall:
(a) Be responsible for retaining proof of participation in continuing education activities;
(b) Retain a record for continuing education for a period of five (5)[~~two (2)~~] years from the date of submission of the annual report to the board; and
(c) Furnish copies or continuing education records on the request of the board for audit purposes.
(7)[~~(5)~~] Proof of participation in continuing education activities shall include:
(a) A log showing the:
1. Activity claimed;
2. Sponsoring organization;
3. Location; and
4. Duration;
(b) An attendance certificate;
(c) A signed attendance receipt;
(d) A paid receipt; and
(e) A list of attendees signed by a person in charge of the activity [~~; and~~
~~(f) Similar documentation~~].
(8)[~~(6)~~] Disallowances. If continuing education credit is disallowed, the registrant shall have thirty (30) calendar days after notification to:
(a) Substantiate the original claim; or
(b) Earn other continuing education credit to meet the minimum requirements.

Section 6. Noncompliance and Sanctions. Failure to fulfill the continuing education requirements, file the required renewal applications, properly completed and signed, or file the Architect Continuing Education Annual Report as required by an audit[~~annual report~~], properly completed and signed, shall result in the board imposing any combination of the following sanctions: nonrenewal, denial of reinstatement or restoration, probation, or suspension of the license, and the issuance of a reprimand. A licensee found to be deficient on CEHs following a continuing education audit shall be fined a civil penalty of $250 for the first deficient CEH and fifty (50) dollars for each deficient CEH thereafter[~~architect's certificate of registration~~].

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Architect Continuing Education Annual Report", 2015[~~Continuing Education Annual Report Form", (2008 Edition), Kentucky Board of Architects~~];[~~and~~]
(b) "Architect License Renewal Application", 2015; and
(c) "Architect License Reinstatement-Restoration Application", 2015[~~License Renewal Application Form", (2008 Edition), Kentucky Board of Architects~~].
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Board of Architects, 155 East Main Street, Suite 300, Lexington, Kentucky 40507, Monday through Friday, 8 a.m. to 4:00[~~4:30~~] p.m

TIMOTHY A. MURPHY, President
APPROVED BY AGENCY: September 29, 2015
FILED WITH LRC: October 14, 2015 at 2 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 1:30 p.m., in the office of the Kentucky Board of Architects; 155 East Main Street, Suite 300, Lexington, Kentucky 40507 (859) 246-2069. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the calendar day (11:59 p.m.) on November 30, 2015. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:
CONTACT PERSON: T. Rexford Cecil, Executive Director, Kentucky Board of Architects, 155 East Main Street, Lexington, Kentucky 40507, phone (859) 246-2069, fax (859) 246-2431.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: T. Rexford Cecil

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes update and new continuing education requirements for architects to bring Kentucky's requirements into conformity with that of the standards recently adapted by the 54 architect regulatory member jurisdictions of the National Council of Architectural Registration Boards. This provides national uniformity to the standards and increases the annual requirement for health, safety and welfare activities 8-12 credit hours.

(b) The necessity of this administrative regulation: The statutes require the board to promulgate regulations governing continuing education requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 323.210(3) provides that the board may promulgate administrative regulations requiring mandatory continuing education for architects licensed to practice in the Commonwealth of Kentucky.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation will assist by clarifying continuing education requirements for architects licensed in the Commonwealth of Kentucky and the other fifty-three (53) architect regulatory jurisdictions.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates health, safety and welfare continuing education subjects, will change the annual requirement from a fiscal to a calendar year, establishes a civil penalty for deficient continuing education credits, and simplifies the reporting and auditing process for licensees and the fifty-four (54) regulatory boards.

(b) The necessity of the amendment to this administrative regulation: This amendment clarifies the continuing education requirements for architects licensed in the Commonwealth of Kentucky (1) to maintain licensure, (2) to reinstate a license previously revoked or (3) to restore a license from a previously voluntarily surrendered status.

(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation clearly specifies the continuing education requirements for architects licensed in the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amended regulation clearly specifies the continuing education requirements to maintain licensure and the fines resulting from a failure to comply with the continuing education requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 2,500 persons licensed by the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The licensees are required to take twelve (12) continuing education hours per calendar year in health, safety and welfare subjects, and may subject the licensee to a civil penalty for exposed deficiencies following an audit ranging from $250 to $800.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Commonwealth of Kentucky licensed architects will receive annual continuing education training in health, safety and welfare subjects to safeguard life, health, property and welfare of the public that will be acceptable conformity with the other 53 architect regulatory jurisdictions.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees. Civil penalties would only occur if a licensee was found to have been deficient in meeting the continuing education requirements following an audit.

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Board of Architects

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 323.210(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. None

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation

(b) "Architect License Renewal Application", (2015) is a form to be completed by licensed architects to renew licensure annually containing a total of two (2) pages and is herein incorporated by reference.

(c) "Architect License Reinstatement-Restoration Application", (2015) is a form to be completed by architects reinstating or renewing licensure, containing a total of five (5) pages and is herein incorporated by reference.

GENERAL GOVERNMENTAL CABINET
Office of Occupations and Professions
Kentucky Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:020. Fees.

RELATES TO: KRS 309.357, 309.362(2), (3)
STATUTORY AUTHORITY: KRS 309.355(3), 309.357
NECESSITY, FUNCTION, AND CONFORMITY: KRS

309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. KRS 309.357 requires the board to establish reasonable fees for the licensure of massage therapists. KRS 309.362(2) and (3) authorize the issuance of an inactive license and reinstatement. This administrative regulation establishes the fees relating to massage therapy (MT) licensure.

Section 1. Fee Payments. (1) All fees established in Section 2 of this administrative regulation shall be:

(a) Made payable as required by KRS 309.356 to the State Treasury; and

(b) Paid by:

1. Cashier's check;

2. Certified check;

3. Money order;

4. Personal check; or

5. Online payment by credit card, debit card, or electronic check.

(2) A payment for an application fee that is incorrect shall be returned to the applicant and the application shall not be posted until the correct fee is received.

(3) The application fee and the initial licensure fee established in Section 2(1) of this administrative regulation shall be nonrefundable.

(4) If it is determined that a refund of any fee is required, the refund shall be issued to the applicant or licensee.

Section 2. Fees. (1) The fee for an initial massage therapist license shall be $125.

(2)(a) The biennial renewal fee for a massage therapist license renewed on or before the renewal date shall be $100.

(b) If the license is renewed after the renewal date and up to sixty (60) days after expiration of the license, the fee for late renewal shall be $150.

(c) If the license is renewed sixty-one (61) to ninety (90) days after the expiration of the license, the late renewal fee shall be $200.

(d) If a license is not renewed within ninety (90) days of expiration of the license, the applicant shall comply with KRS 309.357(6).

(3) A licensee shall be in good standing with the board at the time the licensee elects inactive status.

(4)(a) The annual renewal date for an inactive license shall remain the original issue date of the license.

(b) The annual renewal fee for an inactive license shall be thirty-five (35) dollars.

(5) If the inactive license is renewed after the renewal date and up to sixty (60) days after expiration of the license, the fee for late inactive renewal shall be fifty-two (52) dollars and fifty (50) cents[~~$52.50~~].

(6) If the inactive license is renewed sixty-one (61) to ninety (90) days after the expiration of the license, the late renewal fee shall be seventy (70) dollars.

(7) The application fee for moving a license from inactive to active status shall be fifty (50) dollars and shall not be prorated.

(8) A licensee who elects inactive status or an inactive licensee electing to activate his or her license shall complete and submit an Application for Inactive or Return to Active Status in addition to the fee referenced in subsection (7) of this section.

Section 3. Incorporation by Reference. (1) "Application for Inactive or Return to Active Status", September 2015[~~April 2013~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

DENISE LOGSDON, Board Chair

APPROVED BY AGENCY: October 5, 2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 23, 2015 at 2:30 p.m. Eastern time, at the Kentucky Board of Licensure for Massage Therapy, 911 Leawood 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 within five days of the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day, Monday, November 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) 696-5635, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the fees and inactive status requirements for licensed massage therapists.

(a) What this administrative regulation does: This administrative regulation establishes the fees and inactive status requirements for persons licensed as massage therapists.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the minimum fees and payment process for massage therapists. The administrative regulation sets the process for a licensee electing inactive status.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS Chapter 309 requires the board to verify the qualifications of and establish fees for persons who wish to practice in the state as a Licensed Massage Therapists. This administrative regulation establishes the minimum fees and requirements for inactive status.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the fees for licensure and renewal, and establishes the fees and process for inactive status.

(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 incorporate the current requirements for fees and the current process for inactive status into the application form.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the form with the current process and fees for inactive licensure status. The amendment will inform licensees of the process and fees set in the regulations.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.355(1) requires the board to evaluate the qualifications for applicants for licensure and establish procedures for the renewing of licenses. KRS 309.357 sets the fees for licensee renewal and late renewal. KRS 309.362(3) sets the process by which licensees go to inactive status and return to active status. The amendment incorporates those statutes into the form.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will incorporate the current process by which licensees go to inactive status and return to active status into the application for licensure form. This amendment will assist licensees that elect to go to inactive status.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 225 persons will seek temporary licensure within the next fiscal year, this regulation will

also continue as new applicants seek temporary licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to complete the current application for licensure as the first step of obtaining inactive status for a license. This amendment will place the statutory requirements in the application form.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not anticipate any cost to the applicants affected by the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will know the current statutory rules for inactive status.

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

(a) Initially: The budget for the Board is $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

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

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees. This amendment will not increase or decrease the fees already stated in statute.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the criteria established in this regulation apply equally to all applicants for licensure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
Kentucky Board of Licensure for Massage Therapy is an administrative body created by KRS 309.355.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355, KRS 309.357, and KRS 309.362.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants and renewals for the 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 revenue will depend on the number of applicants for the subsequent years.

(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

GENERAL GOVERNMENTAL CABINET
Office of Occupations and Professions
Kentucky Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:035. Application process, exam, and curriculum requirements.

RELATES TO: KRS 309.358, 309.359, 309.362, 309.363
STATUTORY AUTHORITY: KRS 309.355(1), (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(1) requires the board to administer and enforce the provisions of KRS 309.350 to 309.364 and to evaluate the qualifications of applicants for licensure. KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364, including educational program curriculum. The board may issue a license to an applicant meeting the standards established in KRS 309.358 or 309.359. This administrative regulation establishes the application process and curriculum requirements for licensure.

Section 1. An applicant for licensure as a massage therapist shall:

(1) File a completed, signed, and dated Application for Licensure as a Massage Therapist, and the required documentation with the board, meeting the requirements established in KRS 309.358;[~~and~~]

(2) Pay the application fee as established in 201 KAR 42:020; and

(3) Affix a two (2) inch by two (2) inch or larger passport quality color photograph of the applicant to the application form. The photograph submitted with the application shall be taken within the previous six (6) months to reflect the current appearance of the applicant.

Section 2. (1) To comply with KRS 309.358(4), an applicant shall submit to the board, upon application, an official transcript or certificate that:

(a) Shows the completion of at least 600 classroom hours earned at a board approved massage therapy program; and

(b) Itemizes compliance with the clock hour requirements established in KRS 309.363(1).

(2) Board approved massage therapy programs include only those programs holding a certificate of good standing issued pursuant to KRS 309.363.

(3) A massage therapy school which has registered and obtained a school code assignment with the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) shall maintain good standing with the NCBTMB during the entire period the applicant attended the school. Suspension or revocation of the NCBTMB school code at any time during that period shall constitute grounds for:

(a) Denial of an application for licensure by graduates of that school; and

(b) Revocation of a Certificate of Good Standing held by the massage therapy school.

(4) A school's non-renewal of an NCBTMB code while in good standing shall not preclude an applicant from obtaining licensure.

Section 3. Examinations. (1) An applicant shall successfully pass an examination:

(a) Listed in KRS 309.358(5); or

(b) Approved by the board pursuant to KRS 309.358(5) and listed in subsection (4) of this section.

(2) An examination shall be approved by the board as meeting the standard established in KRS 309.358(5) if the board finds that the examination:

(a) Has been scientifically constructed to be valid and objective;

(b) Reflects the curriculum content established in KRS 309.363(1);

(c) Has security procedures to protect the exam content; and

(d) Has clear application, reporting, and appeal procedures.

(3) Approval of exams shall be noted in the board minutes and on the board Web site.

(4) The following examinations have been approved by the board pursuant to KRS 309.358(5):

(a) The Massage and Bodywork Licensing Examination (MBLEx) or other exam administered by the Federation of State Massage Therapy Boards;

(b) The State of Ohio Massage Therapy Licensing Exam;

(c) The State of New York Massage Therapy Licensing Exam; or

(d) The National Board Certification Agency (NBCA) Massage Therapy Certification Exam, Level One.

Section 4. (1) An applicant with a criminal history, excluding minor traffic violations, shall be interviewed by the board's Application Committee prior to licensure to find if the applicant complies with the requirement for good moral character established in KRS 309.358(3) and 335B.040, and the interview shall be conducted pursuant to the board's authority under KRS 309.362(1)(b).

(2) All applicants shall submit a recent background check performed by the Federal Bureau of Investigation. The required background check shall be applied for within the ninety (90) days preceding the date of submission of the application for licensure to the board.

Section 5. Appeals. (1) Upon initial review, the board shall make a preliminary determination with respect to an application. Preliminary determinations shall be non-final determinations until:

(a) A final decision is rendered subsequent to an administrative hearing conducted pursuant to KRS Chapter 13B;

(b) Settlement of the matter by informal proceedings is accomplished; or

(c) The time for appeal under subsection (2) of this section[~~2(5) of this administrative regulation~~] has expired.

(2) An applicant may appeal a preliminary determination denying his or her licensure application by requesting a hearing in accordance with KRS 309.362(4). In order to request a hearing, the applicant shall file a notice of appeal by certified mail and in writing that is received by the board within thirty (30) days of the date of the letter informing the applicant of the preliminary determination of denial.

Section 6. Incorporation by Reference. (1) The "Application for Licensure as a Massage Therapist", September 2015[~~August 2014~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

DENISE LOGSDON, Board Chair

APPROVED BY AGENCY: October 5, 2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 23, 2015 at 2:30 p.m. Eastern time, at the Kentucky Board of Licensure for Massage Therapy, 911 Leawood 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 within five days of the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day, Monday, November 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) 696-5635, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the requirements to obtain a license to practice as a Massage Therapist.

(a) What this administrative regulation does: This administrative regulation establishes the procedures and certification exam curriculum for persons who wish to practice in the Commonwealth as a Licensed Massage Therapist. The regulation sets the appeal procedure for license denials.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the process and minimum certification examinations and education requirements for massage therapist licensure.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS Chapter 309 requires the board to verify the qualifications of and establish a procedure for the licensure of persons who wish to practice in the Commonwealth as a Licensed Massage Therapist. This administrative regulation establishes the minimum qualifications and procedure for appeal of license decisions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the examinations required, minimum school hours, and appeal process for license denial.

(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 add a requirement that applicants provide a color photograph with their license applications and submit to a criminal background check through law enforcement. The amendment will inform applicants that appeal requests must be dated and submitted in writing.

(b) The necessity of the amendment to this administrative regulation: The amendment will add a requirement that applicants prove their identity with a color photograph and criminal background check to protect the Commonwealth against fraud. The amendment will set a uniform appeal procedure so that appeals can be heard timely.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.355 requires the board to evaluate the qualifications for applicants for licensure and establish procedures for the issuance of licenses. KRS 309.362 allows the board to deny licensure to applicants that may endanger the health, safety, or welfare of the public and hold administrative hearings on the denials pursuant to KRS Chapter 13B.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will require applicants to submit a color photograph with their application to verify their identity. This administrative regulation will require applicants to submit to a criminal background check to verify their arrest records. The amendment will require timely appeals.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 225 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to submit a color photograph with an application. This administrative regulation will require an applicant to submit a timely request for appeal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board anticipates that an applicant may pay up to $150 for a criminal background check and to obtain a color photograph for an application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will have a color photograph in their board file to protect against identity theft or fraud. The public will have a means to verify that a massage therapist is in fact licensed with the board. Applicants will be informed of the requirement for timely appeals of license denials and have hearings held close in time to the date of the denial.

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

(a) Initially: The budget for the Board is $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

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

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish the fees. This regulation only sets the procedure for obtaining a massage therapy license.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the criteria established in this regulation apply equally to all applicants and applications for licensure equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
Kentucky Board of Licensure for Massage Therapy is an administrative body created by KRS 309.355.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355, KRS 309.362, and KRS 309.363.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for the 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 revenue will depend on the number of applicants for the subsequent years.

(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:

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:040. Renewal.

RELATES TO: KRS 309.357(3), (4), (5), (6), 309.361, 309.362
STATUTORY AUTHORITY: KRS 309.355(1), (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(1) requires the board to administer and enforce the provisions of KRS 309.350 to 309.364 and authorizes licensure renewal. KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. KRS 309.357(3) requires all licenses to be renewed. This administrative regulation establishes the requirements for renewal of licenses.

Section 1. (1) A license to practice massage therapy shall be renewed upon:

(a) Payment of the biennial renewal fee as established in 201 KAR 42:020, Section 2(2), on or before the anniversary date of issue of license;[~~and~~]

(b) Submission to the board of the Application for Renewal form and the following written information:

1. Current complete home address and telephone number;

2. Current complete name, address, and telephone number of each location in which massage therapy service is provided;

3. A list indicating completion of the continuing education units taken during the licensure renewal period as required by 201 KAR 42:110. The list shall:

a. Itemize the number of clock hours credited for each course; and

b. Designate the courses that fulfill the three (3) required hours of ethics training; and

4. Confirmation that, since the license was issued or renewed, the licensee has not:

a. Been convicted of a felony;

b. Had his or her license disciplined and is not currently under disciplinary review in another state; or

c. Defaulted on the repayment obligation of financial aid programs administered by the Kentucky Higher Education Assistance Authority (KHEAA) pursuant to KRS 164.772; and

(c) Submission of a two (2) inch by two (2) inch or larger passport quality color photograph of the applicant to the board affixed to the Application for Renewal form. The photograph submitted with the application shall be taken within the previous six (6) months to reflect the current appearance of the applicant.

(2)(a) A licensee who has been convicted of a crime or who has been disciplined by the board of another jurisdiction during the licensure period immediately preceding the submission of the Application for Renewal shall participate in an in-person interview with the board's Application Committee prior to renewal of the license. The purpose of this interview with the board's application committee shall be to find if the licensee met the requirement of good moral character established in KRS 309.358(3) and 335B.040. The interview shall be conducted pursuant to the board's authority under KRS 309.355(3), 309.362(1)(b), and 309.362(4).

(b) Each applicant for renewal who has been convicted of a crime or who has been disciplined by the board of another jurisdiction during the licensure period immediately preceding the submission of the Application for Renewal shall submit a recent background check performed by the Federal Bureau of Investigation. The required background check shall be applied for within the ninety (90) days preceding the date the Application for Renewal is submitted.

(3) If, upon a preliminary review, the board determines that an Application for Renewal shall be denied, notice of the preliminary decision shall be sent to the licensee and the licensee shall have thirty (30) days from the date of the letter to request a hearing by certified mail and in writing with the board. If a request for hearing by the licensee is not received by the board within thirty (30) days of the letter, the licensee shall be found to have voluntarily withdrawn his or her Application for Renewal.

Section 2. A licensee convicted of a felony or disciplined in the interim period between issuance and renewal of the license, or between renewal periods, shall submit notice of the conviction or discipline to the board within sixty (60) days of the discipline or conviction.

Section 3. If payment and complete information are not received by the board on or before the anniversary date of the issuance of the license, the license shall expire and the person shall not practice nor represent himself or herself as a massage therapist in Kentucky.

Section 4. An expired license shall be renewed within ninety (90) days of expiration if the applicant submits:

(1) A completed Application for Renewal form;

(2) Documentation of successful completion of twenty-four (24) hours of continuing professional education, which:

(a) Includes studies in ethics, business practices, science, and techniques related to massage therapy;

(b) Have been credited within two (2) years prior to the renewal deadline; and

(c) Have not been previously used within the same renewal period to satisfy Kentucky license renewal requirements; and

(3) The appropriate fee for renewal, as required by 201 KAR 42:020, Section 2(2), (5), or (6).

Section 5. (1) Upon initial licensing, a licensee shall be furnished a wall certificate which shall be displayed at the primary massage therapy service location.

(2) A licensee shall provide verification of current licensure upon request if he or she is currently engaged in the practice of massage therapy, intends to engage within a reasonable time in the practice of massage therapy, or has engaged in the practice of massage therapy immediately prior to the request.

(3) Official verification of licensure status shall be available on the board's Web site.

Section 6. Reactivation Requirement for Inactive Status Massage Therapist. (1)(a) Before the expiration of five (5) years of inactive status, a licensee requesting to return to active status shall:

1. Provide proof to the board of continuing education required by KRS 309.362(3). At least three (3) of the continuing education hours submitted shall be focused on the area of ethics;

2. Complete the Application for Renewal; and

3. Pay the fee prescribed by 201 KAR 42:020, Section 2(7).

(b) The continuing education hours provided pursuant to paragraph (a)1 of this subsection may be used for the next regular renewal period.

(2) After more than five (5) years of inactive status, a person requesting to return to active status shall reapply as required by KRS 309.362(3).

Section 7. Incorporation by Reference. (1) "Application for Renewal", September 2015[~~August 2014~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602,[~~(502) 564-3296~~], Monday through Friday, 8:00 a.m. to 4:30 p.m.

DENISE LOGSDON, Chairman

APPROVED BY AGENCY: October 5, 2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 23, 2015 at 2:30 p.m. Eastern time, at the Kentucky Board of Licensure for Massage Therapy, 911 Leawood 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 within five days of the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day, Monday, November 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) 696-5635, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marcus Jones

(1) Provide a brief summary of: Establishes the requirements for renewal of a license to practice as a Massage Therapist.

(a) What this administrative regulation does: This administrative regulation establishes the requirements and procedures for renewal of a license to practice in the Commonwealth as a Licensed Massage Therapist. The regulation sets the appeal procedure for license denials.

(b) The necessity of this administrative regulation: The regulation is necessary to establish uniform renewal requirements for licenses. The regulation requires verification that licensees are maintaining good moral character as required by law. The regulation sets the appeal process for the denial of a renewal of a license.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS Chapter 309 requires the board to verify the qualifications of and establish a procedure for the renewal of licenses persons practicing as a Licensed Massage Therapist. This administrative regulation establishes the minimum qualifications and procedure for appeal of license decisions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the renewal requirements and the appeal process for the denial of a renewal of a license.

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

(a) How the amendment will change this existing administrative regulation: The amendment will add a requirement that applicants provide a color photograph with their renewal applications and submit to a criminal background check through law enforcement. The amendment will inform applicants that appeal requests must be dated and submitted in writing.

(b) The necessity of the amendment to this administrative regulation: The amendment will add a requirement that applicants prove their identity with a color photograph and criminal background check to protect the Commonwealth against fraud. The amendment will set a uniform appeal procedure so that appeals can be heard timely.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.355 requires the board to evaluate the qualifications for applicants for renewal of licensure and establish procedures for the issuance of renewals. KRS 309.362 allows the board to deny licensure to applicants that may endanger the health, safety, or welfare of the public and hold administrative hearings on the denials pursuant to KRS Chapter 13B. KRS 309.361 requires the board to set standards and conditions for renewal of licenses.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will require renewal applicants to submit a color photograph with their application to verify their identity. This administrative regulation will require renewal applicants to submit to a criminal background check to verify their arrest records. The amendment will require timely appeals.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 225 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires renewal applicants to submit a color photograph with an application. This administrative regulation will require renewal applicants to submit timely requests for appeal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The licensees must pay the appropriate biennial renewal fee listed in administrative regulation 201 KAR 42:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for renewal will have a recent color photograph in their board file to protect against identity theft or fraud. The public will have a means to verify that a massage therapist is in fact licensed with the board. Licensees will be informed of the requirement for timely appeals of license denials and have hearings held close in time to the date of the denial.

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

(a) Initially: The budget for the Board is $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 not increase or establish a fee.

(9) TIERING: Is tiering applied? No. Tiering is not necessary because the terms and conditions of this regulation will be applied to all applicants and applications for renewal equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensure for Massage Therapy is an administrative body created by KRS 309.355.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355(1), (3); KRS 309.361; KRS 309.362.

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 revenue generated will depend on the number of applicants and renewals for the 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 revenue will depend on the number of applicants and renewals for the subsequent years.

(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:

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:050. Complaint procedure and disciplinary action.

RELATES TO: KRS 309.351, 309.355(1), (2), (6), 309.362

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(1) requires the board to regulate the practice of massage therapy. KRS 309.355(2) requires the board to investigate every alleged violation and take appropriate action. This administrative regulation establishes the procedure for filing a complaint and the action to be taken by the board on a complaint and disciplinary action of a licensee or applicant in violation of KRS 309.351 or 309.362.

Section 1. Definitions. (1) "Complaint committee" means a committee of the board that:

(a) Reviews an initiating complaint; and

(b)1. Recommends dismissal or further investigation of the complaint; or

2. Determines the existence of sufficient evidence to bring a formal complaint.

(2) "Formal complaint" means a formal administrative pleading authorized by the board that sets forth a charge against a licensee or applicant and commences a formal disciplinary proceeding under KRS Chapter 13B.

(3) "Initiating complaint" means a written complaint alleging a violation of KRS 309.350 through 309.364.

(4) "Respondent" means the person against whom an initiating complaint or formal complaint has been made.

Section 2. Initiating Complaint. (1) A complaint may be initiated by:

(a) An individual;

(b) A state or government agency;

(c) Another member of the massage therapy profession; or

(d) The board.

(2) An initiating complaint shall be made in writing to the board and received in the board office.

(3) The board may conduct an investigation on its own initiative, without receipt of a complaint, if the board has reason to believe that there may be a violation of KRS 309.350 through 309.364, or administrative regulations promulgated in relation thereto.

(4) A certified copy of a court record for conviction of a misdemeanor or felony shall be considered a valid reason for an initiating complaint. The complaint shall be submitted on a Form to File a Complaint or Unlicensed Activity Report.

Section 3. Procedure Upon Receipt of Initiating Complaint. (1) Upon receipt of the initiating complaint, the board office shall send a copy of the initiating complaint to the respondent at the respondent's last address of record with the board.

(2) The respondent shall file a response to the initiating complaint with the board within twenty (20) days after the board mails the initiating complaint to the respondent.

(3) The allegations in an initiating complaint shall be considered true if the respondent fails to respond to the initiating complaint in a timely fashion.

(4) The board shall use the procedures established in this subsection to redact an initiating complaint.

(a) A copy of an initiating complaint may be redacted of personal names, personal identification numbers, and personal contact information upon recommendation of the complaint committee and consent by majority vote of the full board. The board shall keep the original initiating complaint free of redactions and store the document in the complaint case file.

(b) The board may send a redacted copy of an initiating complaint to the respondent to meet the requirements of subsection (1) of this section. The original initiating complaint that is free of redactions may be viewed by the respondent upon written request submitted to the board. The original copy of the initiating complaint that is free of redactions shall not be released to the respondent or the public until final disposition of the matter.

Section 4. The complaint committee shall:

(1) Review the initiating complaint and the response filed by the respondent at its next meeting; and

(2) Recommend one (1) of the following options to the board at the board's next meeting:

(a) Dismissal;

(b) Further investigation;

(c) Issuance of a formal complaint; or

(d) Referral to another government agency.

(3) A complaint committee member having any known conflict of interest shall be recused from the matter and disclose the existence of the conflict in a regular board meeting.

Section 5. Board Action upon Recommendation of Complaint Committee. At the board's next meeting following review by the complaint committee, the board shall review the committee's recommendations and shall accept or reject the recommendations in whole or in part.

Section 6. Dismissals. The complainant and respondent shall be notified if a case is dismissed.

Section 7. Investigations. (1) If investigation is warranted, the board shall appoint one (1) of its members or an agent or representative of the board to conduct an investigation of the complaint[~~respondent~~].

(2) In its investigation, the board may be assisted by:

(a) Board staff;

(b) A board agent; or

(c) The Office of the Attorney General.

Section 8. Formal complaints. If the board finds that sufficient evidence exists to file a formal complaint, the board shall:

(1) Resolve the case informally by agreed order; or

(2) File a formal complaint, in accordance with KRS Chapter 13B.

Section 9. Settlement by Informal Proceedings. (1) The board, through counsel, may enter into informal discussions or negotiations with the respondent for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through informal proceedings shall be approved by the board and signed by the chair of the board, the respondent, and the respondent's attorney. A copy shall be placed in the licensee's file and a copy shall be mailed to the complainant.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 10. Procedures for Disciplinary Hearings. (1) All procedures for disciplinary hearings shall conform to KRS Chapter 13B.

(2) Testimony to be considered by the board, hearing panel, or hearing officer, if any, may be taken by deposition. A party or witness may be allowed to testify by deposition, rather than attend the hearing, upon a showing of inability to attend and a showing that other parties shall have an opportunity to cross-examine at the deposition. The presiding officer or hearing officer, if any, shall rule upon motions to allow testimony to be considered by deposition, subject to review and approval by the board.

(3) The presiding officer or hearing officer, if any, may order that at least five (5) days prior to the hearing, each party shall file a summary of each witness' expected testimony.

(4) The board may request recovery of administrative costs and fees incurred by the board in processing, investigating, or administering a complaint to be paid by a respondent. The request shall be submitted by motion to an administrative hearing officer assigned under KRS 13B.080 to preside over a KRS Chapter 13B hearing of the complaint. The request may also be made to a circuit court judge presiding over an action for injunction filed by the board pursuant to KRS 309.355(6).

Section 11. Final Disposition. Upon reaching a decision, the board shall notify the respondent in writing, by certified mail or personal service, of its final disposition of the matter and the complainant shall be notified by regular mail.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Form to File a Complaint", January 2011; and

(b) "Unlicensed Activity Report", January 2011.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602,[~~(502) 564-3296~~], Monday through Friday, 8:00 a.m. to 4:30 p.m.

DENISE LOGSDON, Chairman

APPROVED BY AGENCY: October 5, 2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 23, 2015 at 2:30 p.m. Eastern time, at the Kentucky Board of Licensure for Massage Therapy, 911 Leawood 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 within five days of the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day, Monday, November 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) 696-5635, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marcus Jones

(1) Provide a brief summary of: Establishes the procedures for receiving and processing complaints regarding the practice of massage therapy in the Commonwealth.

(a) What this administrative regulation does: This administrative regulation establishes the procedures for receiving and processing complaints regarding the practice of massage therapy. The regulation sets the hearing and appeal procedure for board disciplinary actions.

(b) The necessity of this administrative regulation: The regulation is necessary to establish uniform procedures for receiving and processing complaints. The regulation is necessary for establishing a hearing and appeal procedure for board disciplinary actions.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS Chapter 309 requires the board to enforce the provisions of the chapter. KRS 309.355(2) requires the board to investigation allegations brought to its attention and prosecute violations of the Chapter.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees and the public of the complaint procedures and hearing process for complaints.

(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 add confidentiality protections for individuals that file complaints. The amendment will allow the board to recover costs in disciplinary actions.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to add protections of the confidential information of individuals that file complaints. The amendment is necessary to help the board recover the costs of processing complaints.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.355 requires the board to enforce the provisions of KRS Chapter 309. KRS 309.362 allows the board to take disciplinary action against licensees that violation the terms of the statute and impose disciplinary fines and conditions.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will protect individuals that file complaints by creating a process to protect confidential information. The amendment will allow the board to recover fees and costs necessary to administer and process complaints.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 225 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires licensees to comply with the complaint procedures that protect confidential information of individuals. This administrative regulation will allow the board to recover costs and fees in disciplinary actions.

(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 to licensees to comply with this regulation that are anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals that file complaints will have confidential information protected by the board. Licensee fees used in the complaint processes can be recovered by the board.

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

(a) Initially: The budget for the Board is $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 not increase or establish a fee.

(9) TIERING: Is tiering applied? No. Tiering is not necessary because the procedures for filing and reviewing complaints in this regulation will be applied to all individuals equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensure for Massage Therapy is an administrative body created by KRS 309.354 and 309.355.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.351, KRS 309.355(1), (3); KRS 309.362.

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 revenue generated will depend on the number of applicants and renewals for the 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 revenue will depend on the number of applicants and renewals for the subsequent years.

(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

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:080. Programs of massage therapy instruction.

RELATES TO: KRS 309.352(2), 309.355(1), (3), 309.358(4), 309.363(1), 309.3631

STATUTORY AUTHORITY: KRS 309.355(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS

309.352(2) requires the board to define licensed health-care professionals for the supervision of massage therapy students in clinical settings. KRS 309.355(1) requires the board to administer and enforce the provisions of KRS 309.350 to 309.364. KRS 309.355(3) requires the board to promulgate administrative regulations on standards of massage therapy educational program curriculum and instructor qualifications. KRS 309.358(4) requires the board to approve massage therapy training programs. KRS 309.363 requires board approval of massage therapy programs of instruction and establishes instructor qualifications. This administrative regulation establishes the definitions of supervision and qualifying supervisors and establishes the process for issuing and renewing the Certificate of Good Standing to a program of massage therapy education.

Section 1. Definitions. (1) "Adjunctive course" means a course in a program of education that enhances the career of a massage therapist but is not massage theory, technique, or practice.

(2) "Clinic" or "clinical" means a setting in which students are provided with on-site supervision and training in the practice of massage therapy.

(3) "Clinical coordinator" means the instructor of a massage therapy course in which students are assigned to perform massage therapy sessions on non-students, on or off-campus, and who is responsible for assigning the student to a clinical setting, supervising student performance through regular consultation with the student, and evaluating student achievement of clinical course objectives.

(4) "Externship" means a course offered by an approved program that:

(a) Has a syllabus that describes objectives and evaluations; and

(b) Is over and above the 600 supervised curriculum hours required for licensure.

(5) "Other licensed healthcare professional" means a practitioner as established in KRS 309.352(9)(a) through (c), (e), and (f) who may supervise a massage therapy student in a business.

(6) "Supervision" means the process of verifying attendance, assigning work, consulting with the student, evaluating student performance, and being available for emergency assistance.

Section 2. (1) A program shall file a completed, signed, and dated Application for a Certificate of Good Standing for a Massage Therapy Training Program and required documentation with the board, meeting the requirements established in KRS 309.363(1), (a), (b), and (c). Documentation shall include:

(a) A copy of the current license to operate issued by the Kentucky Commission[~~State Board~~] for Proprietary Education, the Council on Postsecondary Education, or their equivalent in the state in which the school is conducting classes;

(b) A curriculum statement as described in KRS 309.363(1)(b)1, 2, 3, 4, and 5 showing clock hours for each of the required subjects;

(c) A listing of instructional staff and their qualifications, as described in KRS 309.363(1)(c)1., 2., and 3. including:

1. Documentation of current Kentucky licensure of massage instructors; and

2. A resume, curriculum vitae, or PE-11 form, which is incorporated by reference in 791 KAR 1:010, for all instructors showing the specific qualifications for teaching an adjunctive or science course;

(d) A description of the policies and procedures in place for collecting and analyzing data about the quality and effectiveness of educational programs including student progress, completion, and licensure;

(e) A copy of the program or school catalogue;

(f) Documentation of accreditations held by the program or school offering the program; and

(g) A copy of a student contract agreeing not to accept compensation for massage therapy services provided prior to licensure by the board.

(2) After a preliminary determination is made by the board after an initial review, an applicant that has been preliminarily denied shall be entitled to a hearing on the denial in accordance with KRS Chapter 13B if the applicant notifies the board by certified mail and in writing within thirty (30) days that it elects to take advantage of that opportunity for a hearing.

Section 3. (1)(a) A Certificate of Good Standing may be renewed upon submission of the Application for a Certificate of Good Standing of a Massage Therapy Training Program Renewal Short Form or Long Form with the information required by this administrative regulation to the board on or before the anniversary date of issue of the certificate.

(b) Submission of the Application for a Certificate of Good Standing of a Massage Therapy Training Program Renewal Long Form shall include:

1. The current complete name, address, email address, Web site, and telephone number of each location in which the massage therapy training program is provided;

2. The name and contact information of the owner;

3. Documentation of the items required in Section 2 of this administrative regulation if these have changed since the program's initial application or last renewal;

4. A statement with supporting statistics to show student completion, examination pass rates, licensure rates, and placement rates; and

5. A statement with supporting documentation showing proof that at least seventy (70) percent of the graduates of the program who have taken the MBLEx or other board approved examinations[~~and NCBTMB Exam~~] over the twelve (12) months prior to application have received a passing score. Failure to supply proof of meeting this standard shall be grounds for denial of a program's request for certification of good standing.

(c) Submission of the Application for a Certificate of Good Standing of a Massage Therapy Training Program Renewal Short Form shall include documentation of changes to any of the following items if these have changed since the program's initial application or last renewal:

1. The contact information for the school;

2. The instructional staff;

3. The qualifications of an instructor;

4. The curriculum;

5. The massage therapy programs offered; or

6. The program's accreditation.

(d) Each Short Form shall include updated information on student completion, examination pass rates, licensure rates, and placement rates.

(e) Submission of documentation with the Short Form may include:

1. The current complete name, address, email address, Web site, and telephone number of each location in which the massage therapy training program is provided;

2. The current listing of instructional staff and their qualifications as described in KRS 309.363(1)(c)1., 2., and 3., with attached documentation of qualifications and Kentucky licensure of new instructors;

3. A current curriculum statement as described in KRS 309.363(1)(b)1, 2, 3, 4, and 5;

4. A curriculum statement for new programs of massage therapy added to the school's original offering, such as an associate's degree program, if the new program may be used to meet initial qualifications for licensure;

5. A statement with supporting statistics to show student completion, examination pass rates, licensure rates, and placement rates;

6. Documentation of accreditation reviews and renewals, if held; and

7. A statement with supporting documentation showing proof that at least seventy (70) percent of the graduates of the program who have taken the MBLEx or other board approved examinations[~~and NCBTMB Exam~~] over the twelve (12) months prior to application have received a passing score. Failure to supply proof of meeting this standard shall be grounds for denial of a program's request for certification of good standing.

(2) After a preliminary determination is made by the board after an initial review, an applicant seeking renewal that has been preliminarily denied shall be entitled to a hearing on the denial in accordance with KRS Chapter 13B if the applicant notifies the board by certified mail and in writing within thirty (30) days that it elects to take advantage of that opportunity for a hearing.

Section 4. Externships and Clinicals. (1) A student completing an externship or clinical experience shall not receive compensation.

(2) Massage schools or businesses that provide any type of student massage shall conspicuously include the respective words "student massage" in all promotional materials, and shall conspicuously display a written notice in the waiting room or treatment area that services are being provided by a student.

(3) Clinical courses awarding credit hours toward the 600 hours required for licensure shall be supervised by a licensed massage therapist with at least three (3) years of experience in the practice of massage therapy and who is available for on-site consultation.

(a) Massage sessions offered as part of a student clinic shall be evaluated by the instructor, and applicable goals for improvement in areas such as customer service, technique, body mechanics, and draping shall be established according to the needs of the student.

(b) Student massage clinics shall be supervised by a massage therapy instructor in the clinic.

(c) Student clinic client records shall be maintained at the school and shall meet the record keeping requirement established in 201 KAR 42:060, Section 2(1)(d) and the Standards for Documentation established in 201 KAR 42:060, Section 3. Record of payment shall be made available to the client upon request.

(4) The instructor of the externship course shall provide:

(a) Clear, written learning objectives to students and their site supervisors;

(b) Planned opportunities to discuss the externship experience at regular intervals with the student, and with the site supervisor; and

(c) A mechanism for evaluating student performance in the externship experience, presented to the student and the site supervisor at the beginning of the course.

(5) A program offering an externship course shall have a written agreement signed by the institution's representative or program director and the externship site personnel that clearly defines the responsibilities of the onsite supervisor, the clinical coordinator, and the student. An externship course shall be limited to no more than twenty (20) percent of the total program hours. The externship course, if offered, shall be completed after the primary 600 supervised curriculum hours required by KRS 309.358(4).

(6) A program offering an externship course shall have liability insurance to cover student activities within the course.

(7) Externship sites shall have a licensed massage therapist or other licensed healthcare professional onsite to be available for emergencies or consultation.

(a) Externs may accrue hours for reception, documentation, or business-related activities other than hands-on massage services while the site supervisor is off-premises.

(b) A student session at an externship site may occur with the site supervisor available by phone if the client of the session is on the staff of the externship site or is another extern, and a member of the professional staff is on premises for emergency assistance.

(8) Externship client records shall be maintained at the externship site and shall meet the record keeping requirement established in 201 KAR 42:060, Section 2(1)(d) and the Standards for Documentation established in 201 KAR 42:060, Section 3. Record of payment shall be available to the client upon request.

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

(a) "Certificate of Good Standing for a Massage Therapy Training Program Initial Application Form", September 2015[~~Application for a Certificate of Good Standing for a Massage Therapy Training Program", February 2014~~];

(b) "Application for a Certificate of Good Standing of a Massage Therapy Training Program Renewal Short Form", September 2015[~~August 2014~~]; and

(c) "Certificate of Good Standing for a Massage Therapy Training Program Renewal Application Long Form", September 2015[~~Application for a Certificate of Good Standing of a Massage Therapy Training Program Renewal Long Form", August 2014~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601,[~~(502) 564-3296~~], Monday through Friday, 8:00 a.m. to 4:30 p.m.

DENISE LOGSDON, Chairman

APPROVED BY AGENCY: October 5,2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 23, 2015 at 2:30 p.m. Eastern time, at the Kentucky Board of Licensure for Massage Therapy, 911 Leawood 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 within five days of the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day, Monday, November 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) 696-5635, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marcus Jones

(1) Provide a brief summary of: Establishes continuing education requirements for licensees.

(a) What this administrative regulation does: Sets the certification requirements for educational programs and instructors of massage therapy.

(b) The necessity of this administrative regulation: The regulation is necessary because uniform certification requirements for educational programs and instructors of massage therapy protect the public and inform massage therapy licensees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 309.355(3) authorizes the board to create standards of educational program curriculum and instructor qualifications for licensed massage therapy education. KRS 309.363 provides the board with mandatory criteria for massage therapy programs and instructors.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the required certification and education standards and instructor qualifications for programs of massage therapy instruction.

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

(a) How the amendment will change this existing administrative regulation: The amendment will update the names of the state certifying agencies and incorporate the current version of the regulation into the application forms. The amendment will update the appeal of denial of certificates of good standing with a timed appeal process.

(b) The necessity of the amendment to this administrative regulation: The programs of massage therapy instruction regulation

has been amended in recent years. The board must incorporate the current version of the regulations into the application forms. Certifying agencies have changed their names, and the name changes must be incorporated into the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.355(3) authorizes the board to create standards of educational program curriculum and instructor qualifications for licensed massage therapy education. The statue also allows the board to promulgate administrative regulations to carry out and enforce KRS 309.350 to 309.364. KRS 309.355(2) allows the board to conduct administrative hearings consistently with KRS chapter 13B for denials of licensure.

(d) How the amendment will assist in the effective administration of the statutes: This is amendment will allow the board to accurately inform licensees of the massage therapy program and instructor certification requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 225 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: Massage therapy programs will have to apply for certification consistently with the updated regulations and application forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The licensees must pay the appropriate biennial renewal fee listed in administrative regulation 201 KAR 42:020.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be granted approval of certificates of good standing for education programs that meet the current standards listed in regulations.

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

(a) Initially: The budget for the Board is $168,000 annual. There will be no additional cost to implement this regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $168,000 annual. 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 not increase or establish a fee.

(9) TIERING: Is tiering applied? No. Tiering is not necessary because the terms and conditions of this regulation will be applied to all licensees and applicants for certificates of good standing and other licensees equally.

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 Licensure for Massage Therapy is an administrative body created by KRS 309.355.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355(1), (3); KRS 309.363.

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 revenue generated will depend on the number of applicants for certificates and licenses and renewals for the 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 revenue will depend on the number of applicants for certificates and licenses and their renewals for the subsequent years.

(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

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:110. Continuing education requirements.

RELATES TO: KRS 309.355, 309.361

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate an administrative regulation establishing a requirement for continuing education as a condition for renewal of a license. KRS 309.361 identifies the requirements for continuing education and prescribes the types of courses required during the renewal period. This administrative regulation establishes the procedures and standards for submitting documentation to meet the continuing education requirements for renewal of a license.

Section 1. Definitions. (1) "ABMP" means the Associated Bodywork and Massage Professionals.

(2) "AMTA" means the American Massage Therapy Association.

(3) "AOBTA" means the American Organization for Bodywork Therapies of Asia.

(4) "Board" is defined by KRS 309.350(1).

(5) "CE hour" means continuing education hours consisting of fifty (50) minutes of an organized learning activity that is either didactic or clinical experience and shall exclude meals, breaks, and registration.

(6) "Competency" means the study, development, and demonstration of knowledge and skills in meeting professional expectations as a massage therapist.

(7) "Continuing education" means participation in an approved program or learning experience that is designed to facilitate continued competency including ethical and legal practice in the therapeutic massage and bodywork profession through participation in a learning process that enhances the licensee's current knowledge, skills, and abilities in the profession.

(8) "FSMTB" means the Federation of State Massage Therapy Boards.

(9) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

(10)[~~(9)~~] "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.

(11)[~~(10)~~] "Provider" means an organization, entity, or individual that has met the requirements of the board to provide educational courses that are designed to ensure continued

competence in the practice of massage therapy.

(12)[~~(11)~~] "Self-paced learning" means a course designated for an individual to learn at his or her own pace and is often referred to as correspondence or home study with testing or an evaluation process.

Section 2. Accrual of CE Hours; Computation of Accrual. (1) A licensee shall accrue a minimum of twenty-four (24) continuing education hours during a two (2) year licensure period for renewal of a license, beginning on the date of license issue.

(2) A minimum of three (3) of the twenty-four (24) hours required by subsection (1) of this section shall be accrued in the field of professional ethics.

(3) All hours shall be in or related to the practice of massage therapy.

(4) Coursework related to therapeutic techniques conducted on animals shall not be approved for continuing education credit.

Section 3. Acquisition of CE Hours. (1) CE hours applicable to the renewal of a license shall be directly related to the professional growth and development of massage therapy practitioners. CE hours may be earned by completing any of the educational activities described in this subsection.

(a) Courses Not Requiring Board Review and Approval. Courses from the following sources shall be relevant to the practice of massage therapy and shall be approved if the course is in or relates to massage therapy and does not violate any of the prohibitions contained in this administrative regulation:

1. Courses and Learning Opportunities approved by the NCBTMB;

2. Courses offered by the AMTA and its state affiliates;

3. Courses approved by the NCCAOM;

4. Courses offered by the AOBTA and its state affiliates;

5. Courses offered by the ABMP;

6. Kentucky board approved massage therapy programs of instruction or massage therapy programs duly licensed to operate in other states; [~~or~~]

7. Relevant academic courses completed in a degree-granting college or university accredited by an agency that is approved by the Council on Higher Education Accreditation (CHEA); or

8. Courses offered by the FSMTB.

(b) Programs Requiring Board Review and Approval. All other programs, including self-paced learning courses and in-service training provided by organizations, educational institutions, or other service providers not listed in paragraph (a) of this subsection, and programs or academic courses presented by the licensee shall require approval by the board.

(2) Presenters of relevant programs or academic courses may earn double continuing education credit for the length of presentation time, not to exceed twelve (12) hours per renewal cycle.

(3) Credit shall not be issued for repeated instruction of the same course.

(4) A licensee shall not receive credit for completing the same CE course within the two (2) year renewal period.

Section 4. Documentation of CE Hours. (1) A licensee shall furnish the following information regarding completion of the appropriate number of CE hours for the current renewal period:

(a) Name of course, date, and the author or instructor;

(b) Name of providing organization and the location of the course;

(c) The number of hours attended;

(d) Provider number;

(e) Provider name and telephone number for board verification;

(f) Official transcripts with a raised seal showing academic credits and grades awarded if courses are received from a university, college, or vocational technical adult education facility; and

(g) Documentation of completion, if requested by the board.

(2) A licensee who supplies false information to the board in order to comply with the CE requirements of this administrative regulation shall be subject to disciplinary action that may include suspension or revocation of license.

Section 5. Procedures for Preapproval of Continuing Education Courses. (1) An entity seeking to obtain approval of a continuing education course prior to its offering shall complete a Continuing Education Program Application and submit it to the board at least sixty (60) days in advance of the commencement of the course, stating the:

(a) Type of learning activity;

(b) Subject matter;

(c) Names and qualifications of the instructors;

(d) Number of continuing education hours offered; and

(e) Statement of how the CE course relates to massage therapy.

(2) A CE activity shall be preapproved if the activity being presented:

(a) Is an organized course of learning;

(b) Pertains to subject matters that integrally relate to the practice of massage therapy;

(c) Contributes to the professional competency of the licensee; and

(d) Is conducted by an individual with approved educational training or experience.

(3) The board shall review preapproval requests meeting the board's deadline at the board meeting immediately following the submittal and receipt of all required materials. An entity shall submit a preapproval request, and all required materials shall be received by the board at least one (1) business day before the board meeting. The board may defer a preapproval request to the next board meeting if the request did not meet the deadline established in this subsection.

Section 6. Responsibilities and Reporting Requirements of Licensees. A licensee shall:

(1) Identify the licensee's own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills, and attitudes;

(2) Select approved activities by which to earn CE hours;

(3) Maintain records of CE hours, for a period of two (2) years from the date of renewal; and

(4) Document attendance and participation in a CE activity by providing official transcripts, copies of certificates, or verification of completion, if requested.

Section 7. Carry-over of CE Hours. (1) A maximum of twelve (12) CE hours may be carried over into the next renewal period.

(2) A licensee shall maintain records related to carry-over continuing education hours and submit those continuing education hours to the board if the licensee elects to utilize those hours for the fulfillment of the continuing education requirement for the current renewal period.

(3) A continuing education course shall only be used for the fulfillment of the continuing education requirement for a single renewal period and shall not be subdivided for utilization in multiple renewal periods.

Section 8. Appeal Procedure If Approval for CE Hours is Denied. If an application for approval of CE hours is disapproved, the licensee may request reconsideration by the board. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of the CE hours.

Section 9. Audit of CE Activities. The board may audit the documentation of a licensee's CE hours for the current renewal period. If notified by the board, the licensee shall respond to the audit within thirty (30) days of the date of the request.

Section 10. Waiver or Extension of Continuing Education. (1) The board shall, in individual cases involving medical disability, illness, undue hardship, active military service, or other similar extenuating circumstance that precludes the individual's

completion of the requirements, waive CE requirements or grant an extension of time within which to fulfill the requirements if the board receives:

(a) A written request for waiver or extension of time; and

(b)1. Verifying documentation signed by a licensed physician or proper military personnel, if applicable; or

2. Documentation to support the waiver.

(2) A waiver of the minimum CE requirements or an extension of time within which to fulfill the CE requirements may be granted by the board for a period not to exceed one (1) calendar year. If the circumstance extends beyond the period of the waiver or extension, the licensee shall reapply for the waiver or extension.

Section 11. Incorporation by Reference. (1) "Continuing Education Program Application", August 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602,[~~(502) 564-3296,~~] Monday through Friday, 8:00 a.m. to 4:30 p.m.

DENISE LOGSDON, Chairman

APPROVED BY AGENCY: October 5, 2015

FILED WITH LRC: October 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 23, 2015 at 2:30 p.m. Eastern time, at the Kentucky Board of Licensure for Massage Therapy, 911 Leawood 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 within five days of the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day, Monday, November 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) 696-5635, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marcus Jones

(1) Provide a brief summary of: Establishes the requirements for continuing education and procedures for approving continuing education programs for licensed massage therapists.

(a) What this administrative regulation does: This administrative regulation establishes the procedures for receiving and reporting continuing education hours. This administrative regulation lists approved education programs and methods of obtaining board approval for a continuing education program.

(b) The necessity of this administrative regulation: The regulation is necessary to establish uniform procedures for receiving and reporting continuing education for licensees and program providers.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 309.355(3) requires the board to promulgate regulations that establish continuing education requirements for license renewals and certify programs for massage therapy continuing education providers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees and program providers of the requirements for continuing education for renewal of massage therapy licenses.

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

(a) How the amendment will change this existing administrative regulation: The amendment will add a nationally recognized certifying agency to the list of preapproved continuing education providers.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary because the nationally recognized certifying agency added to the list of preapproved continuing education providers offers significant education courses in massage therapy.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.355 requires the board to enforce the provisions of KRS Chapter 309. KRS 309.355(3) allows the board to establish continuing education requirements and approve program providers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will notify licensees that continuing education programs offered by a nationally recognized massage therapy provider are preapproved for Kentucky licensee participation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 225 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires licensees to comply with the continuing education requirements of Kentucky law and use certified providers to meet those requirements.

(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 to licensees to comply with this regulation that are anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will be preapproved to participate in continuing education courses offered by a nationally recognized certifying organization.

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

(a) Initially: The budget for the Board is $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $168,000 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The 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 not increase or establish a fee.

(9) TIERING: Is tiering applied? No. Tiering is not necessary because the terms and conditions of this regulation will be applied to all licensees and individuals.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? Kentucky Board of Licensure for Massage Therapy is an administrative body created by KRS 309.354 and 309.355.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355(3); KRS 309.361.

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 revenue generated will depend on the number of applicants and renewals for the 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 revenue will depend on the number of applicants and renewals for the subsequent years.

(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

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:030. Commercial guide license.

RELATES TO: KRS 150.170,[~~150.175,~~] 150.412

STATUTORY AUTHORITY: KRS[~~150.015,~~] 150.025, 150.175(11), 150.190

NECESSITY, FUNCTION, AND CONFORMITY:[~~KRS 150.015 authorizes the department to protect and conserve the wildlife of the Commonwealth.~~] KRS 150.025 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 statewide or to a limited area[~~protect fish and game from overharvest~~]. KRS 150.175(11) authorizes the department to issue a commercial guide's license, which authorizes the holder to guide hunting and fishing parties. KRS 150.190 authorizes the department to ensure that an applicant for a commercial guide license is qualified to act as a commercial guide.[~~EO 2008-516, effective June 16, 2008, reorganizes and renames the Commerce Cabinet as the Tourism, Arts and Heritage Cabinet.~~] This administrative regulation establishes[~~is necessary to establish~~] the requirements for a commercial guide license and a guide helper.

Section 1. Definitions. (1) "Commercial guide" means a person who advertises or offers their services for remuneration to[~~direct, instruct (excluding seminars), or~~] aid others in taking wildlife, excluding classroom instruction or seminars.

(2) "Directly supervised" means that the commercial guide license holder is in the same boat or directly along side of the commercial guide helper if standing on a stream or river bank[~~"Creel limit" is defined in 301 KAR 1:201~~].

(3)[~~"Direct supervision" means supervision in the approximate vicinity sufficient to provide immediate medical assistance.~~

~~(4)~~] "Fishing guide helper" means a person[~~without a commercial guide license~~] who is directly supervised by a commercial guide while guiding others[~~involved~~] in the taking of fish[~~wildlife~~].

(4) "Hunting guide helper" means a person who is acting on behalf of a commercial guide license holder, is registered with the department, and whose actions in the field assist in the taking of game animals, but shall not include individuals assisting only in the recovery and removal of dead game, or tracking wounded game[~~(5) "Take" is defined in KRS 150.010(37).~~

~~(6) "Wildlife" is defined in KRS 150.010(41)~~].

Section 2. Commercial Guide License Requirements and Application. (1) A person[~~wanting to commercially guide for wildlife~~] shall possess a valid Kentucky commercial guide license in order to commercially guide others in[~~provided by~~] the taking of wildlife[~~department~~].

(2) A commercial guide license is valid from March 1 through the last day of February[~~for one (1) calendar year~~].

(3) An applicant of a commercial guide license shall:

(a) Be eighteen (18) years of age or older;

(b)[~~Have~~] Not been convicted of any state or federal fish or wildlife violation[~~game violations~~] during the previous three (3) years;

(c) Not been convicted of a felony;

(d) Possess a valid[~~all necessary~~] fishing license and trout permit if applicable[~~licenses and permits in order to receive a commercial guide license for fishing~~]; and

(e)[~~(d)~~] Possess a valid[~~all necessary~~] hunting license and all applicable game[~~licenses and~~] permits[~~in order to receive a commercial guide license for hunting~~].

(4) An elk permit shall not be required to be purchased by a commercial guide or hunting guide helper in order to guide clients in the taking of elk.

(5) In order[~~An applicant wanting~~] to obtain[~~apply for~~] a commercial guide license, a person shall submit to the department:

(a) A completed[~~An~~] application for a commercial guide license to the Director's Office, Division of Law Enforcement, #1 Sportsman's Lane, Frankfort, Kentucky 40601;

(b)[~~A signed affidavit from two (2) separate character references documenting the applicant is experienced in the field in which they are guiding and that the applicant is of good moral character and in good physical condition;~~

~~(c) Proof of~~] A Law Information Network of Kentucky National Crime Information Center (LINK/NCIC)[~~(NCIC/LINK)~~] background check obtained through the Kentucky State Police;

(c)[~~(d) Effective January 1, 2010,~~] Proof of a valid and up to date certification in:

1. Cardiopulmonary resuscitation (CPR); and

2. First aid;[~~.~~]

(d)[~~Certifications shall be maintained as specified by the certifying organization;~~

~~(e)~~] Proof of completion of a boater education course when applying for a commercial guide license for fishing in a boat[~~. An applicant may complete the online boater education course available by accessing the department's Web site at http://fw.ky.gov to satisfy this requirement~~];

(e)[~~and~~

~~(f)~~] Proof of completion of a hunter education course[~~, or a valid hunter education exemption permit available by accessing the department's Web site at http://fw.ky.gov,~~] when applying for a commercial guide license for hunting. A commercial guide applicant who guides hunters by boat shall also submit proof of completion of a boater education course; and

(f) A ten (10) dollar registration fee for each hunting guide helper to be used by the commercial guide[~~or the online boater education course~~].

[~~(5) A commercial guide who has possessed a commercial guide license for the past three (3) consecutive years shall not be required to submit the two (2) character reference affidavits, as established in this Section of this administrative regulation, when applying for a commercial guide license.~~]

(6) A commercial guide applicant who possesses a valid United States Coast Guard Captain's License, or "six pack",[~~("six pack")~~] and will guide on a United States Coast Guard regulated waterway may submit a copy of this license in lieu of the boater education course requirements, as established in this section when applying for a commercial guide license.

(7)[~~Effective January 1, 2010,~~] A commercial guide applicant who possesses a valid U.S. Coast Guard Captain's License, or "six pack",[~~(six pack)~~] and will guide on a U.S. Coast Guard regulated waterway may submit a copy of this license in lieu of the CPR and first aid requirements, as established in subsection (5) of this section, when applying for a commercial guide license.

(8) While guiding, a commercial guide shall have in possession all required licenses and permits.

Section 3. Guide Helper. (1) A commercial guide may utilize fishing guide helpers and hunting guide helpers[~~provided they are under the direct supervision of the commercial guide, except on lands owned or leased by the commercial guide~~].

(2) A fishing guide helper shall have in possession while assisting a commercial guide a valid Kentucky[~~:~~

~~(a) Have in possession all necessary~~] fishing license and applicable permits.[~~licenses and permits; and~~

~~(b) Be accompanied in the boat by a commercial guide;~~]

(3) A hunting guide helper shall have in possession while assisting a commercial guide[~~have in possession~~]:

(a) A valid Kentucky[~~All necessary~~] hunting license[~~licenses~~] and applicable game permits;

(b) Proof of completion of[~~(b)1.~~] a hunter education course[~~card~~];[~~or~~

~~2. A valid hunter education exemption permit; and~~

(c) Proof of completion of a boater education course[~~card~~] if helping a commercial guide by boat; and

(d) A hunting guide helper certification card.

(4) Effective March 1, 2016[~~January 1, 2010~~], a hunting guide helper[~~wishing to work beyond the direct supervision of the commercial guide~~] shall be required to provide proof of a valid and up-to-date certification in:

(a)[~~have~~] Cardiopulmonary resuscitation (CPR); and

(b) First aid[~~certification~~].

(5) A hunting guide helper shall be registered with the department by the licensed commercial guide they represent.

(6) An applicant for a hunting guide helper shall:

(a) Be at least eighteen (18) years old;

(b) Not be convicted of a state or federal fish or wildlife violation during the previous three (3) years; and

(c) Not been convicted of a felony[~~Certifications shall be maintained as specified by the certifying organization~~].

Section 4. Commercial Guide License Prohibitions and Revocation. (1) A commercial guide or guide helper shall not participate in the taking of fish or game beyond the bag limit or creel limit of the person or persons being guided, except that a commercial guide or guide helper may take a[~~their~~] daily bag or creel limit of fish or game while guiding.

(2) The department shall revoke and not renew the commercial guide license or hunting guide helper certification, for a period of one (1) year[~~three (3) years~~], of a person convicted of any state or federal fish or game violation.

(3) The department shall permanently revoke the commercial guide license or hunting guide helper certification of a person convicted of a felony.

(4) An individual whose commercial guide license or hunting guide helper certification has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 5. Incorporation by Reference. (1) "Commercial Guide License Application", 2016 edition[~~07/18/08~~], 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.

KAREN A. WALDROP, Deputy Commissioner
For GREGORY K. JOHNSON, Commissioner
ROBERT H. STEWART, Secretary
APPROVED BY AGENCY: October 7, 2015
FILED WITH LRC: October 14, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 23, 2015, at 8:30 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through November 30, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, 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 the requirements for a commercial guide license and guide helpers.

(b) The necessity of this administrative regulation: This regulation is necessary to establish minimum regulatory standards and qualifications for commercial guides and commercial guide helpers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 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 statewide or to a limited area. KRS 150.175(11) authorizes the department to issue a commercial guide's license, which authorizes the holder to guide hunting and fishing parties. KRS 150.190 authorizes the department to ensure that an applicant for a commercial guide license is qualified to act as a commercial guide.

(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 minimum standards and qualifications for commercial guides and commercial guide license helpers and ensures that an applicant is qualified to act as a commercial guide.

(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 guide license year from a calendar year to the hunting and fishing license year (March 1 to the last day of February), add disqualifying and revocation criteria for guides and guide helpers, requires hunting guide helpers to meet the same qualifications as a licensed guide, reduces the revocation period from 3 years to 1 year for those convicted of a fish and wildlife violation, removes the requirement of a guide having to purchase an elk tag in order to guide elk hunting clients, and establishes a $10 registration fee for guide helpers to cover the administrative costs associated with department review and guide helper registration.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to strengthen the requirements for commercial guides and registered guide helpers, to have commercial guide license year conform to the hunting and fishing license year, to prevent convicted felons from being a commercial guide or guide helper, and to reduce the revocation period for commercial guides to mirror the revocation period for commercial nuisance wildlife control operators.

(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: All individuals who commercially guide clients will be affected by this amendment. For the 2014 license year, a total of 181 resident and 15 non-resident commercial guide licenses were sold. In the past, the department was unaware of how many guide helpers were in the state, but the new system will require hunting guide helpers to be registered with the department.

(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: Hunting guide helpers will be required to meet the same qualifying criteria as commercial hunting guides. Commercial guides will be required to register all their helpers with the department and pay a $10 administrative fee for each helper. Any person with a felony conviction will be unable to be licensed as a guide or a guide helper. A commercial guide applicant will not be able to obtain a license if convicted of a fish and wildlife violation in the last 3 years. A helper applicant will be unable to work for a guide if convicted of a fish and wildlife violation in the past 3 years.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The resident commercial guide license will continue to cost $150. It will also cost the commercial guide an additional $10 to register each commercial guide helper on their application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The revocation period for commercial guides was reduced from 3 years to 1 year for those convicted of a fish and wildlife violation. Hunting guide helpers will be more qualified to assist commercial guides. The license year for a commercial guide will now be more convenient and conform to hunting and fishing license years (March 1 through the end of February). 2015 commercial guides will also benefit from receiving an extra 2 months in 2016 without having to obtain a new license.

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

(a) Initially: This administrative regulation change will result in a nominal administrative cost to the Department for having to verify that the guide helpers meet the qualifying criteria and to produce them with proof via a document or card.

(b) On a continuing basis: There will be a slight additional administrative 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: 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 be necessary to increase the fees that a commercial guide license holder pays if they use hunting guide helpers in order to offset administrative processing costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Yes. This amendment establishes a $10 administrative processing fee for registering each hunting guide helper that a commercial guide employs.

(9) TIERING: Is tiering applied? Tiering was not applied because all individuals wishing to be a commercial guide or commercial guide helper are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Fisheries, Wildlife, and Law Enforcement 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 150.025, 150.175(11), and 150.190.

(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? It is unknown how many hunting guide helpers will be registered with the department in the first year, but it is unlikely to generate more than $3,000 or $4,000 total.

(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? It is unknown how many hunting guide helpers will be registered with the department in subsequent years, but it is unlikely to generate more than $3,000 or $4,000 in subsequent years.

(c) How much will it cost to administer this program for the first year? It is expected that the registration fee for hunting guide helpers should offset the additional administrative costs to the agency during the first year.

(d) How much will it cost to administer this program for subsequent years? It is expected that the registration fee for hunting guide helpers should offset the additional administrative costs to the agency during 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:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:083. Holding and intrastate transportation of captive cervids.

RELATES TO: KRS 150.010(41)[~~150.025, 150.280~~], 150.290, 150.725,[~~150.730, 150.735,~~] 150.740

STATUTORY AUTHORITY: KRS 150.025(1), 150.280, 150.720, 150.730, 150.735

NECESSITY, FUNCTION AND CONFORMITY: KRS 150.025 authorizes the department to regulate the buying, selling, or transportation of wildlife. KRS 150.280 authorizes the department to promulgate administrative regulations relating to propagating and holding of wildlife. KRS 150.720 authorizes the department to promulgate administrative regulations pertaining to the importation and holding of cervids, including privately-owned and farm-raised cervids. KRS 150.730 authorizes the department to issue or deny permits to hold captive cervids. KRS 150.735 authorizes the department to promulgate administrative regulations relating to the expansion of captive cervid facilities and the transfer of permits. This administrative regulation establishes the requirements for holding and intrastate transporting cervids in Kentucky.

Section 1. Definitions. (1) "Captive cervid" means a cervid that is privately owned, born and raised in captivity, and not considered wildlife as established in KRS 150.010.

(2) "Captive cervid permit" means a permit issued by the Kentucky Department of Fish and Wildlife Resources that is required to hold cervids in captivity and does not include shooting preserves as permitted under 301 KAR 2:041.

(3)[~~(2)~~] "Cervid" means a member of the family Cervidae.

[~~(3) "Commercial captive cervid permit" means a permit for propagation and taking of captive cervids by any legal hunting or slaughter methods, which allows the permit holder to sell, offer to sell, trade, or barter captive cervids, parts thereof, or products~~

~~produced by captive cervids.~~]

(4) "Flop tag" means a commercial plastic ear tag used to identify livestock.

(5)[~~"KDFWR" means the Kentucky Department of Fish and Wildlife Resources.~~

~~(6)~~] "Line post" means a post in a fence that is not a corner or end post.

(6)[~~(7)~~] "Noncommercial captive cervid permit" means a permit issued prior to March 1, 2016 that allows a person to possess captive cervids that are not intended for sale, offered for sale, traded, or bartered.

Section 2. Fencing and Holding Requirements. (1)(a) An exterior fence shall be at least eight (8) feet above ground level for its entire length, and consist of twelve and one-half (12 1/2) gauge woven wire, fourteen and one-half (14 1/2) gauge high-tensile woven wire, wood planks, or chain link.

(b) A single or double strand of barbed wire strung across the top to bring the total fence height to eight (8) feet shall be acceptable.

(c) Strands of barbed wire shall not be more than six (6) inches apart and shall not be more than five (5) inches from the top of the[~~aforementioned~~] fencing as established in this subsection and subsection (2) of this section.

(d) Spacing between vertical wires shall not exceed six and one-half (6 1/2) inches for captive deer or species whose adult size is less than 400 pounds and twelve (12) inches for captive elk or species whose adult size is 400 pounds or more.

(e) If two (2) woven wire fences are combined, one (1) above the other, the woven wire fences shall be overlapped at least six (6) inches and firmly attached to each other at intervals no greater than three (3) feet.

(f) The fence bottoms shall be installed to provide not more than three (3) inches of ground clearance.

(2) Right-of-way.

(a) The fence right-of-way shall be cleared for a distance of six (6) feet on each side.

(b) If the fence is a property boundary fence, the fence right-of-way shall be cleared for a distance of six (6) feet on the inside only.

(c) If dead timber with a height greater than the distance of the fence exists on the permittee's property, it shall be felled.

(3)(a) Fence posts shall extend a minimum of eight (8) feet above the ground and shall be of sufficient strength to maintain the fence integrity.

(b) Pine wood posts shall be treated.

(c) Posts shall be set to a minimum depth of three (3) feet.

(d) T-posts shall be installed according to manufacturers' specifications.

(4) Line posts.

(a) Wooden line posts shall be a minimum of four (4) inches in diameter and shall not be spaced more than twenty-four (24) feet apart.

(b) Steel pipeline posts shall:

1. Be a minimum of two and three-eighths (2 3/8) inches in outside diameter;

2. Weigh a minimum of three (3) pounds per foot; and

3. Not be spaced more than twenty-four (24) feet apart.

(c) Metal "T" posts shall be a minimum of one and one-quarter (1.25) pounds per foot and shall be spaced no more than twenty (20) feet apart.

(d) If the woven wire is not high tensile, there shall be a wooden or steel pipe post every sixty (60) feet.

(5) Corner and end posts.

(a) Wooden corner and end posts shall be a minimum of five (5) inches in diameter.

(b) Steel pipe corner and end posts shall be a minimum of two and seven-eighths (2 7/8) inches in outside diameter.

(c) Corner and end posts of other materials shall be of sufficient strength to maintain the fence integrity and shall be approved by the department prior to installation.

(6) Gates shall be:

(a) Substantially constructed to meet the specifications of the fence; and

(b) Equipped with at least one (1) latching and one (1) locking device.

(7)(a) Swinging water gaps and stream crossings shall be constructed to equal or exceed the standards of the fence.

(b)[~~These~~] Crossings shall be adequate to prevent ingress and egress during high water.

(c) Permissible water gaps are established in subparagraphs 1. through 4. of this paragraph[~~as follows~~]:

1. Swinging gates constructed to match the contour of the stream supported by cable or hinge (larger water gaps);

2. Pipe with swinging barrier (larger water gaps);

3. Pipe with fixed mesh barrier (smaller water gaps); and

4. Heavy gauge woven barrier contoured to fit the gap (smaller water gaps).

(8) If topographic, natural, or other conditions exist that enable cervids to pass through, under, or over the fence, the permittee shall be required to supplement the fence with additional, stronger or higher fence posts, special grading, additional wire to increase fence height or other measures to prevent escape.

(9) Maintenance. The fence shall be maintained in a game-proof condition at all times.

(10) A noncommercial captive permit holder shall:

(a) Separate all adult males and females with fencing as established in this section;

(b) Not allow breeding, either by natural or artificial insemination; and

(c) Not introduce any additional captive cervids to the facility.

Section 3. Capture and Handling Facilities. (1) Each captive facility shall have an approved handling facility or device, such as a squeeze chute or crush, which facilitates inspection, handling, or capture of an individual animal.

(2) If a permittee's facility does not have the handling or capture facilities listed in subsection (1) of this section, alternatives such as dart guns, tranquilizers, or other devices which immobilize an animal shall be approved by the department before being used.

Section 4. Tagging. (1) Captive cervids shall be identified in accordance with the Kentucky Department of Agriculture's Chronic Wasting Disease[~~Agriculture CWD~~] program requirements established in 302 KAR 20:066.

(2) Captive cervids over six (6) months old shall be uniquely identified with a plastic ["]flop["] tag in at least one (1) ear that is clearly visible and identifiable.

(3) The department shall[~~KDFWR may~~] approve one (1) of the alternatives for plastic ["]flop["] tags established in paragraphs (a) through (c) of this subsection for bona fide zoos, nature centers, or similar educational institutions upon written request[~~. One (1) of the following may be substituted for ear tags or other approved forms of identification~~]:

(a) Lip or ear tattoo;

(b) Microchip; or

(c) Branding.

Section 5. Ingress and Egress. (1) The permit holder shall be responsible for immediately capturing or destroying escaped animals upon discovering their escape.

(2) If the permit holder is unable to capture an escaped animal within forty-eight (48) hours from discovering its escape, the permit holder shall report each escape to the department[~~KDFWR~~] by telephone [~~(~~]1-800-858-1549[~~)~~].

(3) The permit holder shall send[~~then file~~] a written report to the Kentucky Department of Fish and Wildlife Resources[~~(KDFWR~~], #1 Sportsman's Lane, Frankfort, Kentucky 40601, ATTN: Captive Cervid Permits,[~~)~~] within ten (10) days, describing what escaped and the reason for the escape.

(4) The permit holder shall[~~also~~] report known ingress of wild cervids into the enclosure by sending[~~filing~~] a written report to the department at the same address established in subsection (3) of this section[~~KDFWR (KDFWR, #1 Sportsman's Lane, Frankfort, Kentucky 40601, ATTN: Captive Cervid Permits)~~].

(5) The department or any peace officer may seize, capture, or destroy escaped animals or those that have ingressed if

necessary.

Section 6. Space Requirements. (1) For species whose adult weight is less than 400 pounds, each individual animal shall be allowed at least 1,000 square feet of space.(2) One (1) individual animal of a species whose adult weight is 400 pounds or more, shall require at least 1,500 square feet of space, with each additional animal requiring an additional 1,000 square feet of space.

Section 7. Prohibited Species. Except for cervids legally held prior to November 12, 2002, a captive cervid permit shall not be issued for the species established in subsections (1) through (4) of this section[~~following~~]:

(1) Genus Cervus spp., except Cervus elaphus nelsoni;

(2) Genus Axis spp.;

(3) Roe deer (Capreolus capreolus and Capreolus pygarus); or

(4) Hybrids thereof.

Section 8. Captive Cervid Permits. (1) Permit application and issuance. An application for a new or renewed captive cervid permit shall be processed in accordance with the provisions of KRS 150.730.

(2) A captive cervid permit shall be valid only for the property and facility identified in the application and that is inspected as established[~~provided~~] in subsection (11)[~~(4)~~] of this section. A cervid shall not be moved into a new or expanded facility until the facility has been issued a captive cervid permit by the department[~~KDFWR~~].

(3)[~~(a)~~] Zoos and other facilities fully accredited by and in good standing with the American Zoo and Aquarium Association[~~(AZA)~~] shall not be required to obtain or renew a[~~KDFWR~~] captive cervid permit, but[~~. Zoos and~~] facilities[~~certified but~~] not accredited by the American Zoo and Aquarium Association[~~AZA~~] shall be required to obtain and renew a[~~KDFWR~~] captive cervid permit.

(4)[~~(b)~~] A[~~commercial~~] captive cervid permit shall be required for a facility owned or leased by a person[~~persons~~] wishing to hold[~~sell, offer to sell, trade, or barter~~] captive cervids.

(5) A new noncommercial captive cervid permit shall not be issued to a facility after February 28, 2016[~~A person shall not sell, offer to sell, trade, or barter native cervids obtained from the wild~~].

(6)[~~(c) A noncommercial captive cervid permit shall be required for a person wishing to possess captive cervids, but who do not intend to sell, offer for sale, trade, or barter cervids.~~

~~(d)~~] All wild cervids shall be removed from the facility prior to initial inspection.

(7)[~~(e)~~] A permit shall identify the species and numbers of cervids being held.

(8)[~~(2)~~] Duration.

(a) A[~~commercial~~] captive cervid permit shall be valid for one (1) year beginning March 1 through the last day of February, and may be renewed annually upon payment of the annual fee and proof of compliance with all applicable statutes and administrative regulations.

(b) A noncommercial captive cervid permit shall be valid for three (3) years beginning March 1 through the last day of February, and may be renewed every third year upon payment of the fee and proof of compliance with all applicable statutes and administrative regulations.

(9) A holder of a noncommercial captive cervid permit prior to March 1, 2016, shall be allowed to hold captive cervids for the life of the animals, after which the permit shall not be valid.

(10)[~~(3)~~] Transfers. A captive cervid permit may be transferred if an existing and currently permitted facility is sold or leased to a person or entity who shall maintain and operate the facility pursuant to[~~in accordance with the provisions of~~] KRS 150.735(3).

(a) The original captive cervid permit holder who is transferring the permit shall be compliant with all provisions of this administrative regulation prior to transfer.

(b) Prior to transfer of the permit to a new owner or lessee, the facility shall be inspected for compliance as provided by subsection (11)[~~(4)~~] of this section.

(c) The purchaser or lessee of the facility shall:

1. Apply for transfer of the existing captive cervid permit on a department[~~KDFWR~~] captive cervid permit transfer application form;

2. Attach[~~.~~] a copy of the deed indicating change of ownership or the lease agreement between the parties conducting the transfer; and

3. Send all[~~shall be attached to a completed transfer~~] application materials[~~form and sent~~] to the department at[~~KDFWR,~~] #1 Sportsman's Lane, Frankfort, Kentucky 40601, ATTN: Captive Cervid Permits, within thirty (30) days after the inspection.

(d) A transferred captive cervid permit may be renewed by the new owner or lessee completing a captive cervid permit application.

(e) A noncommercial captive cervid permit shall not be transferred.

(11)[~~(4)~~] Inspections.

(a) Before a captive cervid permit or noncommercial captive cervid permit is issued, renewed, or transferred, each facility or facility expansion shall pass an inspection that certifies it is in compliance with all applicable statutes and administrative regulations.

(b) Upon completion of a facility or facility expansion, or if a facility is to be sold or otherwise transferred, the permit applicant or holder shall notify the department[~~KDFWR~~] to request an inspection that[~~which~~] shall be conducted within thirty (30) days of receipt of the request.

(c) Each facility shall be inspected annually after issuance of a captive cervid permit or noncommercial captive cervid permit to certify and document that the facility is in compliance with this administrative regulation.

(d) A captive cervid facility inspection form shall be completed by a department[~~KDFWR~~] law enforcement captain, who shall then forward the original copy to department headquarters[~~KDFWR Headquarters~~] for processing.

(12)[~~(5)~~] Revocation or suspension.

(a) The department[~~A person identified by a KDFWR law enforcement officer as being in violation of a Kentucky statute or administrative regulation pertaining to the holding of captive cervids~~] shall issue[~~be issued~~] a notice of violation[~~,~~] in the form of a certified letter to[~~from the commissioner.~~] a person who is not in[~~receiving a notice of violation shall have his or her permit suspended, until which time he or she comes into~~] compliance with this[~~all applicable statutes and~~] administrative regulation, 302 KAR 20:066, or a Kentucky statute pertaining to the holding of captive cervids[~~regulations~~].

(b) The department shall suspend the permit of a person who has received a[~~Failure to come into compliance with all applicable statutes and administrative regulations within sixty (60) days from the date the~~] notice of violation until the person complies with this administrative regulation and applicable statutes[~~is received shall result in a citation being issued~~].

(c) The department shall issue a citation to a person who has failed to comply with this administrative regulation or applicable statutes within sixty (60) days from the date of the notice of violation.

(d) If convicted, the department shall:

1. Revoke the[~~his or her~~] permit; and

2. Seize[~~may be revoked and may cause~~] the captive cervids [~~to be immediately seized by the department~~].

(e) A person who has a[~~whose~~] captive cervid permit[~~is suspended or~~] revoked or suspended shall not, without the written approval of[~~from~~] the department:

1.[~~,~~] Transfer or expand the facility; or

2.[~~or~~] Sell, offer to sell, trade, transport, hunt, or slaughter captive cervids that[~~which~~] are housed in that facility.

(12)[~~(6)~~] Appeal procedures. An individual whose request for a permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(13)[~~(7)~~] Expansions.

(a) A facility may be expanded at any time and shall conform to the fencing specifications described in this administrative regulation.

(b) Facility expansions shall be adjacent and connected to the currently permitted facility.

(c) Cervids shall not be introduced into the expanded portion of

a facility until that expansion has been inspected and approved by the Department as provided in subsection (11)[~~(4)~~] of this section.

Section 9. Origin and Disposition of Captive Cervids. (1) Cervids obtained from the wild shall only be held by a permitted wildlife rehabilitator[~~permitted~~] pursuant to 301 KAR 2:075.

(2) Captive cervids shall not be released into the wild except for wild-born cervids released by a permitted wildlife rehabilitator pursuant to 301 KAR 2:075.

(3) Wild-born cervids held in captivity for rehabilitation purposes shall not:

(a) Be housed in the same pen or otherwise housed in direct physical contact with cervids that were born in captivity; and[~~or~~]

(b) Be housed in a pen that has ever housed cervids that were born in captivity.

Section 10. Intrastate Movement of Cervids. (1) Before a person may move a captive cervid within the state, an authorization number shall be obtained from the Kentucky Department of Agriculture pursuant to 302 KAR 20:066.

(2) A person transporting cervids shall have the authorization number issued by the Kentucky Department of Agriculture, and if applicable, the required health papers, in[~~his or her~~] possession while transporting cervids.

Section 11. Selling Cervids. A permit holder who holds a[~~commercial~~] captive cervid permit may sell live cervids, parts thereof, or products produced by captive cervids, if those animals were not obtained from the wild in Kentucky.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Captive Cervid Permit Application", 2016[~~7/13/06~~] edition;

(b) "Captive Cervid Permit Transfer Application", 2016[~~7/13/06~~] edition; and

(c) "Captive Cervid Facility Inspection Form", 2016[~~7/13/06~~] edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Department of Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KAREN A. WALDROP, Deputy Commissioner
For GREGORY K. JOHNSON, Commissioner
ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: October 7, 2015

FILED WITH LRC: October 14, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 23, 2015, at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through November 30, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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 regulates the holding and transportation of cervids.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to regulate the transportation and holding of cervids to protect native populations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to regulate the buying, selling, or transportation of wildlife. KRS 150.280 authorizes the department to promulgate administrative regulations relating to propagating and holding of wildlife. KRS 150.720 authorizes the department to promulgate administrative regulations pertaining to the importation and holding of cervids, including privately-owned and farm-raised cervids. KRS 150.730 authorizes the department to issue or deny permits to hold captive cervids. KRS 150.735 authorizes the department to promulgate administrative regulations relating to the expansion of captive cervid facilities and the transfer of permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in the effective administration of the statutes by establishing the requirements for the possession, holding, and transportation of cervids in 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: This amendment phases out the noncommercial captive cervid permit, but grandfathers the current existing permit holders for the remaining life of the captive cervids.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary in order to protect native cervids from Chronic Wasting Disease. Once it affects cervid populations in a state, it cannot be effectively eradicated with current technology. This regulation also allows for joint suspension with the Kentucky Department of Agriculture.

(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: Currently, there are 67 commercial captive permit holders and 23 noncommercial captive permit holders in the state.

(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: Permit holders will not need to take any action. Persons wishing to hold captive cervids will now only be offered one type of permit instead of two.

(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 additional cost to current facilities that choose to remain with their grandfathered permit.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The native cervid populations will be protected from potential disease transmission, thus benefitting hunters, businesses who benefit from healthy wildlife populations, and other citizens of the Commonwealth.

(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 initially to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost on a continuing basis to implement this administrative regulation.

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

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

(9) TIERING: Is tiering applied? No, because all persons wishing to hold captive cervids will be treated 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? The Kentucky Department of Fish and Wildlife Resources' Wildlife and Law Enforcement Divisions will be affected by this regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, 150.280, 150.720, 150.730, 150.735

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 not generate any additional income 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? None This administrative regulation will not generate any additional income for subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional administrative cost for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional administrative cost in subsequent years.

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation:

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:142. Spring wild turkey hunting.

RELATES TO: KRS 150.175(7), (8), (15), (17), (18), 150.305, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations establishing hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.390(1) prohibits a person from taking, pursuing, or molesting a wild turkey in any manner contrary to the provisions of Chapter 150 or its administrative regulations. This administrative regulation establishes season dates, shooting hours, and other requirements for spring turkey hunting.

Section 1. Definitions. (1) "Wildlife management area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

(2) "Youth" means a person under the age of sixteen (16) by the day of the hunt.

Section 2. Youth Turkey Season. There shall be a statewide youth-only turkey hunting season for two (2) consecutive days beginning on the first Saturday in April.

Section 3. Statewide Turkey Season. There shall be a statewide turkey hunting season for twenty-three (23) consecutive days beginning on the Saturday closest to April 15.

Section 4. Turkey Hunting Requirements. (1) A person shall not take more than:

(a) One (1) male turkey per day;

(b) One (1) turkey with a visible beard per day;

(c) Two (2) male turkeys per season; or

(d) Two (2) turkeys with visible beards per season.

(2) A person shall not take a turkey using any device except the following equipment authorized by 301 KAR 2:140:

(a) A firearm;

(b) Archery equipment; or

(c) A crossbow.

(3) A person shall only hunt turkeys from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.

(4) A person who is assisting or calling a turkey for a legal hunter shall not be required to possess a hunting license or turkey permit.

Section 5. Wildlife Management Area Requirements. (1) Unless specified in this section, spring season dates and the requirements of 301 KAR 2:140 shall apply to wildlife management areas.

(2) Barren River WMA. On the Peninsula Unit, including Narrows, Goose Island, and Grass Island, a person shall not use a breech-loading firearm to take a turkey.

(3) Higginson-Henry WMA. A person shall not use a firearm to take a turkey.

(4) Livingston County WMA. Statewide spring turkey season is open to youth only.

(5) Pioneer Weapons WMA. A person shall not use the following to take a turkey:

(a) A breech-loading firearm; or

(b) A scope or optical enhancement.

(6) Robinson Forest WMA. A person shall not hunt turkeys on the main block of the WMA.

(7) West Kentucky WMA. Tracts marked with the letter "A" shall be closed for the statewide turkey season established in Section 3 of this administrative regulation.

Section 6. Special Area Requirements. (1) Unless specified in this section, all the requirements of this administrative regulation shall apply.

(2) A person shall comply with all federal requirements when hunting on the following federal areas:

(a) Bluegrass Army Depot;

(b) Fort Campbell;

(c) Fort Knox;

(d) Land Between the Lakes; and

(e) Reelfoot National Wildlife Refuge.

(3) A spring turkey season, not to exceed twenty-three (23) days, shall be allowed between the last Saturday in March and the second Sunday in May on the following areas:

(a) Bluegrass Army Depot;

(b) Fort Campbell;

(c) Fort Knox;

(d) Land Between the Lakes;

(e) Reelfoot National Wildlife Refuge; and

(f) Wendell H. Ford Regional Training Center.

(4) A turkey taken on the following areas shall be considered a bonus bird:

(a) Bluegrass Army Depot;

(b) Fort Campbell; and

(c) Fort Knox.

(5) A person shall not take more than one (1) turkey on the following areas:

(a) Land Between the Lakes; and

(b) Reelfoot National Wildlife Refuge.

(6) Otter Creek Outdoor Recreation Area. All statewide season requirements shall apply, except that shooting hours shall be from one-half (1/2) hour before sunrise to noon each day.

Section 7. State Park Requirements. (1) A person shall not hunt on a state park except if the person is approved to participate in a special hunt administered by the Kentucky Department of Parks.

(2) A person participating in a state park turkey hunt shall:

(a) Hunt only during the season dates established in Sections 2 and 3 of this administrative regulation;

(b) Comply with turkey hunting requirements established in Section 4 of this administrative regulation; and

(c) Comply with the requirements of 301 KAR 2:140.

KAREN A. WALDROP, Deputy Commissioner
For GREGORY K. JOHNSON, Commissioner
ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: October 7, 2015

FILED WITH LRC: October 14, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 23, 2015, at 11:30 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through November 30, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136, 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 regulation establishes spring wild turkey hunting seasons, bag limits, legal methods of take, and other turkey hunting requirements.

(b) The necessity of this administrative regulation: This regulation is necessary to provide adequate wild turkey hunting opportunity and to properly manage the wild turkey population in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations establishing hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.390(1) authorizes the department to establish restrictions on hunting wild turkey.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will fulfill the purposes of KRS 150.025 and 150.390 by defining the seasons, bag limits, and methods of take used to manage wild turkeys in 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: This amendment will allow Kentucky State Parks to establish youth-only and statewide spring hunting season opportunities for wild turkeys on state parks.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow Kentucky State Parks to establish special spring hunting opportunities for wild turkeys on state parks.

(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: It is unknown how many turkey hunters will participate in state park turkey hunts during the spring season. However, there are approximately 85,000 resident 5,500 non-resident turkey hunters in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There will be potentially additional opportunity for hunters wishing to pursue turkeys on state parks. Hunters will need to abide by all license requirements and hunter restrictions as detailed in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no new costs associated with the opportunity to hunt wild turkeys on state parks; all hunters must possess the appropriate licenses and permits required to hunt turkeys in the spring.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Hunters will be allowed to pursue wild turkeys on hunts administered by the Department of Parks during the youth and general statewide spring seasons.

(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 any other fees or to increase funding to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied because all wild turkey hunters in Kentucky must comply with the requirements of this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement and the Kentucky Department of Parks 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 150.025(1) authorizes the department to promulgate administrative regulations to set seasons, establish bag or creel limits, to regulate the buying, selling, or transporting of fish and wildlife, and to make these requirements apply to a limited area. KRS 150.390(1) restricts the possession, taking, or pursuit of turkeys in any manner contrary to the provisions of Chapter 150 or its 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.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is unlikely additional revenue will be generated for the department during the first year. However, the Department of Parks may generate some additional revenue associated with lodging and dining expenses incurred by persons participating in these hunts.

(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? It is unlikely much additional revenue will be generated for the Kentucky Department of Fish and Wildlife by this administrative regulation in subsequent years. The Department of Parks may generate some additional revenue associated with lodging and dining expenses incurred by persons participating in these hunts.

(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 be 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:

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

401 KAR 42:045. Delivery prohibition.

RELATES TO: KRS 224.10, 224.60, 40 C.F.R. Part 280 Subpart C, 42 U.S.C. 6991c

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-150, 42 U.S.C. 6991e, 6991k

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-105 requires the cabinet to establish a program for regulating underground storage tanks that implements the federal regulatory requirements for underground storage tanks. 42 U.S.C. 6991k authorizes[~~establishes~~] the parameters for delivery prohibition for underground storage tank systems. This administrative regulation establishes the procedures for invoking delivery prohibition for an underground storage tank system.

Section 1. Applicability. This administrative regulation shall not apply to a regulated underground storage tank used to fuel an emergency backup generator.

Section 2. Delivery Prohibition for UST Systems. (1) The cabinet shall determine that a UST system is ineligible for delivery, deposit, or acceptance of regulated substances upon confirmation of one (1) or more of the following conditions:

(a) In accordance with 401 KAR 42:020, 42:030, and 42:040, required spill prevention equipment is not installed, operational, or maintained;

(b) In accordance with 401 KAR 42:020, 42:030, and 42:040, required overfill prevention equipment is not installed, operational, or maintained;

(c) In accordance with 401 KAR 42:020 and 42:030, required corrosion protection equipment is not installed, operational, or maintained;

(d) In accordance with 401 KAR 42:040, required release detection is not performed;

(e) In accordance with 401 KAR 42:020 and 42:040, required release detection equipment is not installed, operational, or maintained;[~~or~~]

(f) In accordance with 401 KAR 42:020, required registration is not submitted or is not amended as necessary;

(g) In accordance with 401 KAR 42:200, the annual fee for underground storage tanks is past due by more than one (1) year; or

(h) A defective UST system component, confirmed by UST system testing or visual observation by the cabinet, and for which the owner or operator has not documented a repair or replacement, has:

1. Caused a release of a regulated substance into the environment; or

2. Allowed a regulated substance to infiltrate into the interstitial space of the UST system.

(2) If a condition established[~~described~~] in subsection (1)(a) through (h)[~~(1)~~] of this section exists, the cabinet shall issue a Notice of Violation to the UST system's owner or operator.

(3) The Notice of Violation shall serve as notice to the owner or operator of the cabinet's intent to invoke delivery prohibition for the UST system if the violation is not corrected within the time frame established in writing by the cabinet.

(4) Upon failure by the owner or operator to correct the violation of a condition established in subsection (1)(a) through (h)[~~(1)~~] of this section, cited in the initial Notice of Violation, or to request an extension, in accordance with Section 3 of this administrative regulation, a second Notice of Violation shall be issued.

(5) Upon issuance by the cabinet of the second Notice of Violation, delivery prohibition shall be invoked and an authorized representative of the cabinet shall attach a delivery prohibition tag to the non-compliant UST system.

(6) An owner or operator shall ensure that a delivery prohibition tag shall not be[~~is not~~] removed, defaced, altered, or destroyed.

(7) An owner or operator shall not allow the delivery, deposit, or acceptance of regulated substances into a UST system for which the cabinet has invoked delivery prohibition, unless otherwise directed in writing by the cabinet for the purpose of UST system testing.

(8) An owner or operator shall notify the appropriate product deliverer if delivery prohibition has been invoked.

(9) Delivery prohibition shall remain in effect until the non-compliant UST system is returned to compliance for the violation that caused delivery prohibition to be invoked[~~in accordance with subsection (1) of this section~~].

(10) The cabinet shall determine if a UST system is authorized to accept deliveries within two (2) business days (Monday through Friday) of receipt of written notice from the owner or operator that the remedial measures established in the Notice of Violation[~~related to subsection (1) of this section~~] have been met.

(11) If the violation has been corrected, the cabinet shall terminate delivery prohibition and remove an affixed delivery prohibition tag within two (2) business days (Monday through Friday).

(12) If the division director[~~,~~] or designee[~~,~~] determines, in writing, that delivery prohibition at a UST facility would jeopardize the availability of, or access to, motor fuel in a rural and remote area, the cabinet shall defer the application of delivery prohibition for a UST system, with reference to subsection (1)(a) through (h)[~~(a), (b), (c), (d), or (e) of subsection (1)~~] of this section, for a period not to exceed forty-five (45) days.

Section 3. Extensions. (1) The owner or operator of a UST system may request an extension to a deadline established by this administrative regulation or established by the cabinet. The extension request shall be in writing pursuant to this administrative regulation.

(2)[~~The extension request shall be submitted in writing and received by the Division of Waste Management prior to the deadline.~~

~~(3)~~] The cabinet shall grant an extension, if an extension would not have a detrimental impact on human health or the environment.

LEONARD K. PETERS, Secretary

APPROVED BY AGENCY: September 25, 2015

FILED WITH LRC: October 15, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 6:00 p.m. (Eastern Time), at 300 Fair Oaks, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 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 cancelled. 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 November 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: Louanna Aldridge, Environmental Control Supervisor, Division of Waste Management, 200 Fair Oaks, Second Floor, Frankfort, Kentucky 40601, phone (502) 564-6716, fax (502) 564-4049, email Louanna.Aldridge@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Louanna Aldridge

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for invoking delivery prohibition for an UST system.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the procedures for delivery prohibition for UST systems.

(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 delivery prohibition procedures for USTs in accordance with the Energy Policy Act of 2005.

(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 statute by establishing the procedures for delivery prohibition.

(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 prohibit delivery, deposit, or acceptance of regulated substances to the UST systems of an owner or operator who has failed to register, amend the registration, or pay the annual tank fees as required by KRS 224.60-150, 224.60-105, and the administrative regulations promulgated in 401 KAR 42:020 and 42:200.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to institute UST owner or operator compliance with registration and annual tank fee payments.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by enforcing tank registration and annual tank fees as required in KRS 60-105 and KRS 60-150 respectively.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by prohibiting delivery, deposit, or acceptance of regulated substances to UST system of an owner or operator who has failed to comply with the authorizing statutes or administrative regulation promulgated requiring the registration and annual tank fees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 3,317 registered UST facilities in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None. This administrative regulation identifies procedures for the cabinet to follow for invoking delivery prohibition.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the regulated entity other than the costs associated with compliance and annual tank fees pursuant to current regulation within 401 KAR Chapter 42.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance the owners or operators of UST facilities identified in question (3) may be eligible for participating in the Petroleum Storage Tank and Environmental Assurance Fund and will avoid the cabinet prohibiting delivery, deposit, or acceptance of regulated substances to the UST system.

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

(a) Initially: The initial cost to the administrative body will be negated by the additional annual tank fees received from non-compliant UST system owners or operators.

(b) On a continuing basis: The continuing cost to the administrative body will be negated by the additional annual tank fees received from non-compliant UST system owners or operators.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding for the administration, implementation, and enforcement of this administrative regulation is provided for in KRS 224.60-150 with the annual tank fees required for UST systems, and U.S. E.P.A. grants.

(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 will not require a fee increase.

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

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation. Delivery prohibition procedures are the same for all UST systems.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
42 U.S.C. 6991k, 42 U.S.C. 6991e

2. State compliance standards. KRS 224.60-105

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 6991k, 42 U.S.C. 6991e

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. 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 Division of Waste Management.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 U.S.C. 6991k, 42 U.S.C. 6991e, KRS 224.60-105, and KRS 224.60-150.

(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 between $30,000 and $65,000 for the first year as a result of compliance by UST owners or operators. If red tagging induced 70% of active facilities (TAC) and 20% of temporarily closed (TTC) facilities to register and pay tank fees, an additional $30,363.00 in paid fees would be collected. If 100% of the tank fee due were collected the net amount would be $65,290.00.

(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? This administrative regulation will generate approximately and additional $30,000 annually as a result of compliance by UST owners or operators. If we red tagged the remaining active facilities a second time and achieved 100% payment of fees, that would obtain an additional $10,386 in paid fees for year two (above and beyond our annual tank fees that we bill approximately $30,000 per fiscal year).

(c) How much will it cost to administer this program for the first year? Initially, the costs for additional delivery prohibition measures implemented pursuant to this administrative regulation by the UST program and field personnel will be $36,242.00.

(d) How much will it cost to administer this program for subsequent years? For subsequent years, the costs for additional delivery prohibition measures implemented pursuant to this administrative regulation by the UST program and field personnel will be from zero to $4,000. The argument for zero costs is that in time red tag for failure to register will be integrated into the normal inspection cycle. Therefore, the notices of violations and enforcement procedures will blend with present activities. It would be a very rare event for an inspector to red-tag a site for failure to register as the only compliance issue. Additionally, proper registration will help identify and provide notice to tank owners and operators who are presently difficult to identify. This will reduce the amount of time spent trying to identify owners.

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

Revenues (+/-): In the first two years it is expected that between $30,000 and $60,000 will be raised in additional tank fees collected by additional compliance from non-registered UST system owner and operators and the timely submittal of annual tank fees. After the initial start-up period revenues from tanks fees will settle to about an additional $30,000 annually. As compliance with tank registration improves, an additional $75,000 per year will be saved in subsequent years due to the reduction of staff time used to collect tank fees and locate tank owners and operators.

Expenditures (+/-): First and second year expenditures will be approximately $40,242.00

Other Explanation: The additional costs for implementation of the additional delivery prohibition measures implemented pursuant to this administrative regulation will be negated by the annual tank fees received from non-registered UST system owner and operator. Costs will, additionally, be off-set by a reduction in the staff time used to locate tank owners and operators.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 6:060. Northpoint Training Center.

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 Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet 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 Northpoint Training Center.

Section 1. Incorporation by Reference. (1) Northpoint Training Center policies and procedures, September 28, 2015[~~October 14, 2014~~], are incorporated by reference. Northpoint Training Center policies and procedures include:

NTC 01-17-01	Relationships with Public, Media and Other Agencies (Amended 7/14/14)
NTC 02-07-02	Institutional Religious Center Fund (Amended 7/13/11)
NTC 02-08-01	Inmate Canteen (Amended 9/28/15[~~9/13/11~~])
NTC 02-12-01	Inmate Accounts (Amended 9/28/15[~~7/14/14~~])
NTC 03-03-01	Tobacco Products and Nicotine Procedures (Added 9/28/15)
NTC 06-01-01	Offender Information Services (Amended 9/28/15[~~7/14/14~~])
NTC 06-01-02	Offender Information Services - Release of Information (Amended 9/13/11)
NTC 09-06-01	Searches and Contraband Procedures; Disposition of Contraband (Amended 9/28/15[~~9/13/11~~])
NTC 09-14-01	Inmate Death (Amended 7/13/11)
NTC 09-16-01	Restricted Areas (Amended 9/28/15[~~7/14/14~~])
NTC 10-01-01	Special Management Unit (Amended 9/28/15[~~10/14/14~~])
NTC 11-04-02	Menu, Nutrition, Special, and Individual Diets (Amended 9/28/15[~~7/13/11~~])
NTC 11-05-02	Food Service Staff Health Standards (Amended 9/28/15[~~10/14/14~~])
NTC 12-02-01	Personal Hygiene for Inmates:[~~;~~] Clothing and Linens (Amended 9/28/15[~~7/13/11~~])
NTC 12-02-02	Issuance of Personal Hygiene Products (Amended 7/13/11)
NTC 12-06-01	Housekeeping Procedures (Amended 7/13/11)
NTC 12-07-01	Grooming and Hair Care Standards (Amended 9/28/15[~~7/14/14~~])
NTC 13-01-01	Emergency Medical Care Plan (Amended 7/14/14)
NTC 13-02-01	Provisions and Authority for Health Services (Amended 9/28/15[~~7/14/14~~])
NTC 13-03-01	Sick Call and Pill Call (Amended 7/13/11)
NTC 13-04-01	Utilization of Pharmaceutical Products (Amended 9/13/11)
NTC 13-05-01	Dental Services (Amended 9/28/15[~~7/13/11~~])
NTC 13-08-01	Medical and Dental Records (Amended 9/28/15[~~7/14/14~~])
NTC 13-10-01	Notification of Inmate's Family or Designation Individual of Serious Illness or Injury, Surgery, or Inmate Death (Added 11/15/07)
NTC 13-11-01	Inmate Health Screening and Evaluation (Amended 9/28/15[~~7/14/14~~])
NTC 13-12-01	Special Health Care Programs (Amended 9/28/15[~~7/13/11~~])
NTC 13-13-01	Inmate Self Administration of Medication (Amended 9/28/15[~~7/13/11~~])
NTC 13-19-01	Mental Health Care Program (Amended 7/14/14)
NTC 13-19-03	Suicide Prevention and Intervention Program (Amended 7/13/11)
NTC 13-20-02	Infectious Disease Control (Amended 7/14/14)
NTC 13-22-01	Informed Consent (Amended 9/28/15[~~7/13/11~~])
NTC 13-26-01	Public Advocacy Access to Psychological and Psychiatric Reports (Amended 12/13/05)
NTC 14-01-01	Legal Services Program (Amended 10/14/14)
NTC 14-02-01	Inmate Grievance Procedure (Amended 9/28/15[~~5/12/06~~])
NTC 14-03-02	Board of Claims (Amended 9/13/11)
NTC 15-02-01	Due Process and Disciplinary Procedures (Amended 9/28/15[~~7/14/14~~])
NTC 15-02-02	Extra Duty Assignments (Amended 9/28/15)
NTC 15-03-01	Rules for Inmates Assigned to Outside Detail (Amended 9/28/15[~~7/14/14~~])

NTC 15-03-02 Rules for General Population Dormitories (Amended 9/28/15[~~10/14/14~~])
[~~NTC 15-03-03 Nonsmoking Dormitory~~]
NTC 15-04-01 Inmate Identification (Amended 7/14/14)
NTC 15-05-01 Drug Abuse and Intoxicants Testing (Amended 7/14/14)
NTC 16-01-01 Inmate Mail (Amended 9/28/15[~~7/14/14~~])
NTC 16-02-01 Visiting (Amended 9/28/15[~~10/14/14~~])
NTC 16-03-01 Inmate Furloughs (Added 9/28/15[~~7/14/14~~])
NTC 16-05-01 Telephone Use and Control (Amended 9/28/15[~~7/13/11~~])
NTC 17-01-01 Personal Property Control (Amended 9/28/15[~~10/14/14~~])
NTC 17-01-04 Disposition of Unauthorized Property (Amended 7/14/14)
NTC 17-02-03 Mattress and Pillow Issue (Added 9/28/15)
NTC 17-03-01 Assessment and Orientation (Amended 9/28/15[~~7/14/14~~])
NTC 18-01-01 Preparole Progress Report (Amended 9/28/15[~~7/13/11~~])
NTC 18-02-01 Classification (Amended 9/13/11)
NTC 18-02-02 Classification - 48 Hour Notification (Amended 5/12/06)
NTC 18-02-03 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 9/28/15)
NTC 18-03-01 Conflict Notification Form (Amended 9/28/15[~~9/13/11~~])
NTC 18-05-01 Transfer of Inmates (Amended 7/14/14)
NTC 19-01-01 Inmate Work Programs (Amended 9/28/15[~~7/14/14~~])
NTC 20-01-01 Educational Programs (Amended 9/28/15[~~7/14/14~~])
NTC 20-02-02 Live Work Projects in Technical School Classes (Amended 9/28/15[~~7/13/11~~])
NTC 20-02-03 Correspondence Courses (Added 9/28/15)
NTC 21-01-01 Library Services (Amended 9/28/15[~~7/14/14~~])
NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs (Amended 9/28/15[~~9/13/11~~])
NTC 23-01-01 Religious Services (Amended 9/28/15[~~7/14/14~~])
NTC 23-03-01 Marriage of Inmates (Amended 9/28/15[~~7/13/11~~])
NTC 24-04-01 Honor Housing (Amended 7/13/11)
NTC 24-06-01 Veterans Dormitory (Added 9/28/15)
NTC 25-01-01 Release Preparation Program (Amended 9/28/15[~~7/14/14~~])
NTC 25-01-02 Temporary and Community Center Release
NTC 25-02-01 Funeral Trips and Bedside Visits (Amended 7/14/14)
NTC 25-03-01 Inmate Release Procedure (Amended 9/28/15[~~10/14/14~~])
NTC 26-01-01 Citizen Involvement and Volunteer Services Program (Amended 9/28/15[~~7/13/11~~])

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: September 21, 2015

FILED WITH LRC: September 28, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD**:** A public hearing on this administrative regulation shall be held on November 24, 2015 at 9:00 a.m. in the at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day November 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**:** Amy V. Barker, Assistant General Counsel, Department of Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Northpoint Training Center including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035, 197.020 and to meet ACA requirements.

(c) How this administrative regulation conforms to the content of the authorizing statues: The regulation governs the operations of the Northpoint Training Center.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to Corrections employees and the inmate population concerning employee duties, inmate responsibilities, and the procedures that govern operations of the institution.

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

(a) How the amendment will change this existing administrative regulation: The amendment brings the Northpoint Training Center into compliance with ACA Standards and updates current practices for the institution.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: The statutes permit the Commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Northpoint Training Center.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff, inmates and visitors information concerning the effective and orderly management of the institution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects 300 employees and 1,256 inmates at the Northpoint Training Center and all volunteers and visitors to the institution.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff, inmates, volunteers, and visitors will have to follow the changes made in the policies and procedures. They will have to change their actions to comply with any operational changes made by this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An increase in cost is not anticipated to the entities from the changes in operations made in the amendments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the penal institution.

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

(a) Initially: No additional cost is anticipated.

(b) On a continuing basis: No additional cost is anticipated.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Northpoint Training Center budgeted funds

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

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

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Northpoint Training Center

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to this regulation does not create any revenue for the Northpoint Training Center.

(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 regulation does not create any revenue for the Northpoint Training Center.

(c) How much will it cost to administer this program for the first year? The amendment to this regulation impacts how the institution operates, but does not increase costs from what will be budgeted to the Department of Corrections.

(d) How much will it cost to administer this program for subsequent years? The amendment to this regulation impacts how the institution operates, but is not expected to increase costs from what will be budgeted to the Department of Corrections.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Vocational Rehabilitation
(Amendment)

781 KAR 1:030. Order of selection and economic need test for vocational rehabilitation services.

RELATES TO: KRS 151B.190, 34 C.F.R. 361.36, 361.53, 361.54, 29 U.S.C. 721(a)(5), (15), (21)(A)

STATUTORY AUTHORITY: KRS 151B.185(2), (3), 151B.195(1), 29 U.S.C. 709(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. 34 C.F.R. 361.36(c) requires the office to determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection for state vocational rehabilitation services. 34 C.F.R. 361.36(d) establishes federal guidelines for the imposition of an order of selection. This administrative regulation establishes when an order of selection and an economic need test shall be applied to the provision of vocational rehabilitation services in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals.

Section 1. Definitions. (1) "Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services.

(2) "Executive director" means Executive Director of the Office of Vocational Rehabilitation.

(3) "Individual with a most significant disability" means an individual who has a significant disability and who:

(a) Requires intensive long-term support to facilitate the performance of work activities or daily living activities on or off the job which would typically be performed independently if the individual did not have a disability; or

(b) Has serious limitations in four (4) or more functional capacities in terms of an employment outcome.

(4) "Functional capacity" means the capacity to perform tasks required in employment including:

(a) Mobility;

(b) Communication;

(c) Self-care;

(d) Self-direction;

(e) Interpersonal skills;

(f) Work tolerance; or

(g) Work skills.

(5) "Office" means the Office of Vocational Rehabilitation, and its appropriate staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.

Section 2. Economic Need. (1) Economic need shall be considered in determining whether to grant vocational rehabilitation services.

(2) The executive director shall exempt services from the economic needs test if the office is able to provide services to all eligible individuals with significant disabilities pursuant to Section 3 of this administrative regulation, with consideration of applicable comparable benefits as provided in 34 C.F.R. 361.53.

(3) An economic needs test as established in subsection (5) of this section shall be applied as a condition for furnishing the following vocational rehabilitation services:

(a) Physical and mental restoration services;

(b) Tuition and registration fees for vocational or college training;

(c) Maintenance other than diagnostic;

(d) Transportation other than diagnostic;

(e) Services, other than diagnostic, to members of an individual's family necessary to the adjustment or rehabilitation of the individual with a disability;

(f) Occupational licenses, tools, equipment, or initial stock (including livestock) or supplies;

(g) Postemployment services except as provided in subsection (4)(a)-(m) of this section;

(h) Other goods and services which can reasonably be expected to benefit an eligible individual in terms of employment outcomes;

(i) Initial vehicle and property modifications in excess of $10,000;

(j) Second or subsequent vehicle modifications regardless of cost;[~~or~~]

(k) Vehicle modification repair or upgrades; or

(l) Hearing aid in excess of $1,000.

(4) The following services shall be excluded from an economic needs test:

(a) Assessment for determining eligibility and vocational rehabilitation needs;

(b) Counseling and guidance;

(c) Placement;

(d) Services provided by staff at state-owned and operated rehabilitation facilities;

(e) Rehabilitation technology except as specifically provided in subsection (3) of this section;

(f) Communication assistance in the individual's native language;

(g) Books, supplies, tools, or equipment for vocational or other training;

(h) Supported employment;

(i) Interpreter services for the deaf;

(j) Reader services for the blind;

(k) Personal assistance services;

(l) Tutors, note takers, or assistive technology education aids; or

(m) Other training, including driver training, on-the-job training, job coaching, job development, or job training.

(5) The office's economic needs test shall be based on the most current Kentucky Median Adjusted Gross Income developed by the U.S. Department of Commerce. If the individual has a monthly income that exceeds 100 percent of the most current median gross income, the individual shall apply the excess income to rehabilitation services necessary to achieve the employment goal except as provided for in 34 C.F.R. 361.54.

Section 3. Order of Selection. If the executive director determines that the office shall be unable to provide services to all eligible applicants, the office shall implement the order of selection. (1) An eligible individual previously declared eligible for and receiving vocational rehabilitation services under an individualized plan for employment shall not be affected if the office implements an order of selection.

(2) The order of selection shall not regulate the provision of information or referral services.

(3) On implementation of the order of selection, the office shall continue to accept referrals of and applications from individuals with disabilities.

(4) The order of selection shall not regulate the provision or authorization of assessment for determining eligibility.

(5) An applicant shall be declared eligible or ineligible as appropriate.

(6)(a) An eligible individual entering accepted status after implementation of the order of selection shall be assigned to a priority category.

(b) If the priority category is open, the individual shall be served.

(c) If the priority category is closed, the individual's case shall be held in accepted status until the priority category assigned is opened or the order of selection is lifted.

(7) The order of selection shall permit immediate reclassification into a higher priority category if circumstances justify the reclassification.

(8) If the office is unable to provide services to all eligible individuals with significant disabilities, the office shall serve eligible individuals with a most significant disability first and then serve eligible individuals with a significant disability on a first-applied, first-served basis, as established by the date of application.

(9) The order of selection described in this section shall be followed with the categories to be served designated at the time of implementation.

(10) The order of selection shall have five (5) priority categories as follows:

(a) Priority I - eligible individuals with a most significant disability;[.]

(b) Priority Category II - eligible individuals with a significant disability who have serious limitations in three (3) functional capacities;[.]

(c) Priority Category III - eligible individuals with a significant disability who have serious limitations in two (2) functional capacities;[.]

(d) Priority Category IV - eligible individuals with a significant disability who have serious limitations in one (1) functional capacity; or[.]

(e) Priority Category V - eligible individuals with a nonsignificant disability.

BUDDY HOSKINSON, Executive Director

APPROVED BY AGENCY: October 15, 2015

FILED WITH LRC: October 15, 2015 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, November 30, 2015 at 10:00 a.m. at the offices of the Education and Workforce Development Cabinet, 500 Mero Street, Capital Plaza Tower, 3rd Floor, Conference Room, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing no later than November 23, 2015, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 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: Patrick B. Shirley, Education and Workforce Development Cabinet, Office of Legal and Legislative Services, 500 Mero Street, Room 306, Frankfort, Kentucky 40601. phone (502) 564-1481, fax (502) 564-9990.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Patrick B. Shirley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes guidelines for administration of Kentucky's obligation under the Rehabilitation Act to provide vocational rehabilitation services to Kentuckians, specifically the order of selection of services and financial need provided for in Section 721(a)(5) of the Rehabilitation Act and regulations, 34 C.F.R. §§ 361.36, 361.54.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement provisions of Section 721(a)(5) of the Rehabilitation Act and regulations, 34 C.F.R. §§ 361.36, 361.54.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary for specific guidance and operation of the state's provision of rehabilitation services as set out in, and mandated by, Section 721(a)(5) of the Rehabilitation Act and regulations, 34 C.F.R. §§ 361.36, 361.54.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides specific administrative guidance for the implementation of the state's provision of rehabilitation services to applicants and eligible individuals with disabilities as required by Section 721(a)(5) of the Rehabilitation Act and regulations, 34 C.F.R. §§ 361.36, 361.54.

(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 proposed amendment is made to adapt the regulations to provide better guidance to individuals with disabilities and to provide for more efficient use of limited agency resources. The revision expands on what services will be subject to an economic needs test that consumers obtain from the agency, specifically for hearing aids.

(b) The necessity of the amendment to this administrative regulation: Changes to the regulations were needed to prevent possible abuse or waste of increasingly limited resources for operation of the program. The changes made to the regulation were needed to more clearly define what can be provided to each applicant and eligible individual with disabilities.

(c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statute by specifying guidance for the requirements of providing rehabilitation assistive technology devices to applicants or eligible individuals as necessary for the achievement of the employment outcome.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides more specific guidance to individuals with disabilities on what is required to obtain vocational rehabilitation services, when those services can be provided, and what services may be provided in the future, specifically with regards to hearing aids.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any disabled individual with a disability seeking vocational rehabilitation vehicle modifications to assist in the achievement of an employment outcome, and all vocational rehabilitation staff statewide that assists disabled individuals with disabilities.

(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: Agency staff will not have any additional requirements as a result of this amendment. Individuals with disabilities seeking hearing aids will be subject to proof of financial need. The amendment is only intended to ask those to share in the cost that are able to share in the cost. As with almost all services by the agency, most individuals fall below the income guidelines and won't be asked to cost share.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new costs to staff or businesses affected. However, certain individuals, to be determined by applying the economic needs test in subsection (5) of this section of the regulation, will be required to contribute to hearing aids that cost more than $1,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Both agency staff and applicants and eligible individuals with disabilities will have a better understanding of the requirements for obtaining rehabilitation assistive technology devices. It is hoped that the measure will be a cost-saving measure for the agency.

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

(a) Initially: No additional costs are expected.

(b) On a continuing basis: The proposed amendment does not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal Rehabilitation Funds received by the Office of Vocational Rehabilitation.

(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 increase in fees or funding necessary to implement this amendment to the existing regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees. However, individuals that meet the economic needs test provided for in subsection (5) of this section of the regulation may have to contribute to the cost of hearing aids that cost more than $1,000.

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

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 Education and Workforce Development Cabinet, Department of Workforce Investment, Office of Vocational Rehabilitation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A, KRS 151B.180 to 151B.210, 29 U.S.C. § 701 et seq., 29 U.S.C. § 721(a)(5), 34 C.F.R. §§ 361.36, 361.54.

(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 shall be no cost associated with this amendment.

(d) How much will it cost to administer this program for subsequent years? There shall be no cost associated with this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. The amendment of this regulation has no fiscal impact.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ENERGY AND ENVIRONMENT CABINET
Department for Natural Resources
Division of Mine Safety
(Amendment)

805 KAR 3:100. Equipment use and operation.

RELATES TO: KRS 351.070

STATUTORY AUTHORITY: KRS 351.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070 authorizes the Secretary of the Energy and Environment Cabinet to promulgate, amend, or rescind any administrative regulations as necessary and suitable for the proper administration of KRS Chapter 351. This administrative regulation establishes safety standards controlling the use and operation of equipment in the Commonwealth's surface type coal and clay mines, which include strip and auger mining operations.

Section 1. (1) The following items shall be guarded to prevent injury:

(a) Gears;

(b) Sprockets;

(c) Chains;

(d) Drive, head, tail, and take-up pulleys;

(e) Flywheels;

(f) Couplings;

(g) Shafts;

(h) Sawblades;

(i) Fan inlets; and

(j) Similar exposed moving machine parts that may cause injury to persons.

(2) An overhead belt shall be guarded if the whipping action from a broken belt may be hazardous to a person below.

(3) A guard at conveyor drive, head and tail pulleys shall be sufficient to prevent a person from reaching behind the guard and becoming caught between the belt and the pulley.

(4) A protruding set screw on revolving parts shall be guarded.

(5) Except while[~~when~~] testing the machinery, a guard shall be securely in place while machinery is being operated.

(6) A guard shall be sufficiently strong and maintained to provide the required protection.

(7) A stationary grinding machine other than special bit grinder shall be equipped with:

(a) Peripheral hoods (less than ninety (90) degree throat openings) capable of withstanding the force of a bursting wheel;

(b) Adjustable tool rests set as close as practical to the wheel; and

(c) Safety washers.

(8) A face shield or goggles, in good condition, shall be worn while[~~when~~] operating a grinding wheel.

(9) A hand-held power tool, other than rock drill, shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices.

(10) A guard or shield shall be provided in areas where flying or falling materials present a hazard.

(11)(a) A vehicle such as a fork lift, truck, front-end loader, and bulldozer shall be provided with rollover protection if necessary to protect the operator.

(b)1. Beginning January 1, 2016:

a. An excavator newly placed in service at a licensed facility shall be equipped with rollover protection that shall meet, at a minimum, the International Organization for Standardization (ISO) 12117-2:2008 standard or the equivalent ISO standard; and

b. A person operating an excavator that is not equipped with certified rollover protection shall be trained by the Division of Mine Safety as having successfully completed an excavator operation safety course.

2. Beginning January 1, 2019, any excavator in operation at a licensed facility shall be equipped with rollover protection meeting the current International Organization for Standardization (ISO) standards in place[~~An excavator manufactured after January 1, 2011 shall be provided with rollover protection. The rollover protection shall meet current International Organization for Standardization (ISO) standards in place when the machine was manufactured.~~

~~2. Effective January 1, 2016, an excavator that operates in an application with the risk of a rollover shall be equipped with rollover protection that shall meet, at a minimum, the ISO 12117-2:2008 standard or the equivalent ISO standard~~].

(12)(a) A vehicle such as a fork lift, truck, front-end loader, and bulldozer, shall be provided with falling object protection if necessary to protect the operator against falling material.

(b)1. An excavator manufactured after January 1, 2011 shall be provided with falling object protection. The falling object protection shall meet ISO standards in place when the machine was manufactured.

2. Effective January 1, 2016, an excavator that operates in an application with the risk of falling objects shall be equipped with falling object protection that shall meet, at a minimum, the ISO 10262:1998 Level II standard or the equivalent ISO standard.

(13) Unsafe equipment or machinery shall be removed from service immediately.

(14) Machinery and equipment shall be operated only by an authorized and experienced person.

(15) A repair or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except if machinery motion is necessary to make an adjustment or if nonenergized components of large machinery can be safely repaired while the machine is operating.

(16) A person shall not work on mobile equipment in a raised position until it has been blocked in place securely. This shall not preclude the use of equipment specifically designed, such as elevated mobile work platforms.

(17) A drive belt shall not be shifted while in motion unless the machine is provided with mechanical a shifter.

(18) A belt, chain, or rope shall not be guided onto a power driven moving pulley, sprocket, or drum with the hands except on slow moving equipment especially designed for hand feeding.

(19) A pulley or conveyor shall not be cleaned manually while the conveyor is in motion.

(20) A belt dressing shall not be applied manually while the belt is in motion unless an aerosol-type dressing is used.

(21) Machinery shall not be lubricated while in motion if a hazard exists unless equipped with extended fittings or cups.

LEONARD K. PETERS, Secretary

APPROVED BY AGENCY: October 5, 2015

FILED WITH LRC: October 5, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015 at 10:00 a.m. (Eastern Time) at Conference Room D-16 of the Department for Natural Resources at #2 Hudson Hollow, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 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 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 through November 30, 2015. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, #2 Hudson Hollow, Frankfort, Kentucky 40601, phone (502) 564-6940, fax (502) 564-5698, email Michael.Mullins@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes safety standards controlling the use and operation of equipment in the Commonwealth's surface type coal and clay mines, which include strip and auger mining operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to require safety standards for equipment used on surface coal mines and clay mines within the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines." This administrative regulation provides safety standards for equipment.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides details concerning safety requirements for equipment used at surface type coal and clay mines which include strip and auger mining operations.

(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 delay the effective date of the requirements to have roll over protection installed on excavators and will require excavator operators on licensed facilities to be certified by the Division of Mine Safety.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to require safety training for excavator operators on licensed facilities and delay the effective date of roll over protection requirement.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by requiring excavator operators to attend safety training and receive certification from the Division of Mine Safety as well as providing additional time for mine facilities to comply with roll over protection requirements.

(d) How the amendment will assist in the effective administration of the statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards

governing…mechanical equipment in the operation of open-pit or surface mines." This amendment will assist in the effective administration of the authorizing statutes by requiring excavator safety training for operators on licensed facilities.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All surface mines in the Commonwealth and a few underground mines, depending on if they are using excavators in areas where there are dangers of roll over, could be impacted.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities listed in question (3) above will be required to purchase equipment that complies with the ISO standards listed in Section 1 (11)(b)1. prior to January 1, 2016 if being newly used at a licensed facility and receive certification for excavator safety training. They would also be required to ensure all excavators in operation at a licensed facility are equipped with the current ISO protection in effect at that time.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is difficult to provide a cost that relates to all entities in the Commonwealth. Retrofitting some of the excavator units currently in use would have an upfront cost of approximately $60,000 for initial engineering costs. After engineering plans are developed for a particular make and model the price would drop significantly.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These entities will provide a safer working environment for excavator operators.

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

(a) Initially: There will be no costs to the administrative body with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the administrative body with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be 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: The amendments to this administrative regulation will 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 or increase any fees.

(9) TIERING: Is tiering applied? No. All entities that use excavators will be required to meet the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Division of Mine Safety.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070.

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

(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 new administrative regulation will not generate any new revenue for the state or local government. This administrative regulation will not generate 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 new administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:010. Definitions for 815 KAR Chapter 15.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030[~~, 236.040~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner, through the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping. This administrative regulation establishes[~~sets forth~~] the definitions used in the boiler and pressure vessel safety rules.[~~This amendment is necessary to meet KRS Chapter 13A as determined by quadrennial review, as well as to clarify how newer codes are utilized.~~]

Section 1. Definitions. (1) "Act" means the Kentucky Boiler and Pressure Vessel Safety Act, KRS Chapter 236.

(2) "ANSI" means the American National Standards Institute.

(3) "ASME" is defined by KRS 236.010(5).

(4)[~~"Approved" means approved by the Board of Boiler and Pressure Vessel Rules and the executive director of the office or the chief boiler inspector.~~

~~(4) "ASME" means the American Society of Mechanical Engineers.~~

~~(5)~~] "ASME Boiler and Pressure Vessel Code or ASME Code" means the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes as follows, including all cited code cases, appendices, and addenda, which are[~~is~~] incorporated by reference in Section 1(1) of 815 KAR 15:025:

(a) Section I, rules for construction of power boilers;

(b) Section II, material specifications;

1. Part A specifications for ferrous materials;

2. Part B specifications for nonferrous materials; [~~and~~]

3. Part C specifications for welding rods, electrodes, and filler metals; and

4. Part D Properties (Customary);

(c) Section III, Nuclear Vessel Code;

(d) Section IV, Rules for construction of heating boilers;

(e) Section V, nondestructive examination;

(f) Section VIII, rules for construction of pressure vessels, Division 1,[~~and~~] Division 2, and Division 3;[~~and~~]

(g) Section IX, welding and brazing qualifications; and

(h) Section X, Fiber-Reinforced Plastic Pressure Vessels.

(5) "Authorized inspector" means an inspector holding the appropriate endorsement on the National Board Commission to perform new construction shop inspections.

(6) "Board" is[~~of Boiler and Pressure Vessel Rules" as~~] defined by KRS 236.010(6).

(7) "Boiler" is[~~as~~] defined by KRS 236.010(1).

(8) "Boiler Inspection Section" means the section[~~agency,~~] within the Division of Plumbing, Department of Housing, Buildings and Construction[~~Fire Prevention (Office of State Fire Marshal), Office of Housing, Buildings and Construction which supervises the implementation of KRS Chapter 236~~].

(9) "Boiler inspector" is defined by KRS 236.010(14)[~~means any person employed by the Commonwealth of Kentucky for the purpose of inspecting boilers and pressure vessels in accordance with provisions of KRS 236.070.~~

~~(10) "Boiler safety administrative regulations" means 815 KAR 15:010 to 815 KAR 15:080~~].

(10)[~~(11)~~] "Certificate[~~of~~] inspection" is[~~as~~] defined by KRS 236.010(7).

(11)[~~(12)~~] "Chief boiler inspector" is defined by KRS 236.010(13)[~~means the person employed by the Commonwealth of Kentucky who shall supervise the work of the boiler inspectors and office staff under the general supervision of the State Fire Marshal and perform other duties as may be prescribed~~].

(12)[~~(13)~~] "Code boiler or pressure vessel (or standard boiler or pressure vessel)" means a boiler or pressure vessel which bears the ASME Code Symbol stamp and designator, and[~~or~~] the National Board stamp. (See also "state special".)

(13)[~~(14)~~] "Commission" means the written credential issued by the department[~~office~~] to a boiler[~~an~~] inspector,[~~or~~] special inspector, or owner-user inspector under the provisions of KRS 236.070,[~~or~~] 236.080, or 236.095.

(14) "Commissioner" is[~~(15) "Executive Director" as~~] defined by KRS 236.010(3).

(15)[~~(16)~~] "Condemned boiler or pressure vessel" means a boiler or pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by a commissioned[~~qualified~~] inspector who has applied a stamping or marking designating its rejection.

(16) "Department" is[~~(17) "Office" as~~] defined by KRS 236.010(4).

(17)[~~(18)~~] "Electric boiler" means a power boiler, heating boiler, high or low-temperature water boiler in which the source of heat is electricity.

(18)[~~(19)~~] "Existing installations" means any boilers and associated piping systems completed and approved for operation prior to July 1, 1970, or pressure vessels and associated piping systems completed and approved for operation prior to July 15, 1980[~~and includes any boiler or pressure vessels constructed, installed, placed in operation, or contracted for before the effective date of this administrative regulation~~].

(19)[~~(20)~~] "Expansion tank" means a pressure vessel, unfired but directly connected to a hot water heating boiler, to absorb or cushion expansion therein and subject to comparable pressure with the boiler itself.

(20)[~~(21)~~] "External inspection" means an inspection made when a boiler or pressure vessel is in operation and under pressure.

(21)[~~(22)~~] "Fired jacketed steam kettle[~~kettles~~]" means a vessel[~~vessels~~] in which steam pressure is generated[,] and shall be classified[~~classed~~] as a boiler.

(22)[~~(23)~~] "Heat recovery boiler" (see "process steam generator").

(23)[~~(24)~~] "Heating boiler" is[~~as~~] defined by KRS 236.010(1)(c).

(24)[~~(25)~~] "High pressure, high temperature water boiler" is[~~as~~] defined by KRS 236.010(1)(b).

(25)[~~(26)~~] "Hot water heating boiler" means a nonsteam generating boiler from which hot water is circulated for heating purposes and returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250 degrees Fahrenheit at or near the boiler outlet.

(26)[~~(27)~~] "Hot water storage tank" means a pressure vessel, unfired but directly connected to and subject to the same pressures as a companion hot water supply boiler, the combination being used to heat and store hot water for use externally to itself.

(27)[~~(28)~~] "Hot water supply boiler" means a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or at temperatures not exceeding 210 degrees Fahrenheit at or near the boiler outlet.

(28)[~~(29)~~] "Hydrostatic test" means the activity of filling a boiler and associated piping with water and raising the pressure within the system to check for tightness or safety.

(29)[~~(30) "Inspector" means either "boiler inspector" or "special boiler inspector."~~

~~(31)~~] "Internal inspection" means an inspection made under circumstances that the boiler or pressure vessel is not operating, and handholes or manways are open for inspection of internal portions of the boiler or pressure vessel as construction permits.

(30)[~~(32)~~] "Lined potable water heater" means a water heater with a corrosion resistant lining used to supply potable hot water.

(31)[~~(33) "Major repair" means repairs that affect the strength of a boiler or pressure vessel by cutting and welding on any pressure part.~~

~~(34)~~] "Miniature boiler" means a power boiler or high temperature water boiler not exceeding any of the following:

(a) Sixteen (16) inches inside diameter of shell (not applicable to electric boilers);[~~or~~]

(b) Twenty (20) square feet heating surface;[~~or~~]

(c) Five (5) cubic feet gross exclusive of casing and insulation; or

(d) 100 pounds PSI maximum allowable working pressure.

(32)[~~(35)~~] "National Board (NB)" means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio, 43229, which group has also issued a National Board Inspection Code.

(33)[~~(36)~~] "Nationally recognized testing agency[~~(NRTL)~~]" means any[~~one (1) of the following laboratories or any other~~] nationally recognized testing laboratory approved by the board whose label shall be used for all electric boilers and other electrical equipment after testing according to an established standard and by the prescribed procedure.

(34)[~~(a) Nationwide Consumer Testing Institute, Inc.;~~

~~(b) Underwriters Laboratories, Inc. (UL);~~

~~(c) Factory Mutual Research Corp. (FM);~~

~~(d) Met Electrical Testing Co., Inc.;~~

~~(e) Dash, Straus and Goodhue, Inc. of Boxborough, MA;~~

~~(f) ETL Testing Laboratories, Inc. of Cortland, NY;~~

~~(g) Communication Certification Laboratory of Salt Lake City;~~

~~(h) Canadian Standards Association's Toronto facility;~~

~~(i) The American Gas Associations Laboratories, Inc. of Cleveland; and~~

~~(j) California Air Resources Board.~~

~~(37)~~] "Noncode boiler or pressure vessel (or nonstandard boiler or pressure vessel)" means a boiler or pressure vessel that does not bear the ASME code symbol stamp and designator[~~,~~] or the National Board stamp. (See also "state special".)[~~.~~]

(35)[~~(38)~~] "Nuclear energy system" means that portion of a power plant that serves the purpose of producing and controlling output of thermal energy from nuclear fuel.

(36)[~~(39)~~] "Nuclear power plant" means a nuclear power plant consisting of one (1) or more nuclear power systems and containment systems.

(37)[~~(40)~~] "Nuclear power systems" means a system which serves the purpose of producing and controlling an output of thermal energy from nuclear fuel and those associated systems essential to the functions of the power system. The components of the system include such items as pressure vessels, piping system, pumps, valves, and storage tanks.

(38)[~~(41)~~] "Nuclear vessel" means a pressure vessel designed and constructed in accordance with Section III of ASME Boiler and Pressure Vessel Code.

(39) "Owner-user inspector" means an inspector commissioned by the department and employed by a company operating a pressure vessel within the commonwealth and meeting the requirements set forth in KRS 236.095(1).

(40) "Owner's piping inspector" is defined by KRS 236.010(25).

(41)[~~(42)~~] "Owner or user" means any person, firm, or corporation owning or operating a boiler or pressure vessel within this commonwealth.

(42)[~~(43)~~] "Power boiler" is[~~means as~~] defined by KRS 236.010(1)(a).

(43)[~~(44)~~] "Pressure piping" means the boiler and pressure vessel external and connecting[~~(steam, vapor or water)~~] piping emanating from the associated boiler or pressure vessel and includes code piping as covered under the ASME Boiler and Pressure Vessel Code, Sections I and IV;[~~Unfired~~] Pressure Vessel Code, Section VIII, Division I, 2, or 3. These piping codes include:

(a) Power Piping Code ASME B31.1;

(b) Process Piping Code ASME B31.3;

(c) Refrigeration Piping and Heat Transfer Components Code ASME B31.5;

(d) Building Services Piping Code ASME B31.9; and

(e) Hydrogen Piping and Pipelines Code ASME B31.12[~~the Power Piping Code ANSI B-31.1~~].

(44)[~~(45)~~] "Pressure vessel" is[~~as~~] defined by KRS 236.010(2).

(45) "Pressure vessels for human occupancy" or "PVHO" means all pressure vessels that enclose a human within its pressure boundary while under internal or external pressure exceeding a differential pressure of 2 psi. PVHOs include decompression or recompression chambers, high altitude chambers, hypobaric or hyperbaric chambers, hyperbaric stretchers, medical hyperbaric oxygenation facilities, and personnel transfer capsules.

(46) "Process steam generator" means a vessel or system of vessels comprised of one (1) or more drums and one (1) or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

(47) "PSI (psi)" means pounds per square inch.

(48) "PSIG (psig)" means pounds per square inch gauge.

(49) "Reinstalled boiler or pressure vessel" means a boiler or pressure vessel removed from its original setting and re-erected at the same location or erected at a new location without change of ownership.

(50) "Repair" means the work necessary to restore pressure-retaining items to a safe and satisfactory operating condition.

(51) "Secondhand boiler or pressure vessel" means a boiler or pressure vessel in which both the location and ownership have been changed after initial use.

(52)[~~(51)~~] "Special boiler inspector" is defined by KRS 236.010(15)[~~means any person employed by an insurance company authorized to insure boilers and pressure vessels in this Commonwealth and who holds a commission as provided for in KRS 236.080~~].

(53)[~~(52)~~] "State special" means a boiler or pressure vessel which carries neither the ASME Boiler and Pressure Vessel Code symbol nor National Board stamping but has been accepted by the Department[~~Office~~] of Housing, Buildings and Construction[~~upon advice of the board as meeting standards equivalent to the applicable ASME Boiler and Pressure Vessel Code,~~] pursuant to 815 KAR 15:025, Section 5[~~(1)~~].

(54)[~~(53)~~] "Unfired steam boiler" means a vessel or system of vessels intended for operation at a pressure in excess of fifteen (15) psig for the purpose of producing and controlling an output of thermal energy.

(55)[~~(54)~~] "V-R stamp holder" means the holder of a certificate issued by the National Board to repair pressure relief valves.

(56)[~~(55)~~] "Water heater" means a closed vessel in which water is heated by the combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit.

(57)[~~(56)~~] "Waste heat boiler" (see "unfired steam boiler").

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the definitions used in the boiler and pressure vessel safety administrative regulations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define the terms used in fixing reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(2), which authorizes the department to adopt any administrative regulation necessary to administer the provisions of Chapter 236.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets forth the definitions authorized by statute for establishing and enforcing standards of boiler and pressure vessel safety.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the applicable sections of the ASME Boiler and Pressure Vessel Code; updates the definition of "existing installations" to adjust the date that boilers, pressure vessels, and piping are considered existing installations; adjusts the nationally recognized testing agency definition to allow for changes in the market; defines pressure vessels for human occupancy; and defines repair.

(b) The necessity of the amendment to this administrative regulation: This regulation must be amended to reflect changes in applicable sections of the ASME Boiler and Pressure Vessel Code, applicable industry standards, and changes in the market of nationally recognized testing agencies.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 mandates the Commissioner of the Department of Housing, Buildings and Construction to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping. Changes in the industry, applicable standards and codes, and in the market, including testing agencies, materials, and practices, necessitate amendments to maintain safety standards in the current trade environment.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure continued safety in the construction, installation, inspection, and repair of boilers and pressure vessels in the current trade environment given changes in the industry, applicable standards and codes, and in the market, including testing agencies, materials, and practices.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All boiler and pressure vessel inspectors,

inspecting agencies, manufacturers, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, manufacturers, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will have to review and comply with the updated code sections.

(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 increased costs anticipated as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding referenced terms and consistency with applicable codes and industry standards.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 236.030.

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? Not applicable to this amendment, which is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:025. New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030, 236.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 and 236.120 authorize[~~authorizes~~] the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules, to fix reasonable fees and standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping. This administrative regulation establishes[~~is necessary to establish~~] the design, construction, and inspection criteria requirements of the boiler inspection section for all boilers and pressure vessels not exempted by KRS 236.060.[~~This administrative regulation incorporates provisions contained in other 815 KAR Chapter 15 administrative regulations which are being repealed simultaneously.~~]

Section 1. Minimum Standards. (1) Boiler and pressure vessels. All new boilers and pressure vessels, except those approved pursuant to Section 5 of this administrative regulation as "state specials," shall comply with applicable provisions of 815 KAR Chapter 15 of the Kentucky administrative regulations and the ASME Boiler and Pressure Vessel Code, 2013 Edition, as established by KRS 236.040(2). All pressure vessels for human occupancy shall comply with the ASME Safety Standard for Pressure Vessels for Human Occupancy, 2012 Edition, as established by KRS 236.040(3)[~~/1989, which is hereby incorporated by reference~~].

(a) The ASME Boiler and Pressure Vessel Code[~~It~~] is published by and available from the American Society of Mechanical Engineers (ASME), Two Park Avenue[~~United Engineering Center, 345 East 47th Street~~], New York, New York 10017.

(b) A copy is also available to be inspected, subject to applicable copyright law, at the Department[~~Office~~] of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[~~5405~~], Monday through Friday from 8 a.m. to 4:30 p.m.

(c) Compliance with a later edition of this code shall be deemed equivalent and may be used in lieu of the edition specified.

(2) Installation of all boilers and pressure vessels shall conform to the National Board Inspection Code Part 1, 2013 edition.

(3) Details of vessels of special design not covered by the code or not fully complying with the ASME Code shall be submitted to the Boiler Section of the Division of Plumbing[~~State Fire Marshal's Office~~] and approval secured before field erection or construction shall begin.

(4)[~~(3)~~] Pressure piping.

(a) All new pressure piping installations connected to the boiler or pressure vessel shall conform to the National Board Inspection Code Part 1, 2013 edition, and the applicable standards referenced in this subsection, as established by KRS 236.040(2):

1.[~~set forth in the~~] ASME Code for Power Piping, B31.1, 2012 edition;

2. ASME Code for Process Piping, B31.3, 2012 edition;

3. ASME Code for Refrigeration Piping and Heat Transfer Components, B31.5, 2013 edition;

4. ASME Code for Building Services Piping, B31.9, 2011

edition; and

5. ASME Code for Hydrogen Piping and Pipelines, B31.12, 2014 edition.

(b)[B.31.1, 1989 edition, an American National Standard, which is hereby incorporated by reference. For low pressure boilers, the metallic piping material allowed by B.31.9 shall be acceptable.

1.] The[Power] Piping Codes are[Code is] published by and available from the American Society of Mechanical Engineers, Two Park Avenue[United Engineering Center, 345 East 47th Street], New York, New York 10017.

(c)[2.] Copies are also available to be inspected at the Department[Office] of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[5405], Monday through Friday from 8 a.m. to 4:30 p.m.

(d)[3.] Compliance with a later edition of a code referenced in this subsection[this code] shall be deemed equivalent and may be used in lieu of the edition specified.

(e)[(b)] The maximum allowable design temperature and pressure of the piping system and all of its component parts shall meet or exceed the operating control settings of the boiler or pressure vessel.

(f)[itself. (c)] If the maximum allowable design temperature or pressure of the boiler exceeds the maximum design limits of the piping system or any of its component parts, the pipe or its components shall not be used unless the temperature and pressure controls on the boiler are permanently set to prevent operation in excess of the design limits of the piping system and safety valves are added to activate at the maximum design limits of the piping system.

(5)[(4)] Welded joints. Welded joints shall be installed by qualified welders in accordance with the ASME Code, Section IX, as required by the standards referenced in subsection (4) of this section. Welded joints shall be visually inspected for complete and full root penetration, soundness of the weld and freedom from undercutting, cracking and other surface imperfections in accordance with Section 3(6)[3(5)] of this administrative regulation.

Section 2. Manufacturer's Data Report. A manufacturer's data report on all boilers of steel construction and all pressure vessels constructed[conducted] in accordance with the ASME Boiler and Pressure Vessel Code shall be filed with the National Board of Boiler and Pressure Vessel Inspectors unless the boiler or pressure vessel is exempted by KRS 236.060.

Section 3. Installation Inspection or First Inspection and Stamping of New Boilers and Pressure Vessels. (1) Stamping. Upon completion of the installation or at the time of first inspection, a Commonwealth of Kentucky serial number shall be assigned to the boiler or pressure vessel and shall be applied to the boiler or pressure vessel as follows:

(a) Steel boilers and pressure vessels shall be stamped with the letters[,] "KY" followed by the state serial number assigned[, and pressure vessels shall be stamped with the letters "KY" followed by the numeral "K" and the remainder of the state serial number assigned]. The stamping shall be accomplished as follows:

1. Stamping shall be applied in the immediate area of code stamping on the boiler or pressure vessel and shall be in letters and numbers[figures] not less than five-sixteenths (5/16) inch in height.

2. A metal tag shall[may additionally] be used showing identical lettering and serial number as used in the stamping.[,] This tag shall be securely affixed in the area of the manufacturer's name plate or data plate.

(b) Cast iron boilers shall have securely attached to the boiler (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height on which the letters "KY" and the state serial number shall be stamped.

(c) Hot water supply boilers shall have securely attached to the heater (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height on which the letters "KY" and the state serial number shall be stamped.

(d) A boiler or pressure vessel having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the Commonwealth of Kentucky may be accepted by the department[office] if the person desiring to install the boiler or pressure vessel shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question.

(2) Shop or field inspection. Any new power boiler, steel heating boiler, pressure vessel or piping being constructed for installation in the Commonwealth of Kentucky shall be shop or field inspected in accordance with the provisions of the applicable section of the ASME Boiler and Pressure Vessel Code and shall be stamped with the applicable ASME code stamp and the applicable national board registration number. Upon request,[Applicable] copies of the data sheets shall be supplied to the Boiler Inspection Section.

(3) Installation inspection. New installations of boilers and of [unfired]pressure vessels and associated pressure piping shall be inspected by the department[office] for compliance with applicable ASME Boiler and Pressure Vessel Code requirements and this administrative regulation. The owner shall be permitted to inspect B31.3 piping systems in accordance with Section 1(4) of this administrative regulation.

(4) Non-registered boilers and non-registered pressure vessels. Boiler inspectors, special boiler inspectors, and owner-user inspectors shall notify the department within thirty (30) days of locating any non-registered boiler or non-registered pressure vessel.

(5) General welding. If welded assembly has been used, the installing contractor shall present for the boiler inspector's, special inspector's, or owner's piping inspector's review the installing contractor's[his] welding procedures and proof of qualification and continuity records of the welders and[of his] welding operators. The contractor shall be responsible for the quality of the welding done by the contractor's[his] organization.

(6)[(5)] Welded joints. If applicable codes or engineering specifications require additional tests or if the visual inspection reveals a potential defect or if joints have been insulated prior to inspection, the boiler inspector, special inspector, or owner's piping inspector may require other nondestructive tests, such as radiography, to be performed by the contractor to verify the soundness of the weld. All tests or retests required by the boiler inspector, special inspector, or owner's piping inspector shall be at the owner's or contractor's expense.

(7)[(6)] Hydrostatic pressure test.

(a) A hydrostatic pressure test, when applied to a boiler or[unfired] pressure vessel of riveted or welded construction, shall conform to the testing procedures and pressures as specified in the original code of construction[not exceed one and one-half (1 1/2) times the maximum allowable working pressure]. The pressure shall be under proper control so that in no case shall the required test pressure exceed the testing requirements listed in the original code of construction.

(b)[be exceeded by more than two (2) percent.] During the hydrostatic pressure test, the safety valve or valves shall be removed or each valve disc shall be held down by means of a testing clamp (hand tight) and not by screwing down the compression screw upon the spring.

(c) The minimum temperature of the water used to apply a hydrostatic test shall not be less than ambient temperature, but in no case less than seventy (70) degrees Fahrenheit and the maximum temperature shall not exceed 120 degrees Fahrenheit.

(d) If the only purpose of the test is to determine tightness, the test pressure shall be equal to the relieving pressure of the safety valve having the lowest relief setting.

(8)[(7)] Pressure piping systems installed in association with the boiler or pressure vessel shall be inspected for proper materials, adequate pressure and temperature ranges for the boiler operation and for adequate support and tightness as follows:

(a) Hydrostatic tests. Hydrostatic or other leak tests shall be performed on the pressure piping system connected to the boiler or pressure vessel and shall conform to the procedures and test pressures outlined in the original code of construction[at one and

~~one-half (1 1/2) times the maximum allowable pressure of the boiler when the installation is complete~~].

(b) Code compliance. Pressure piping inspection shall include determining compliance with design plans, material specifications and ASME Code for the piping and component parts. The contractor shall document to the boiler inspector, special inspector, owner's piping inspector, or owner-user inspector that:

1.[~~That~~] The piping installation and each of its component parts conforms to the design;

2.[~~That~~] The materials used and method of construction meets the manufacturer's procedures and specifications; and

3.[~~That~~] The system is utilizing the materials and equipment specified within the temperature and pressure ranges set forth in the design and as required by Section 1(4)(f)[~~1(3)(c)~~] of this administrative regulation.

Section 4. Notification of Inspection. If an inspection is required by this administrative regulations, the owner or user shall prepare each boiler, pressure vessel, and pressure piping system for[~~internal~~] inspection and shall prepare for and apply a hydrostatic pressure or other leak test on the date specified by the boiler inspector, special inspector, or owner-user inspector. The inspection shall not be less than seven (7) days after the date of notification.

Section 5. State Special. (1) Boilers and pressure vessels of special design that are equivalent to, but are not eligible to be stamped to, the ASME Code[~~and vessels designed and fabricated according to the standards of the applicable sections of the ASME Boiler and Pressure Vessel Code, but not stamped with the ASME symbol stamp,~~] shall meet the requirements of this section. The prospective owner or user who desires approval of the boiler installation as a state special shall pursue[~~the following procedure~~] in each individual case the procedures established in this section.

(a) Prior to installation and operation of the boiler or pressure vessel, the proposed owner, user, or the owner's[~~his~~] authorized agent shall make written application for permission to install the boiler or pressure vessel in the state of Kentucky. The application shall be directed to the Chief Boiler Inspector, Division of Plumbing, Department[~~Office of the State Fire Marshal, office~~] of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[~~5405~~].

(b) To establish ASME Boiler and Pressure Vessel Code equivalency, the following data, material and information shall be submitted with the application for state special approval to[~~permit and approved by~~] the Boiler Inspection Section, Department[~~office~~] of Housing, Buildings and Construction for review by the Board of Boiler and Pressure Vessel Rules:

1. Detailed shop drawings and welding details of the proposed construction. All materials shall be in the English language and United States units of measurements listed in the ASME Code.

2. Design calculations and supporting data which shall include pressure (psi), temperature (deg. F.), use, and other service conditions.

3. Specifications for all construction materials. The specifications shall conform to the applicable ASME Code standards or their suitable equivalent. If reference is made to a standard or specification of a country other than the United States, a copy shall be attached to indicate how the material is considered equivalent.

4. Copies of the welding procedures to be used and welding qualification test reports for each welding operator or welder to be used. The procedures and tests required in this paragraph shall be made in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications."

5. If the design exceeds ASME Boiler and Pressure Vessel Code limitation, API 579/ASME FFS-1, 2007 or later edition shall be[~~recognized engineering practices shall be used and~~] identified in the submittal.

6. Design drawings and calculations shall be certified by a professional engineer holding a license acceptable to the boiler inspection section.

7. The manufacturer of the vessel shall identify the inspection agency responsible for the shop inspections and shall submit an equivalent ASME manufacturer's data report[~~reports~~] for the proposed vessel.

8. The shop inspection agency shall furnish the qualifications[~~and experience~~] of the authorized boiler inspector or special inspector[~~individual inspector or inspectors~~] assigned to make the shop inspections[~~and shall give his jurisdiction commission number~~].

(2) Upon completion of[~~When~~] the boiler or pressure vessel[~~is completed~~], a manufacturer's data report, signed by the manufacturer and shop inspector, shall be submitted to the jurisdictional authorities containing the equivalent type data required by the ASME Boiler and Pressure Vessel Code. ASME Boiler and Pressure Vessel Code data report forms shall not be used.

(3) Upon arrival in the state of Kentucky, the boiler or pressure vessel shall be inspected before installation by a[~~qualified~~] boiler[~~and pressure vessel~~] inspector in the employ of the department[~~office~~] to verify that the above provisions have been complied with and that the vessel is properly marked and stamped for identification.

Section 6. General Requirements. (1) Low water fuel cutoff or water-feeding device (low pressure boilers).

(a) Automatically fired steam or vapor-system boilers shall have an automatic low-water fuel cutoff located to automatically cut off the fuel supply if[~~when~~] the water falls to the lowest part of the water gauge glass. If a water-feeding device is installed, it shall be constructed so that the water inlet valve cannot feed water into the boiler through the float chamber and located to supply[~~requisite~~] feed water.

(b) A fuel cutoff or water-feeding device may be attached directly to a boiler.

(c) A fuel cutoff or water-feeding device may also be installed in the tapped openings available for attaching a water glass directly to a boiler under the following conditions:

1. The connections shall be made to the boiler with nonferrous tees or Y's not less than one-half (1/2) inch pipe size between the boiler and the water glass so that the water glass is attached directly and as close as possible to the boiler;

2. The run of the tee and Y shall take the water glass fittings and the side outlet or branch of the tee or Y shall take the fuel cutoff or water-feeding device.

(d) The ends of all nipples shall be reamed to full-size diameter.

(e) Fuel cutoffs and water-feeding devices embodying a separate chamber shall have a vertical drain pipe and a blowoff valve not less than three-fourths (3/4) inch pipe size and located at the lowest point in the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

(2) Safety appliances. The safety appliances established[~~prescribed~~] by these administrative regulations shall not be removed or tampered with except for the purpose of making repairs. The resetting of safety valves shall be done by a V-R stamp holder.

(3) Location of discharges to atmosphere. The discharge of safety valves, blowoff pipes, and other outlets shall be located so as to prevent injury to personnel.

(4) Pressure reducing valves (high pressure boilers).

(a) If pressure reducing valves are used, one (1) or more relief or safety valves shall be provided on the low pressure side of the reducing valve in case the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The relief or safety valves shall be located either adjoining or as close as possible to the reducing valve.

(b) Proper protection shall be provided to prevent injury or damage caused by the escaping steam from the discharge or safety valves if vented to the atmosphere.

(c) The combined discharge capacity of the relief valve shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve sticks open.

(d)[~~(b)~~] The use of hand-controlled bypasses around reducing valves shall be permissible. The bypass, if used around a reducing valve, shall not be greater in capacity than the reducing valve unless the piping or equipment is adequately protected by relief valves or meets the requirements of the high pressure system.

(e)[~~(c)~~] A pressure gauge shall be installed on the low pressure side of a reducing valve.

(5) Electric boilers. All appliances required for electric boilers shall be attached in accordance with the National Electrical Code and the following requirements:

(a) The grounding of the shell shall be permanently fastened on some part of the boiler and shall be grounded in accordance with the edition of the National Electrical Code in effect at the time the permit for the installation was made.

(b) A suitable screen or guard shall be provided around high tension bushings and a high voltage warning sign shall be posted. This screen or guard shall be located to prohibit anyone working around the boiler to accidentally come in contact with the high tension circuits. During the adjustment of[~~When adjusting~~] safety valves, the power circuit to the boiler shall be open.

(c) The boiler may be under pressure, but the power line shall be open while the operator is making the necessary adjustments.

(d) Each KW of electrical energy consumed by an electric boiler operating at maximum rating shall be considered the equivalent of one (1) square foot of heating surface.

(6) Clearance.

(a) If boilers are replaced or new boilers installed in either existing or new buildings, a minimum of two (2) feet shall be provided on all service sides, unless the installation allows for proper maintenance without the separation. Vessels having manholes shall have five (5) feet clearance between[~~from~~] the manhole opening and any wall, ceiling, or piping that will prevent a person from entering the boiler or vessel.

(b) Boilers shall be installed to:

1. Allow adequate space for their proper operation and their appurtenances;

2. Allow inspection of all surfaces, tubes, water walls, economizer, piping, valves, and other equipment; and

3. Allow for necessary maintenance and repair.

(7) Emergency devices for certain installations.

(a) 1. Installations of power boilers,[~~or~~] heating boilers, or hot water supply boilers shall have a manually operated remote heating plant shutdown switch or circuit breaker located just outside the boiler room door and marked for easy identification. Consideration shall also be given to the type and location of the switch to safeguard against tampering.

2. If the boiler room door is on the building exterior, the switch shall be located just inside the door. If there is more than one (1) door to the boiler room, a switch shall be located at each door.

3. For an atmospheric gas burner, and an oil burner where a fan is on a common shaft with the oil pump, the complete burner and controls shall be shut off.

4. For a power burner with a detached auxiliary, only the fuel input supply to the firebox shall be shut off.

(b) A power boiler or heating boiler installed prior to July 1, 2015 shall be exempt from paragraph (a) of this subsection unless the power boiler or heating boiler installed prior to July 1, 2015 is located in a hospital, rest home, school, mental institution, or similar institutional facility.

(c) Paragraph (a) of this subsection shall not apply to manufacturing and power generating facilities.

Section 7. Incorporation by reference. (1) The "National Board Inspection Code Part 1," 2013 Edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.[~~in hospitals, rest homes, schools, mental institutions or similar institutional facilities shall comply with provisions of ASME Boiler and Pressure Vessel Code, Section IV, Article HG-634, regarding remote emergency cutoff switches. These installations shall be judged on their own merits from a standpoint of accessibility of electrical power cutoffs to the boiler or boilers in case of fire or heavy smoke emission. If installed cutoff switches are not adjacent to boiler room entryways, emergency cutoff switches shall be provided as outlined in Article HG-634, of Section IV, ASME Boiler and Pressure Vessel Code.~~]

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the installation, design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish reasonable standards for the safe design, construction, installation, and inspection of new boilers and pressure vessels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(1), which requires the department to fix by administrative regulation reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets forth the criteria for boiler, pressure vessel, and pressure piping installation, design, construction, and inspection to ensure boiler and pressure vessel safety.

(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 establishes or updates the ASME and National Board Inspection Code requirements for boiler and pressure vessel installation, in conformity with legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July 12, 2012; clarifies notification requirements applicable to inspections; and updates the standards for emergency devices on certain installations.

(b) The necessity of the amendment to this administrative regulation: This amendment is required in order to conform to legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July

12, 2012 and require conformity with additional ASME reference standards and subsequent revisions thereof.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 requires the Commissioner to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping, and KRS 236.040 further mandates adoption of the additional standards referenced in the amendment.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and establishes criteria for boiler, pressure vessel, and pressure piping installation, design, construction, and inspection necessary to ensure boiler and pressure vessel safety.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All boiler and pressure vessel inspectors, inspecting agencies, manufacturers, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, manufacturers, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will have to review and comply with the updated code sections.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not anticipated that this amendment will result in any significant increase in costs, which cannot be estimated due to numerous factors that may apply to a given installation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding the applicability of the referenced codes and industry standards, and the ability to practice the trade in conformity with the most current industry standards.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030.

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 is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors.

RELATES TO: KRS 236.010, 236.030, 236.110, 236.240, 236.250, 236.990

STATUTORY AUTHORITY: KRS 236.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 requires the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules, to establish reasonable standards for the inspection and repair of boilers and pressure vessels. This administrative regulation establishes[~~contains~~] the requirements for safe maintenance of boilers and pressure[~~those~~] vessels.

Section 1. Frequency of Inspection of Existing Vessels. Upon notification by a boiler inspector, special inspector, or owner-user[~~an~~] inspector, a boiler or pressure vessel[~~which is~~] subject to an annual or semiannual inspection pursuant to KRS 236.110 shall be prepared for the inspection or hydrostatic or other leak test by the owner or user.

Section 2. Preparation for Inspections and Tests. (1) The owner or user shall prepare the boiler or pressure vessel for internal inspection and apply the required hydrostatic or other leak test on the date specified by the boiler inspector, special inspector, or owner-user inspector. The date set for inspection shall be a minimum of seven (7) days following notification by the boiler inspector, special inspector, or owner-user inspector.

(2) The owner or user shall prepare a boiler for internal inspection pursuant to paragraphs (a) through (f) of this subsection.[~~in the following manner:~~]

(a) Water shall be drawn off and the boiler thoroughly washed.[~~;~~]

(b) The manhole and handhole plates, washout plugs, and the plugs in water column connections shall be removed and the furnace and combustion chambers thoroughly cooled and cleaned.[~~;~~]

(c) The grate of an internally fired boiler shall be removed.[~~;~~]

(d) During the annual inspection, brickwork shall be removed as required by the boiler inspector or special inspector in order to determine the condition of the boiler, header, furnace, supports, or

other parts.[;]

(e) The steam gauge shall be removed for testing.[; and]

(f) Leakage of steam or hot water into the boiler shall be cut off by disconnecting the pipe or valve at the most convenient point.

(3) If the boiler is jacketed and the longitudinal seams of shells, drums, or domes are not visible, enough of the jacketing, setting wall, or other forms, casing or housing shall be removed so that the size of the rivets, pitch of the rivets, and other data necessary to determine the safety of the boiler can[may] be obtained.

(4) If a boiler has not been[properly] prepared for an internal inspection in accordance with the requirements of this section or the owner or user fails to comply with the requirements for the hydrostatic or other leak test established in this administrative regulation, the boiler inspector or special inspector may decline to make the inspection or test and the inspection certificate shall be withheld until the owner or user complies with the requirements.

(5) Lap seam crack. (a) A crack in the lap seam extending parallel to the longitudinal joint between or adjacent to rivet holes of the shell or drum of a boiler or pressure vessel shall cause the vessel to be immediately discontinued from use.

(b) If the boiler or pressure vessel is not more than fifteen (15) years of age, a complete new course of the original thickness may be installed at the discretion of the boiler inspector, special inspector, or owner-user inspector and shall be after approval by the chief boiler inspector.

(c) Patching shall be prohibited.

(6) Hydrostatic pressure tests. If a hydrostatic test shall be applied to an existing installation, the pressure shall be as established in paragraphs (a) through (d) of this subsection.[follows:]

(a) For determining tightness, the pressure shall be equal to the release pressure of the safety valve or valves having the lowest release setting.

(b) For determining safety or the strength of a vessel and associated[related] piping as well as tightness, the pressure shall conform to the procedures and test pressures established in the original code of construction but not exceed[be equal to] one and one-half (1 1/2) times the maximum allowable working pressure (MAWP), except for a locomotive type boiler in which case the pressure[it] shall be one and one-fourth (1 1/4) times the maximum allowable working pressure (MAWP). The pressure shall be under proper control to prevent the required test pressure from exceeding testing requirements listed in the original code of construction[from being exceeded by more than two (2) percent].

(c) The temperature of the water used for the hydrostatic test shall not be less than ambient temperature, and shall not be less than seventy (70) degrees Fahrenheit for boilers or thirty (30) degrees Fahrenheit above the minimum design metal temperature for pressure vessels, nor[, or] high enough to allow the metal temperature to exceed 120 degrees Fahrenheit.

(d) Minimum test pressure shall not be less than eighty (80) percent of the maximum allowable working pressure (MAWP) or the set pressure of the pressure-relieving device, whichever is greater.

Section 3. Safety Factors in Existing Boilers and Pressure Vessels. (1) Maximum pressure and temperature. The maximum allowable working pressure (MAWP) and temperature for standard pressure vessels and[the maximum allowable temperature and pressure for standards] boilers shall be determined in accordance with the ASME Code Edition (year and addenda) under which the boiler or pressure vessel was[they were] constructed and stamped.

(2) Notice of accident or malfunction.

(a) If an accident or malfunction renders a[shall occur to render the] boiler or pressure vessel inoperative, the owner, user, or insurer shall immediately notify the Boiler Inspection Section and submit a detailed report of the accident or malfunction.

(b) If there is a serious accident, including an explosion, resulting in property damage, injury to personnel, or loss of life, notice shall be given immediately by phone or electronic mail[telephone, telegraph, or messenger] and the boiler, pressure vessel, or any of the parts shall not be removed or disturbed before an inspection has been made by a boiler inspector or special[an] inspector, except for the purpose of saving a human life.

(3) Condemned boilers. A boiler or pressure vessel inspected and found unsafe for further use by the chief boiler inspector or boiler inspector shall be stamped by the chief boiler inspector or boiler inspector with the letters "XX" prior to the letters "KY" and after the numbers[and the letters "KY,"] to designate a condemned boiler or pressure vessel, i.e., XX Kentucky 12345 XX.

(4) A person, firm, partnership, or corporation using or offering for sale a condemned boiler or pressure vessel for operation within this Commonwealth shall be subject to the penalties in KRS 236.990.

(5) Nonstandard boilers and pressure vessels. Shipment of a nonstandard boiler, pressure vessel, or hot water supply boiler into this state shall be prohibited, unless exempted under KRS 236.060.

(6) Used boilers. If a nonstandard boiler, pressure vessel, or hot water supply boiler[,] is removed from use, the boiler, pressure vessel, or hot water supply boiler[it] shall not be reinstalled.

(7) Removal of safety appliances.

(a) A person shall not attempt to remove or work on a safety appliance while a boiler or pressure vessel is in operation unless under the direction of a boiler inspector or special inspector or permitted under 815 KAR 15:040, Section 1(3)(j)[an inspector].

(b) If a safety appliance is repaired during an outage of a boiler or pressure vessel, the appliance shall be reinstalled and in proper working order before the vessel is[shall be] returned to service.

(8) The boiler, pressure vessel, and pressure piping shall be maintained in accordance with the minimum requirements of the edition of the ASME Code that[which] was in effect when the boiler, pressure vessel, and pressure piping[it] was constructed and installed.

Section 4. Used Vessels. (1) Used boilers or pressure vessels. Before a boiler or pressure vessel is brought into Kentucky for use, it shall be inspected by a boiler inspector or a special boiler inspector and the data shall be filed by the owner or user of the boiler or pressure vessel with the Boiler Inspection Section for approval.

(2) Reinstalled boilers or pressure vessels.

(a) If a boiler or pressure vessel is moved and reinstalled, the fittings and appliances shall comply with the ASME Boiler and Pressure Vessel Code, 2013 Edition, as established by KRS 236.040(2), and[the administrative regulations adopted in] 815 KAR Chapter 15.

(b) All pressure vessels for human occupancy shall comply with the ASME Safety Standard for Pressure Vessels for Human Occupancy, 2012 Edition, as established by KRS 236.040(3), and 815 KAR Chapter 15.

(3) Unsafe conditions.

(a)[The inspector shall order increased safety factors, pursuant to the ASME Boiler and Pressure Vessel Code, if the condition of the boiler is unsafe.] If the owner or user does not concur with the boiler inspector's or special inspector's decision regarding the condition of the boiler or pressure vessel, the owner or user[, he] may appeal to the commissioner[executive director] who may request a joint inspection by the chief boiler inspector and the boiler inspector or special boiler inspector.

(b) Each boiler inspector or special inspector shall render a[his] report to the commissioner[executive director], who shall render the final decision, based upon the data contained in all the inspectors'[inspectors] reports.

Section 5.[Major] Repairs and Alterations. (1) Repairs.

(a) A[major] repair shall require prior approval of a boiler inspector or special[an] inspector and permits as required by KRS 236.240 and 236.250.

(b) Repair to a boiler, pressure vessel, and the[their] appurtenances thereto shall conform to the requirements of the National Board Inspection Code Part 3, 2013 Edition.[(2)] Compliance with a later edition of the National Board Inspection Code shall be deemed equivalent and may be used in lieu of the edition specified.

(c) Repairs to pressure relieving devices[(3) Repairs. Repair to

~~a safety valve, safety relief valve, relief valve or liquid relief valve~~] shall be made by a firm possessing the National Board Certificate of Authorization for Use of the Valve Repair (VR) Stamp and the valve shall be stamped with the VR stamp upon completion of the repair.

(d) Repair to a boiler or a pressure vessel shall not be initiated without the authorization of the inspector, who shall be satisfied that the welding procedures and welders are qualified and that the repair methods are in accordance with the standards established in this administrative regulation.

(e) The inspector may give prior approval for repairs of a routine nature. In every case, the inspector shall be advised of each repair under a prior agreement.

(2) Alterations.

(a) Except as permitted for owner-users, alterations to boilers and pressure vessels shall be performed by an authorized repairer.

(b) Alteration to a boiler or pressure vessel shall not be initiated without the authorization of an inspector, who shall be satisfied that the alteration methods and calculations are in accordance with the standards established in this administrative regulation.

(c) If the inspector considers it necessary, the inspector shall make an inspection of the object before granting authorization.

(3)(a) It shall be the responsibility of the organization making the repair or alteration to coordinate the acceptance inspection of the repair or alteration.

(b) Authorized repairers shall submit the appropriate National Board Inspection Code form to the division upon completion of repairs or alterations.

(4) An owner-user inspector may perform acceptance inspections of repairs and alterations to boilers and pressure vessels if the repairs or alteration has been performed by the inspector's employer.

Section 6. Inspection by Special Inspectors. (1) A special inspector shall submit an inspection report to the Boiler Inspection Section in the Division of Plumbing on the applicable National Board Inspection Code Report of Inspection standard form or its equivalent[~~of the State Fire Marshal's Office on form HBC-BI-220~~].

(2) An insurance company shall notify the Boiler Inspection Section of new or[~~,~~] cancelled[~~or suspended~~] risks[~~. The insurance company shall notify the Boiler Inspection Section~~] within thirty (30) days of each boiler or pressure vessel risk written, cancelled, or not renewed[~~or suspended because of an unsafe condition~~].

(3)[~~An insurance company shall notify the Boiler Inspection Section of a defective boiler or pressure vessel.~~] If a special boiler inspector finds, upon the first inspection of a boiler or pressure vessel, the boiler or pressure vessel or an appurtenance,[~~ in~~] a condition causing the special boiler inspector's[~~his~~] company to refuse or suspend insurance, the company shall immediately notify the Boiler Inspection Section and submit a report of the defect.

(4)[~~Defective conditions disclosed at time of external inspections.~~] If an external inspection reveals evidence of a leak or crack, enough of the covering of the boiler or pressure vessel shall be removed to satisfy the boiler inspector or special inspector of its safety. If the covering cannot be removed at that time, the boiler inspector or special inspector shall order the operation stopped until the covering may be removed and a proper examination made.

Section 7. Inspection by Owner-User Inspectors. (1) An owner-user inspector shall submit an inspection report to the Boiler Inspection Section in the Division of Plumbing on the applicable National Board Inspection Code Report of Inspection standard form, or its equivalent.

(2) An owner-user company shall immediately notify the Boiler Inspection Section of a defective pressure vessel and submit a report of the defect.

(3) If an external inspection reveals evidence of a leak or crack, enough of the covering of the pressure vessel shall be removed to satisfy the owner-user inspector of the pressure vessel's safety. If the covering cannot be removed at that time, the owner-user inspector shall order the operation stopped until the covering may be removed and a proper examination made.

(4) If there is a disagreement as to the acceptance of any condition of a pressure vessel or repair by the owner-user inspector and owner-user company, the department shall make the final determination in accordance with the standards established in this administrative regulation.

Section 8. Inspection by Owner's Piping Inspector (1) Owner's piping inspectors shall inspect all new, replacement, and repaired piping for compliance to the applicable ASME piping code to which the piping is installed. The owner's piping inspector shall sign the permit filed by the licensed contractor performing the piping installation or repair and forward it to the Boiler Inspection Section to show acceptance.

(2) The owner's piping inspector shall maintain copies of the material mill test reports and pressure test information including type of test, pressure at start and end of test, and duration of test. If welded joints are utilized, the file shall contain the qualified welder identification, weld procedure, and procedure qualification used.

(3) If there is a disagreement as to the acceptance of any condition of the piping installation or repair by the owner's piping inspector and owner's user facility, the department shall make the final determination in accordance with the standards established in this administrative regulation.

Section 9. Incorporation by Reference. (1) The[~~following material is incorporated by reference:~~

~~(a) "ASME Boiler and Pressure Vessel Code", 1989 Edition, American Society of Mechanical Engineers;~~

~~(b)~~] "National Board Inspection Code Part 3", 2013[~~1995~~] Edition, is incorporated by reference[~~National Board of Boiler and Pressure Vessel Inspectors; and~~

~~(c) Form "HBC-BI-220", 1997 Edition, Office of Housing, Buildings, and Construction~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[~~Office~~] of Housing, Buildings and Construction, Division of Plumbing, Boiler Section,101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[~~5405~~], Monday through Friday, 8 a.m. to 4:30 p.m.

(3)[~~The ASME Boiler and Pressure Vessel Code is also available from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York, 10017.~~

~~(4)~~] The National Board Inspection Code is also available, subject to applicable copyright law, from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero

Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the testing, repair, inspection, and safety criteria for existing boilers and pressure vessels.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish reasonable standards for the testing, repair, inspection, and safety of existing boilers and pressure vessels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(1), which requires the department to fix by administrative regulation reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets forth the criteria for the testing, repair, inspection, and safety criteria for existing boilers and pressure vessels to ensure boiler and pressure vessel safety.

(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 establishes or updates the ASME and National Board Inspection Code requirements for existing boilers and pressure vessels, to ensure consistency with legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July 12, 2012; updates hydrostatic pressure test thresholds; clarifies standards for the performance and inspection of repairs; and establishes criteria for inspections by owner-user inspectors and owner's piping inspectors.

(b) The necessity of the amendment to this administrative regulation: This amendment is required in order to reflect changes in applicable industry standards to maintain boiler and pressure vessel safety, as well as require conformity with additional ASME reference standards and subsequent revisions thereof.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 mandates the Commissioner of the Department of Housing, Buildings and Construction to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping, and KRS 236.040 further mandates adoption of the additional standards referenced in the amendment.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and establishes criteria for boiler, pressure vessel, and pressure piping testing, repairs, and inspection necessary to ensure boiler and pressure vessel safety.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All boiler and pressure vessel inspectors, inspecting agencies, manufacturers, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, manufacturers, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will have to review and comply with the updated code sections.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not anticipated that this amendment will result in any significant increase in stakeholder costs, which cannot be reasonably estimated due to numerous possible factors that may apply to a given installation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding the required standards for repairs, testing and inspection, the applicability of the referenced codes and industry standards, and the ability to practice the trade in conformity with the most current industry standards.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030.

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 is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:027. Certificates and fees for boiler and pressure vessel inspection.

RELATES TO: KRS Chapter 236
STATUTORY AUTHORITY: KRS 236.030, 236.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 and 236.130 authorize[~~authorizes~~] the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules, to fix reasonable inspection fees for boilers and pressure piping. This administrative regulation establishes[~~specifies~~] fees for boiler inspections[~~the boiler inspection section. These are the same fee amounts previously existing in 815 KAR 15:020, which has been repealed~~].

Section 1. Boiler Certificates of Inspection. (1) A boiler or pressure vessel complying with 815 KAR Chapter 15[~~the rules of the office~~] shall be issued the certificate required by KRS 236.120[~~236.130~~] upon payment of a fifteen (15) dollar fee.

(2) If the owner or user of the boiler or pressure vessel required to be inspected refuses to allow an inspection to be made or refuses to pay the required fee, the certificate of inspection[~~certificate~~] shall be suspended by the commissioner[~~executive director~~] until the owner or user complies with the requirements.

(3) If the owner or user operates a boiler or pressure vessel without possessing a valid certificate of inspection, the owner or user shall be subject to the penalties provided for in KRS 236.990.

(4) Certificates of inspection shall be located as required by KRS 236.120(1).

(5) Validity of certificates of inspection[~~certificates~~].

(a) A certificate of inspection[~~An inspection certificate,~~] issued in accordance with KRS 236.120[~~,~~] shall be valid until expiration unless a defect or condition affecting the safety of the boiler or pressure vessel is disclosed.

(b) A certificate issued for a boiler or pressure vessel inspected by a special boiler inspector shall be valid only if the boiler for which the certificate[~~it~~] was issued continues to be insured by an authorized insurance company.

(6) Suspension of certificate of inspection[~~operations~~]. Certificates shall be suspended in accordance with KRS 236.120(3).

(7) Pressure vessel inspections. Pressure[~~The following~~] vessels shall be inspected upon installation and reinspected in accordance with this subsection.[~~every three (3) years:~~]

(a) Pressure vessels exceeding 200 psi maximum allowable working pressure (MAWP) shall be inspected every five (5) years.[~~; and~~]

(b) Hot water storage tanks, sterilizers, and autoclaves shall be inspected every four (4) years.

(c) Pressure vessels for human occupancy and hyperbaric chambers shall be inspected annually.

(d) All pressure vessels shall be re-inspected at the time of repair, alteration, or relocation.

Section 2. Fees. (1)(a) Following an inspection by a boiler inspector or owner-user inspector, the owner or user of a boiler, pressure vessel, or pressure piping, unless exempt under KRS 236.060, shall pay to the department[~~office~~] fees in accordance with this section.

(b) The fees for new installations of boilers, pressure vessels, or pressure piping and fees for repairs shall be in accordance with the fees listed in subsection (5) of this section and shall be submitted by the contractor prior to installation.

(2)(a) Shop inspections made by boiler inspectors for purposes of inspecting the fabrication of the vessel at the request of a boiler manufacturer, installer, engineering contractor, or owner shall be charged at the rates established in this subsection[~~following rates~~]:

1.[~~(a)~~] $450 for one-half (1/2) day of four (4) hours or less;[~~.~~]

2.[~~(b)~~] $600 for one (1) day of more than[~~over~~] four (4) hours to eight (8) hours;[~~.~~]

3.[~~(c)~~] $600 for[~~eight (8) hours or~~] any part of a day on Saturdays, Sundays or state[~~public~~] holidays; and

4.[~~. (d)~~] Forty (40) dollars per hour for overtime in excess of eight (8) hours in any one (1) day, plus itemized expenses of[~~to include~~] mileage, lodging, meals, and incidentals.

(b) The fees established in this subsection[~~These charges~~] shall not void regular fees for inspection and certificates of inspection[~~certificate~~] when the boilers or pressure vessels are completed.

(3) Charges for inspection of second-hand equipment shall be at the rates established in subsection (2) of this section[~~specified above~~] plus itemized charges for mileage, lodging, meals, and incidentals. These charges shall not void regular fees for inspection and certificates of inspection[~~certificate~~] when the boilers or pressure vessels are installed.

(4) ASME and National Board inspections. Inspections of a manufacturing facility[~~the manufacturing facility itself~~], at the request of the manufacturer, for the issuance of ASME or National Board Certificates of Authorization shall be charged at the rates established in this subsection[~~as follows~~]:

(a) Initial inspection for ASME certificates - $1,200;[~~.~~]

(b) Reviews for renewal of ASME certificates - $950; and[~~.~~]

(c) Initial inspections and renewals for National Board R or VR certificate - $400.

(5) New installation inspections of pressure piping, boilers, and pressure vessels. Inspection of new installations of pressure piping, boilers, or pressure vessels shall be charged at the rates established in this subsection.[~~as follows:~~]

(a) The fees charged for inspection of each newly installed boiler or pressure vessel and each pressure piping system shall be based upon the total dollar value of each installation, either actual or estimated. It shall be the obligation of the installing contractor to supply this value, which shall include both labor and material costs. An exact figure does not need to be quoted or divulged to the boiler inspector or department[~~office~~], only a designation that the true value lies within certain limits as listed in the left column of the table established in this paragraph[~~below~~]. The fees for all new installations of boilers, pressure vessels, or pressure piping and fees for repairs are listed in the right column of the table.

Amount in Dollars	Fee
$2,000 or less	$70
$2,001 to $10,000	$130
$10,001 to $25,000	$200
$25,001 to $50,000	$250
$50,001 to $75,000	$300
$75,001 to $100,000	$410
$100,001 to $150,000	$520
$150,001 to $200,000	$630
$200,001 to $250,000	$740
$250,001 to $300,000	$850
$300,001 to $400,000	$960
$400,001 to $500,000	$1,350
$500,001 to $600,000	$1,500
$600,001 to $700,000	$1,650
$700,001 and over	$1,850

(b) The fee for an initial inspection of a pressure vessel required by Section 1(7) of this administrative regulation shall be twenty-five (25) dollars.

(c) The installing contractor, owner, or user shall request an inspection of a boiler and pressure piping at least seven (7) days in advance. If the inspection is not made within this time limit, the installation may proceed. Requests for inspection shall be made by electronic mail, letter, or telephone to the department[~~office~~].

(6) Inspection of nuclear installations. Nuclear installation inspections shall be charged in accordance with the fee schedule established in[~~as set forth under~~] subsection (2) of this section or as agreed upon through[~~determined by~~] contracts between the installer and the department.

(7) Hydrostatic tests. If hydrostatic testing is used to ascertain acceptability pursuant to KRS 236.110(3), an additional fee shall

be charged by the department for witnessing the hydrostatic test. The additional fee shall be in accordance with the fee schedule established in subsection (2) of this section[~~If it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees set forth under subsection (2) of this section shall be charged~~].

Section 3. Fees for Reinspection of Boilers and Pressure Vessels. (1) Fees for reinspection of power boilers shall be charged at the rates established in this subsection.[~~as follows:~~]

(a) INTERNAL INSPECTIONS OF POWER BOILERS	
Heating Surface (Square Feet)	Fee
100 or less	$35
101 to 1,000	$50
1,001 to 4,000	$90
4,001 to 10,000	$120
10,001 and over	$200
(b) EXTERNAL INSPECTIONS OF POWER BOILERS	
Heating Surface (Square Feet)	Fee
100 or less	$30
101 and over	$35

(2) Fees for reinspection of heating boilers shall be charged at the rates established in this subsection.[~~as follows:~~]

Boilers with manway where internal inspection required	$55
Other heating boilers	$35
Hot water supply boilers	$25
Miniature boilers	$25

(3) The fee for the reinspection of a pressure vessel shall be twenty-five (25) dollars.

Section 4. Plan Review for[~~of~~] Boiler and[~~Unfired~~] Pressure Vessel Installations. (1) Prior to the construction and installation of any boiler or[~~unfired~~] pressure vessel, the installing contractor shall submit shop drawings and fees for the installation to the chief boiler inspector of the department. Submission of plans shall be reviewed and released for construction upon department approval[~~office for review and release for construction~~].

(2) Fees for plan review shall be[~~provided in accordance with the following table~~]:

Heating Surface (Square Feet)	Fee
100 and under	$30
101 to 1,000	$55
1,001 to 4,000	$75
4,001 to 10,000	$100
10,001 and over	$150
[~~Unfired~~] Pressure vessels	$45

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements for inspection certificates and fees for inspections of boilers and pressure vessels.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the criteria and process for obtaining inspection certificates and to establish inspection fees for boiler and pressure vessel inspections.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(1), which requires the department to fix by administrative regulation reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state, and to KRS 236.130, which required the department to fix by administrative regulation reasonable fees for the inspections performed by the department pursuant to the provisions of KRS Chapter 236.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the requirements for inspection certificates and fees for inspections of boilers and pressure vessels to ensure boiler and pressure vessel safety.

(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 existing language; establishes the time for re-inspection of pressure vessels; and establishes the time for inspection of pressure vessels for human occupancy.

(b) The necessity of the amendment to this administrative regulation: This regulation must be amended to clarify existing language and establish inspection and re-inspection times.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 mandates the Commissioner of the Department of Housing, Buildings and Construction to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping, and KRS 236.130 requires the department to fix by administrative regulation reasonable fees for the inspections performed by the department pursuant to the provisions of KRS Chapter 236.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and allows the department to establish clear guidelines regarding the conduct of additional types of boiler and pressure vessel inspections.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of boilers, pressure vessels, and piping will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, installers, repairers, owners, operators, and

users of boilers, pressure vessels, and piping will have to review and comply with the updated provisions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not anticipated that this amendment will result in any increase in stakeholder costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding the required standards for inspection.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030 and 236.130.

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 is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:040. Power boiler and pressure vessel supplemental requirements.

RELATES TO: KRS 236.030

STATUTORY AUTHORITY: KRS 236.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers and pressure piping. This administrative regulation establishes[~~sets forth~~] the specific requirements for power boilers that[~~which~~] are within the scope of Section I of the ASME Boiler and Pressure Vessel Code.[~~This amendment is necessary to comply with KRS Chapter 13A and to set forth additional specific requirements for new and existing power boilers which do not apply to other vessels.~~]

Section 1. New Installations. (1) Power boilers.

(a) A power boiler[~~All power boilers~~] shall be constructed in accordance with applicable provisions of the ASME Boiler and Pressure Vessel Code incorporated in 815 KAR 15:025, Section 1(1), and [~~Title~~]815 KAR Chapter 15[~~of the Kentucky administrative regulations~~].

(b) Pressure piping beyond the first (or second) stop valve shall comply with the codes and standards applicable to pressure piping as established by[~~ASME Code for Pressure Piping adopted by reference in~~] 815 KAR 15:025, Section 1(4)[~~1(3)~~].

(2) Installation.[~~:~~]

(a) A vessel[~~Vessels~~] subject to external corrosion shall be so installed that there is sufficient access to all parts of the exterior to permit proper inspection of the exterior surfaces, otherwise sufficient protection against corrosion shall be provided, or the vessel shall be of a[~~such~~] size, dimension, and connection[~~connected~~] that the vessel[~~it~~] can be readily removed from its location for inspection.

(b) A vessel[~~Vessels~~] having a handhole, manhole, or cover plate[~~handholes, manholes, or cover plates~~] to permit inspection of interior surfaces shall be so installed that each opening is[~~these openings are~~] readily accessible.

(c) If a[~~When~~] cylindrical vessel is[~~vessels are~~] installed in a vertical position and subject to corrosion, the bottom head, if dished, shall[~~should~~] be concave to pressure to facilitate proper drainage.

(d) The installed vessel shall be so located that the stamping or marking shall be accessible to the boiler inspector, special inspector, or owner-user inspector and shall not be obstructed[~~obliterated~~] by insulation or other covering not readily removable.

(3) Pressure relieving devices (pressure vessels).[~~:~~]

(a) A single pressure relieving device[~~devices~~] shall be set to operate at a pressure not exceeding the maximum allowable working pressure (MAWP) of the vessel.

(b)1. A[~~All~~] pressure vessel[~~vessels~~] other than an unfired steam boiler[~~boilers~~] shall be protected by a pressure relieving device that shall prevent the pressure within the vessel from rising more than ten (10)[~~five (5)~~] percent above the maximum allowable working pressure (MAWP) when full open and discharging, except as established in paragraphs (c), (d), and (j)[~~and (d)~~] of this subsection.

2. An unfired steam boiler[~~boilers~~] shall have protective devices as required by this administrative regulation.

3. An unfired steam boiler shall be equipped with pressure relieving devices required by ASME Section I.

(c) The aggregate capacity of the pressure relieving devices connected to any vessel or system of vessels for the release of a liquid, air, steam, or other vapor shall be sufficient to discharge the maximum quantity that can be generated or supplied to the attached equipment without permitting a rise in pressure within the

vessel or more than sixteen (16) percent above the maximum allowable working pressure (MAWP) of the vessel when all pressure relieving devices are full open and discharging.

(d) If[~~Where~~] an additional hazard can be created by exposure of a pressure vessel to fire or other unexpected sources of external heat, supplemental pressure relieving devices shall be installed capable of protecting against excessive pressure. These supplemental pressure relieving devices shall be capable of preventing the pressure from rising more than twenty-one (21) percent above the maximum allowable working pressure (MAWP).

(e) A pressure relieving device[~~devices~~] shall be constructed, located, and installed so that the device is[~~they are~~] readily accessible for inspection and repair and[~~so that they~~] cannot be readily rendered inoperative and shall be selected on the basis of their intended service.

(f) Safety, safety relief, and relief valves shall be of the direct spring loaded type.

(g) Pilot operated pressure relief valves may be used. The pilot shall be[~~, provided that the pilot is~~] self-actuated and the main valve shall[~~will~~] open automatically at not over the set pressure and shall[~~will~~] discharge the valve's[~~its~~] full rated capacity if some essential part of the pilot should fail.

(h)1. The spring in a pressure relief valve in service for pressures up to and including 250 psi shall not be reset for any pressure more than ten (10) percent above or below that for which the valve is marked.

2. For higher pressures, the spring shall not be reset for any pressure more than five (5) percent above or five (5) percent below that for which the safety or relief valve is marked.

(i) The set pressure tolerances, plus or minus, of pressure relief valves shall not exceed two (2) psi for pressures up to and including seventy (70) psi and three (3) percent for pressures above seventy (70) psi. All other requirements regarding over pressure protection devices shall be in accordance with UG-125[~~UG-125~~] through UG-140[~~UG-136~~] of ASME Pressure Vessel Code, Section VIII, Division 1.

(j)1. If a pressure relieving device is omitted or removed, the device shall be omitted or removed in accordance with ASME Section VIII, Division 1, UG-140, Appendix M and ASME Section VIII, Division 2, Part 9, or Division 3, Part KR.

2. If a pressure relieving device is omitted or removed pursuant to the standards established in subparagraph 1. of this paragraph, except ASME Section VIII, Division 1, Appendix M., the Boiler Section shall be notified prior to the omission or removal, and prior to the pressure vessel being placed in service.

3. The required documentation shall be submitted to the Boiler Section for review and acceptance or rejection of the proposed omission or removal.

Section 2. Maximum Allowable Working Pressure for Existing Installations. (1) Maximum allowable working pressure (MAWP) for standard boilers and pressure vessels. The maximum allowable working pressure (MAWP) for a standard boiler or[~~boilers and~~] pressure vessel[~~vessels~~] shall be determined in accordance with the applicable provision of the edition of ASME Boiler and Pressure Vessel Code under which the boiler or pressure vessel was[~~they were~~] constructed and stamped.

(2) Maximum allowable working pressure (MAWP) for nonstandard boilers.

(a) The maximum allowable working pressure (MAWP) on the shell of a nonstandard boiler, pressure vessel, or drum shall be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint or tube ligaments, the inside diameter of the weakest course, and the factor of safety allowed by paragraph[~~subsection~~] (h) of this subsection[~~section~~].

(b) Formulas. (TS times t times E) divided by (R times FS) equals maximum allowable working pressure in psig; where:[~~,~~]

[~~1.~~]TS = ultimate tensile strength of shell plates psi.

[~~2.~~]t = minimum thickness of shell plate, of weakest course, in inches.

[~~3.~~]E = efficiency of longitudinal joint.

R = inside radius of the weakest course of the shell or drum in inches.

FS = factor of safety permitted.

(c) For riveted construction, E shall[~~may~~] be determined under Paragraph A-30 of ASME Section I,[~~PR-15 of ASME~~] Boiler and Pressure Vessel Code for Power Boilers.

(d) For tube ligaments, E shall be determined by rules given in Paragraphs PG-52 and 53 of ASME Section I, Boiler and Pressure Vessel Code for Power Boilers. For seamless construction, E shall be considered 100 percent.

[~~R = inside radius of the weakest course of the shell or drum in inches.~~

~~FS = factor of safety permitted.~~]

(e) Tensile strength. If[~~When~~] the tensile strength of steel or wrought iron shell plates is not known, the tensile strength[~~it~~] shall be assumed to be[~~taken at~~] 55,000 psi for steel and 45,000 psi for wrought iron.

(f) Crushing strength of mild steel. The resistance to crushing of mild steel shall be taken at 95,000 psi of cross section area.

(g)1. Strength of rivets in shear. In order to compute[~~When computing~~] the ultimate strength of rivets in shear, the following values in pounds psi of the cross sectional area of the rivet shank shall be used:

Iron rivets in single shear	38,000 lbs.
Iron rivets in double shear	76,000 lbs.
Steel rivets in single shear	44,000 lbs.
Steel rivets in double shear	88,000 lbs.

2. If[~~When~~] the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross sectional area of rivets, after driving, may be selected from the following table or as ascertained by cutting out one (1) rivet in the body of the joint:

SIZES OF RIVETS BASED ON PLATE THICKNESS (In Inches)						
Thickness of plate	1/4	9/32	5/16	11/32	3/8	13/32
Diameter of rivet after driving	11/16	11/16	3/4	3/4	13/16	13/16
Thickness of plate	7/16	15/32	1/2	9/16	5/8	-----
Diameter of rivet after driving	15/16	15/16	15/16	1 1/16	1 1/16	-----

(h) Factors of safety. The following factors of safety shall be increased by the boiler inspector or special inspector if required by the condition and safety of the boiler[~~demand it~~]:

1. The lowest factor of safety permissible on existing installations shall be four and one-half (4 1/2)[~~five-tenths (4.5)~~] except for horizontal return tubular boilers having continuous longitudinal lap seams more than twelve (12) feet in length where the factor of safety shall be eight (8), but if[~~when~~] the boiler is removed from its existing setting, the boiler[~~it~~] shall not be reinstalled for pressure in excess of fifteen (15) lbs. psig.

2. A reinstalled or secondhand nonstandard boiler[~~boilers~~] shall have a minimum factor of safety of six (6) if[~~when~~] the longitudinal seams are of lap riveted construction and minimum factor of safety of five (5) if[~~when~~] the longitudinal seams are of butt and double strap construction.

(3) Age limit of fire tube boilers. The age limit of a horizontal return tubular, flue, or cylinder boiler having a longitudinal lap joint and operating at a pressure in excess of fifty (50) lbs. psig shall be twenty (20) years.

(4) Welded boilers. A boiler[~~Boilers~~] having either longitudinal or circumferential seams of fusion welded construction shall have been constructed and stamped in accordance with[~~the rules and regulations of the~~] ASME Section I, Boiler and Pressure Vessel Code for Power Boilers or shall have the standard stamping of a

state that has adopted a standard of construction equivalent to the standards of[~~the~~] ASME Section I[~~Code for Power Boilers and Pressure Vessels~~].

(5) Cast iron headers and mud drums. The MAWP[~~maximum allowable working pressure~~] on a water tube boiler, the tubes of which are secured to cast iron or malleable iron headers, or which have cast iron mud drums, shall not exceed 160 lbs. psig.

(6) Pressure on cast iron boilers. The maximum allowable working pressure (MAWP) for any cast iron boiler, except for hot water boilers, shall be fifteen (15) lbs. psig.

(7) Safety valve requirements for power boilers.[~~:~~]

(a) A weighted lever[~~The use of weight-level~~] safety valve[~~valves~~] shall not be used and the valve[~~valves~~] shall be replaced by a safety valve[~~valves~~] that conforms[~~conform~~] to the requirements of[~~the~~] ASME Section I[~~Code for Power Boilers~~].

(b) A safety valve[~~valves~~] having either the seat or disc of cast iron shall not be used.

(c) Each boiler shall have at least one (1) safety valve, and, if the boiler[~~it~~] has more than 500 square feet of water heating surface, the boiler[~~it~~] shall have two (2) or more safety valves.

(d) A safety valve[~~valves~~] and a safety relief valve[~~valves~~] shall be installed with the valve's[~~their~~] spindles vertical.

(e)1. The method of computing the steam generating capacity of the boiler shall be as established[~~given~~] in paragraph A-12 of[~~the~~] ASME Section I[~~Boiler and Pressure Vessel Code for Power Boilers~~].

2. The safety valve or valves shall be connected to the boiler, independent of any other steam connection, and attached to the boiler, without intervening pipe or fittings. If alteration is required to conform to this requirement, owners and users shall be allowed one (1) year in which to complete the work.

3. A stop valve[~~Valves~~] shall not be placed between the safety valve and the boiler or on the discharge pipe (if used) between the safety valve and the atmosphere.

4. If a discharge pipe is used, it shall be full sized and fitted with an open drain to prevent water lodging in the upper part of the safety valve or discharge pipe and supported independently of the safety valve.

5. If an elbow is placed on a safety valve or discharge pipe, it shall be located close to the safety valve outlet.

6. A[~~All~~] safety valve discharge[~~discharges~~] shall be located or piped to avoid endangering persons using a walkway[~~walkways~~] or platform[~~platforms~~] used to control the main valves of a boiler[~~boilers~~] or steam header[~~headers~~].

(f) The safety valve capacity of each boiler shall be sufficient to allow the safety valve or valves to discharge all the steam generated by the boiler without allowing the pressure to rise more than six (6) percent above the maximum allowable working pressure (MAWP).

(g)1. For each boiler, one (1) or more safety valves on the boiler shall be set at or below the maximum allowable working pressure (MAWP). If an additional valve is[~~valves are~~] used, the highest pressure setting shall not exceed the maximum allowable working pressure (MAWP) by more than three (3) percent.

2. The complete range of pressure settings of all of the saturated steam safety valves on a boiler shall not exceed ten (10) percent of the highest pressure to which any valve is set.

3. If two (2) or more boilers operating at different pressures and safety valve settings are interconnected, the lower pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure considering the generating capacity of all boilers.

4. If the boiler is supplied with feed water directly from a pressure main[~~mains~~] without the use of feeding apparatus (not to include return taps), the safety valve shall not be set at a pressure greater than ninety-four (94) percent of the lowest pressure obtained in the supply main feeding the boiler.

(h) The relieving capacity of the safety valves on any boiler may be checked by one (1) of the three (3)[~~following~~] methods established in subparagraphs 1. through 3. of this paragraph; and, if found to be insufficient, additional capacity shall be provided.

1.a.[~~By making~~] The accumulation test shall consist[~~, which consists~~] of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum.

b. The safety valve capacity shall be sufficient to prevent a pressure in excess of six (6) percent above the maximum allowable working pressure (MAWP).

c. This method shall not be used on a boiler with a superheater or reheater.

2.a.[~~By measuring~~] The maximum amount of fuel that can be burned shall be measured and[~~computing~~] the corresponding evaporative capacity (steam generating capacity) shall be computed upon the basis of the heating valve of this fuel.

b. This computation may be made as outlined in the Appendix of the ASME Code for Power Boilers.

3.[~~By determining~~] The maximum evaporative capacity shall be determined by measuring the feed water.

4. If either of the methods established in subparagraphs 1. through 3. of this paragraph[~~outlined above~~] is employed, the sum of the safety valve capacity shall be equal to or greater than the maximum evaporative capacity (maximum steam generating capacity) of the boiler. The minimum safety valve or safety relief valve relieving capacity for other than electric boilers shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface and water wall heating surface, in accordance with[~~as given in~~] the following table:

MINIMUM POUNDS OF STEAM PER HOUR PER SQUARE FOOT OF SURFACE			
		Fire Tube Boilers	Water Tube Boilers
Boiler heating surface			
	Hand-fired	5	6
	Stoker-fired	7	8
	Oil-, gas-, or pulverized-fuel-fired	8	10
Waterwall heating surface			
	Hand-fired	8	8
	Stoker-fired	10	12
	Oil-, gas-, or pulverized-fuel-fired	14	16

a. If a boiler is fired only by a gas having a heat value in excess of 200 BTU per cubic foot, the minimum safety valve or safety relief valve relieving capacity shall[~~may~~] be based on the values given for a hand-fired boiler above.

b. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be three and one-half (3 1/2) pounds per hour per kilowatt input.

(8) Boiler feeding and feed piping.[~~:~~] Except as established in[~~allowed by~~] paragraphs (b) through (f) of this subsection, a boiler[~~boilers~~] having more than 500 square feet of water-heating surface shall have at least two (2) means of feeding water. Each source of feeding shall be capable of supplying water to the boiler at a pressure of three (3) percent higher than the highest setting of any safety valve on the boiler.

(a) Each boiler[~~All boilers~~] shall have a feed supply that[~~which~~] allows the boiler to be fed at any time while under pressure.

(b) A boiler that is[~~Boilers that are~~] fired with solid fuel not in suspension or a boiler which the[~~and for boilers whose~~] setting or heat source can continue to supply sufficient heat to cause damage to the boiler if the feed supply is interrupted, one (1) of the means of feeding water required by this subsection[~~such means of feeding~~] shall be steam operated.

(c) 1. A boiler that is[~~Boilers~~] fired by gas, liquid, or solid fuel in suspension[~~,~~] may be equipped with a single means of feeding water if the boiler's heat input is immediately shut off by any interruption in the water feed[~~furnished for the immediate shut off of the heat input if the water feed is interrupted~~].

2. If the boiler has a water-heating surface of not more than 100 square feet, the feed piping and connection to the boiler shall not be smaller than one-half (1/2) inch pipe size.

3. If the boiler has a water-heating surface more than 100 square feet, the feed piping and connection to the boiler shall not be less than three-fourths (3/4) inch pipe size.

(d) A high temperature water boiler[~~boilers~~] shall be provided with means of adding water to the boiler or system while under

pressure. The feed water shall be introduced into the boiler to prevent its discharge close to riveted joints of the shell, furnace sheets, directly against surfaces exposed to gases at high temperature or direct radiation from the fire.

(e)1. The feed pipe to the boiler shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler.

2. If two (2) or more boilers are fed from a common source, there shall also be a stop valve[globe] or regulating valve on the branch to each boiler between the check valve and source of supply. The stop valve or regulating valve shall be located as close to the boiler as is practicable.

3. If a globe valve is[valves are] used on feed piping, the inlet shall be under the disc of the valve.[The valve shall be located as close to the boiler as is practicable.]

(f) If a de-aerating heater is[heaters are] not employed,[it is recommended that] the temperature of the feed water shall be no less than 120 degrees Fahrenheit to avoid the possibility of setting up localized stress. If a de-aerating heater is[heaters are] employed,[it is recommended that] the minimum feed water temperature shall be no less than 215 degrees Fahrenheit so that dissolved gases will[may] be thoroughly released.

(9) Fusible plugs. A fire-actuated fusible plug[plugs], if used, shall conform to the requirements of[the] ASME Section I, Paragraphs[Boiler and Pressure Vessel Code for Power Boilers, Sections] A-19, A-20 and A-21.

(10) Water columns, gauge glasses, and gauge cocks.

(a) 1. An outlet connection[connections], except for a damper regulator, feed water regulator, low-water fuel cutout, drain[drains], steam gauge[gauges], or apparatus that does not permit the escape of an appreciable amount of steam or water, shall not be placed on the piping that connects the water column to the boiler.

2. The minimum size of the steam and water connection to the water column shall be one (1) inch pipe size, and each water column shall be provided with a valved drain of at least three-fourths (3/4) inch pipe size.

3. The drain shall be piped to a safe location.

(b) Each manually fired boiler shall comply with ASME Section I, except a manually fired boiler built before the publication of the 1991 Addenda to ASME Section I (1989 Edition), which shall have three (3) or more gauge cocks located within the range of the visible length of the water glass, except if[when] the boiler has two (2) water glasses with independent connections to the boiler located on the same horizontal lines and not less than two (2) feet apart. Two (2) gauge cocks shall be[are] sufficient for boilers not over thirty-six (36) inches in diameter in which the heating surface does not exceed 100 square feet.

(c) Each automatically fired boiler shall comply with ASME Section I[Gauge cocks are not required for electric boilers operating at pressures not exceeding 400 psi. The gauge cock connections shall be not less than one-half (1/2) inch pipe size].

(d) For an installation in which[all installations where] the water gauge glass or glasses are more than thirty (30) feet from the boiler operating floor,[it is recommended that] water level indicating or recording gauges shall be installed at eye height from the operating floor.

(11) Pressure gauges.

(a)1. Each boiler shall have a pressure gauge connected to the steam space or to the water column or its steam connection.

2. The pressure gauge shall be connected to a siphon or equivalent device of sufficient capacity to keep the gauge tube filled with water and so arranged that the gauge cannot be shut off from the boiler except by a cock placed near the gauge and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open.

3. The dial of the pressure gauge shall be graduated to approximately double the pressure at which the safety valve is set, but, in no case to less than one and one-half (1 1/2) times the pressure.

(b) If a pressure gauge connection longer than eight (8) feet becomes necessary, a shutoff valve shall[may] be used near the boiler provided the valve is of the outside screw and yoke type and is locked or wired open.[The line shall be ample size with provisions for free blowing.]

(c) Each boiler shall be provided with a one-fourth (1/4) inch nipple and globe valve connected to the steam space for the exclusive purpose of attaching a test gauge if[when] the boiler is in service so that the accuracy of the boiler pressure gauge may be ascertained.

(12) Stop valves.

(a) Each outlet from a boiler (except safety valve connections) shall be fitted with a stop valve located as close as practicable to the boiler.

(b)1. If a boiler[boilers] provided with a manhole is[manholes are] connected to a common main, the steam or high temperature water connection from the[each] boiler shall be fitted with two (2) stop valves having an ample free blow drain between them.

2. The discharge of this drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting.

3. The stop valves shall consist of one (1) automatic nonreturn valve (set next to the boiler) and a second valve of the outside screw and yoke type shall be installed in accordance with ASME Section I[of the ASME Boiler and Pressure Vessel Code].

(13) Blow-off piping.

(a)1. The construction of the setting around each blow-off pipe shall permit free expansion and contraction.

2.[Careful] Attention shall be given to the problem of sealing the[these] setting openings without restricting the movement of the blow-off piping.

3. All blow-off piping, if[when] exposed to furnace heat, shall be protected by firebrick or other heat resisting material constructed to allow close inspection of the piping.

(b)1. If[When] the maximum allowable working pressure (MAWP) exceeds 100 psig, blow-off piping shall be extra heavy from the boiler to the valve or valves, and shall be run full size without use of reducers or bushings.

2. The piping shall be of extra heavy wrought iron or steel and shall not be galvanized.

3. All fittings between the boiler and blow-off valve shall be steel or extra heavy fittings of malleable iron.

4. In case of renewal of blow-off pipe or fittings, installation shall be[they shall be installed] in accordance with 815 KAR 15:025[rules and administrative regulations for new installations].

(14) Blowdown valves.

(a)1. Ordinary type straight-run globe valves in which dams or pockets may exist for the collection of sediment shall not be used[on these connections].

2. Straightway Y-type globe valves or angle valves may be used in vertical pipes[,] or[they may be used] in horizontal runs of piping if the pipe is[provided they are] so constructed or installed allowing the lowest edge of the opening through the seat to be at least twenty-five (25) percent of the inside diameter below the center line of the valve.

(b)1. The blow-off valve or valves and the pipe between them and the boiler shall be of the same size except if[where] a larger pipe for the return of condensation is used as provided for by[the] ASME Section I.

2[Boiler and Pressure Vessel Code for Power Boilers]. On all boilers, except those used for high temperature water, traction or portable purposes, if[when] the allowable working pressure exceeds 100 psi, each bottom blow-off pipe shall have two (2) slow-opening valves, or one (1) slow-opening valve and a quick-opening valve, or a cock complying with the requirements of[the] ASME Section I[Boiler and Pressure Vessel Code for Power Boilers].

(c)1. If a blow-off cock is used, the plug shall be held in place by a guard or gland and[.] the plug shall be distinctly marked in line with the passage.

2. A slow-opening valve requires at least five (5) 360-degree turns of the operating mechanism to change from full-closed to full-opening, or vice versa.

(d)1. If a boiler has multiple blow-off pipes, and has a single master valve[may be] placed on the common blow-off pipe from the boiler,[in which case] only one (1) valve on each individual blow-off shall be required. In this case, either the master valve or

the individual valves or cocks shall be of the slow-opening type, or a slow-opening valve and a quick-opening valve or cock may be combined in one (1) body and may be used if the combined fitting is the equivalent of two (2) independent slow-opening valves or a slow-opening valve and a quick-opening valve or cock and if the failure of one (1) to operate cannot affect the operation of the other.

2. The bottom blow-off pipes of every traction engine or portable boiler shall have at least one (1) slow-opening or quick-opening blow-off valve or cock conforming to the requirements of ASME Section I[~~of the ASME Boiler and Pressure Vessel Code~~].

3. Only one (1) blow-off valve, which shall be of a slow-opening type, shall be required on forced circulation and electric boilers having a normal water content not exceeding 100 gallons.

(15) Boiler blowoff equipment. The blowdown from a boiler or boilers that enters a sanitary sewer system or blowdown that[~~which~~] is considered a hazard to life or property shall pass through some form of blowoff equipment that will reduce pressure and temperature as required hereinafter.

(a) The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees Fahrenheit.

(b) The pressure of the blowdown leaving any type of blowoff equipment shall not exceed five (5) psig.

(c) The blowoff piping and fittings between the boiler or boilers and the blowoff tank(s) shall comply with ASME Section I, Paragraphs PG-58 and PG-59[~~of the ASME Boiler and Pressure Vessel Code, Section I~~].

(d) The blowoff tank construction shall comply with ASME Section VIII[~~Pressure Vessel Code, Section VIII (Division I)~~].

(e) All materials used in the fabrication of boiler blowoff equipment shall comply with Material of ASME Section II[~~Section II of the ASME Boiler and Pressure Vessel Code~~].

(f) If[~~When~~] a steam separator is used, the separator[~~it~~] shall be designed to withstand at least twice the operating pressure of the separator and[~~it~~] shall be equipped with a vent, inlet, outlet, and a pressure gauge.

(g) All blowoff equipment shall be fitted with openings to facilitate cleaning and inspection.

(h) A copy of a booklet for the design, construction and arrangement of boiler blowoff equipment may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, whose address is 1055 Crupper Avenue, Columbus, Ohio 43229.

(16) Piping.

(a) Boiler external piping shall be attached in accordance with ASME Section I and B31.1.

(b)1.[~~Piping connected to the outlet of a boiler, which comes with the ASME Boiler and Pressure Vessel Code requirements, shall be attached as follows:~~

~~1. Screwing into a tapped opening with a screwed fitting or a valve at the other end.~~

~~2. Screwing each end into tapered flanges, fittings, or valves with or without rolling or peening.~~

~~3. Bolted joints, including those of the Van Stone type.~~

~~4. Expanding into grooved holes, seal welding, if desired. Pipe which is expanded, rolled, or peened shall be made from open-hearth or electric-furnace steel.~~

~~(b) If exposed to products of combustion, blow-off piping of fire-tube boilers shall be attached as outlined in paragraph 1 of subsection (a) of this section. If not so exposed to products of combustion, the piping shall be attached as outlined in paragraph (a)1, 2 or 3 of this subsection. Fusion welding for sealing purposes at the junction of bolted joints may be used.~~

~~(c) Welding may be used to attach piping to nozzles or fittings if the rules for fusion welding or forge welding are followed.~~] If two (2) or more boilers with manholes are connected to a common steam or high temperature water main or header, all welded external piping from the boiler out to the second stop valve shall be installed by a manufacturer or contractor authorized to use any one (1) of the ASME[~~American Society of Mechanical Engineers~~] Code symbol stamps for pressure piping, power boilers, or assembly stamps.

2. The piping or fittings, adjacent to the welded joint farthest from the boiler, shall be stamped with the pressure piping, power boiler, or assembly code symbol stamp of the ASME[~~American Society of Mechanical Engineers~~] when approved by the boiler inspector, special inspector, or owner-user inspector.

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the supplemental requirements for power boilers and pressure vessels.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to specify the supplemental requirements for power boilers and pressure vessels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(1), which requires the department to fix by administrative regulation reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to specify the supplemental requirements for power boiler and pressure vessel safety.

(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 existing code references to ensure conformity with legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July 12, 2012; further defines the elements of existing formulas required for determining maximum allowable working pressure (MAWP); and updates citations to corresponding administrative regulations that are being amended in conjunction with this amendment.

(b) The necessity of the amendment to this administrative regulation: This regulation must be amended to clarify language of existing provisions, and establish or revise applicable standards required by recent legislative amendments to KRS Chapter 236.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 mandates the Commissioner of the Department of Housing, Buildings and Construction to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and allows the department to establish clear supplemental guidelines specific to power boilers and pressure vessels.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of power boilers and pressure vessels will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of power boilers and pressure vessels will have to review and comply with the updated provisions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not anticipated that this amendment will result in any increase in stakeholder costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding the required standards for power boilers and pressure vessels.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030.

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 is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:051. Heating boiler supplemental requirements - steam heating, hot water heating, and hot water supply boilers.

RELATES TO: KRS 236.030

STATUTORY AUTHORITY: KRS 236.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers and pressure piping. This administrative regulation establishes[~~sets forth~~] requirements for heating boilers which supplement the basic requirements for all vessels set forth in 815 KAR 15:025 and 815 KAR 15:026.[~~Many of the provisions have been in effect for some time under the administrative regulation which preceded this one. This amendment is necessary to codify additional safety measure applicable only to heating boilers; to comply with the requirements of KRS Chapter 13A that the administrative regulation be separated and deal with one (1) topic; and also to allow mechanical couplings to be used where appropriate~~].

Section 1. New Installations. (1) All hot water supply, hot water, and steam heating boilers, except reinstalled boilers and those approved under the "state special design" provisions of 815 KAR 15:025, Section 5, shall be constructed, stamped, inspected, and installed in conformity with the ASME Boiler and Pressure Vessel[~~,~~] Code Section IV, as established by KRS 236.040(2). A boiler or pressure vessel[~~incorporated in 815 KAR 15:025, Section 1(1). All boilers and pressure vessels~~] shall comply with all other applicable provisions of 815 KAR Chapter 15[~~of the Kentucky administrative regulations~~].

(2) Safety valve requirements for steam boilers.

(a)1. Each steam boiler shall have one (1) or more officially rated safety valve of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed fifteen (15) psi.

2. A seal[~~Seals~~] shall be attached in a manner to prevent the valve from being taken apart without breaking the seal.

3. A[~~The~~] safety valve[~~valves~~] shall be arranged so that the valve[~~they~~] cannot be reset to relieve at a higher pressure than the maximum allowable working pressure (MAWP) of the boiler.

4. A body drain connection below seat level shall be provided by the manufacturer, and this drain shall not be plugged during or after field installation.

5. For an iron or[~~and~~] steel bodied valve[~~valves~~] exceeding two (2) inch pipe size, the drain hole, or holes, shall be tapped not less than three-eighths (3/8) inch pipe size.

6. For a valve[~~valves~~] two (2) inch pipe size or less, the drain hole shall not be less than one-fourth (1/4) inch in diameter.

(b) A safety valve[~~valves~~] for a steam boiler shall not be smaller than one-half (1/2) inch. A safety valve[~~valves~~] shall not be larger than four and one-half (4 1/2) inches. The inlet opening shall

have an inside diameter equal to, or greater than, the seat diameter.

(c) The minimum relieving capacity of a valve, or valves, shall be governed by the capacity-marking on the boiler.

(d)1. The minimum valve capacity in pounds per hour shall be the greater value as determined by the methods established in this paragraph.

a. The maximum BTU output obtained at the boiler nozzle shall be divided by 1,000.

b. The pounds of steam generated per hour per square foot of boiler heating surface shall be calculated in accordance with Table A.[~~of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table "A." In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by the Table. In every case, the requirements of paragraph (e) of this subsection shall be met.~~]

TABLE A			
MINIMUM POUNDS OF STEAM PER HOUR PER SQUARE FOOT OF HEATING SURFACE			
		Fire Tube Boilers	Water Tube Boilers
Boiler Heating Surface			
	Hand fired	5	6
	Stoker fired	7	8
	Oil, gas or pulverized fuel fired	8	10
Waterwall Heating Surfaces			
	Hand fired	8	8
	Stoker fired	10	12
	Oil, gas or pulverized fuel fired	14	16

2. If[~~1. When~~] a boiler is fired only by a gas having a heat value[~~valve~~] not exceeding[~~in excess of~~] 200 BTU per cubic foot, the minimum safety valve or safety relief valve relieving capacity shall[~~may~~] be based on the values given for hand fired boilers.

3.[~~2.~~] The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be three and one-half (3 1/2) pounds per hour per kilowatt input.

4.[~~3. For~~] Heating surface determination shall be calculated in accordance with[~~, see~~] ASME Code for Heating Boilers, paragraph HG-403[~~HG403~~].

(e) The safety valve capacity for each steam boiler shall be sufficient to prevent the pressure from rising more than five (5) psi above the maximum allowable working pressure (MAWP) if[~~when~~] the fuel-burning equipment is installed and operated at maximum capacity.

(f) If operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with paragraph (e) of this subsection. If an additional valve is[~~valves are~~] required, the valve[~~they~~] may be installed on the outlet piping[~~,~~] if there is no intervening valve.

(g) In all cases, the pressure relieving capacity of the safety valve or safety relief valve shall equal or exceed the maximum possible output capacity of the boiler.

(h) Materials that are likely to fail due to deterioration or vulcanization if subjected to saturated steam temperature corresponding to capacity test pressure shall not be used.

(3) Safety relief valve requirements for hot water heating boilers and hot water supply boilers.

(a) Each hot water heating boiler shall have at least one (1) officially rated pressure relief valve set to relieve at or below the maximum allowable working pressure (MAWP) of the boiler.

(b) Each hot water supply boiler shall have at least one (1) officially rated pressure and temperature[~~pressure/temperature~~] safety relief valve of the automatic-reseating type, set to relieve at or below the maximum allowable pressure of the boiler.

(c) A safety relief valve[~~valves~~] officially rated as to capacity shall have pop opening action[~~when tested by steam~~].

(d) If more than one (1) safety relief valve is used on either hot water heating or hot water supply boilers, the additional valve or valves shall be officially rated and may be set within a range not to exceed six (6) psi above the maximum allowable working pressure (MAWP) up to and including exceeding sixty (60) psi and five (5) percent for those having a maximum allowable working pressure (MAWP) exceeding sixty (60) psi, shall be spring loaded and shall be arranged to prevent resetting at a higher pressure than the maximum permitted in this subsection.

(e)1. Except as provided in subparagraph 2. of this paragraph, a[~~Materials which are likely to fail due to deterioration or vulcanization when subjected to saturated steam temperature corresponding to capacity test pressure shall not be used for any part.~~

~~(f)~~] safety relief valve[~~valves~~] shall not be smaller than three-fourths (3/4) inch, nor larger than four and one-half (4 1/2) inches, standard pipe size.

2. A boiler[~~, except that boilers~~] having a heat input not greater than 15,000 BTU per hour may be equipped with a rated safety relief valve of one-half (1/2) inch, standard pipe size, if:

a.[~~;~~] The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter; and

b. The minimum opening through any part of the valve shall not be less than one-fourth (1/4) inch diameter, or its equivalent area.

(f) The minimum relieving capacity of the safety relief valve shall be equal to or exceed the maximum BTU output of the boiler.

(g)[~~The required steam relieving capacity, in pounds per hour, of the pressure relieving device, or devices, on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of pounds of steam generated per hour, per square foot of boiler heating surface, as given in Table A. In many cases a greater relieving capacity of valves will have to be provided than the minimum specified by the Table. In every case, the requirements of paragraph (i) of this subsection shall be met.~~

~~(h)~~] If operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and shall be in accordance with paragraph (i) of this subsection. The additional valves required may be installed on the outlet piping if there is no intervening valve.

(h)[~~(i)~~] Safety relief valve capacity for each boiler with a single safety relief valve shall be sufficient to ensure[~~such~~] that, with the fuel burning equipment installed and operated at maximum capacity, the pressure shall not[~~cannot~~] rise more than ten (10) percent above the maximum allowable working pressure (MAWP) if[~~when~~] more than one (1) safety relief valve is used, and the over pressure shall be limited to ten (10) percent above the set pressure of the highest set valve allowed by subsection (2) of this section.

Section 2. Mechanical Couplings for Heating and Hot Water Supply Boilers. (1) Design limits. If mechanical pipe couplings are used, the pipe, fittings, couplings, and gaskets shall have design ratings by the manufacturer that[~~which~~] meet or exceed the operating control settings of the boiler itself and shall comply with this section.

(2) Materials used and location.

(a) Piping materials listed in the ASME Code, Section IV, shall be used up to the first stop valve on supply and return piping. Mechanical pipe couplings shall not be used prior to the first stop valve.

(b) Mechanical pipe couplings tested and listed by a nationally recognized testing laboratory shall be permitted[~~may then be used~~] in lieu of flanged, threaded, or welded joints within the complete pressure piping system of boilers in which the operating temperature and operating pressure shall not exceed the manufacturer's designed pressure/temperature rating[~~temperatures shall not exceed 200 degrees Fahrenheit and operating pressures shall not exceed 100 psig~~].

(c) All mechanical pipe couplings shall be fabricated and installed in accordance with the manufacturer's[~~with strict adherence to manufacturers~~] written procedures and using only factory approved tooling.

(d) A mechanical coupling[~~couplings~~] shall not be installed unless the temperature controls on the boiler are[~~shall be~~]

permanently set to prevent operation in excess of the manufacturer's designed temperature rating[~~200 degrees Fahrenheit~~].

(3) Tests. The mechanical coupling shall be subjected to the same hydrostatic pressures as are applied to test the strength of the boiler (for example[~~i.e.~~], up to one and one-half (1 1/2) times the maximum allowable pressure of the boiler).

(4) Certification by the contractor. The contractor shall document to the boiler inspector, special inspector, or owner's piping inspector that the mechanical joints conform to the design and were installed to comply with the manufacturer procedures, utilizing the materials and equipment specified and that the temperature and pressure ranges comply with subsection (2)(b) of this section.

Section 3. Existing Installations, Heating Boilers. (1) ASME Code boilers. The maximum allowable working pressure of a boiler built in accordance with the ASME Code shall not exceed the pressure indicated by the manufacturer's identification stamped or cast upon the boiler or upon a plate secured to it.

(2) Noncode riveted boilers. The maximum allowable working pressure (MAWP) on the shell of a noncode riveted heating boiler shall be determined in accordance with 815 KAR 15:040, Section 2 (power boiler installations) except that the maximum allowable working pressure (MAWP) of a steam boiler shall not exceed fifteen (15) psi or a hot water boiler shall not exceed 160 psi at a temperature not to exceed 250 degrees Fahrenheit.

(3) Noncode welded boilers. The maximum allowable working pressure (MAWP) of a noncode steel or wrought iron heating boiler of welded construction shall not exceed fifteen (15) psi. For other than steam service, the maximum allowable working pressure (MAWP) shall be calculated in accordance with Section IV of the ASME Boiler and Pressure Vessel Code, as established by KRS 236.040(2).

(4) Noncode cast iron boilers.

(a) The maximum allowable working pressure (MAWP) of a noncode boiler, composed principally of cast iron, shall not exceed fifteen (15) psi for steam service or thirty (30) psi for hot water service.

(b) The maximum allowable working pressure (MAWP) of a noncode boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed fifteen (15) psi for steam service or thirty (30) psi for water service.

(5) Hydrostatic tests.

(a) If a repair is[~~repairs are~~] necessary that affects[~~which affect~~] the working pressure or safety of a boiler, the boiler repair[~~it~~] shall be subjected to a hydrostatic test of the greater of sixty (60) psig or one and one-half (1 1/2) times the maximum allowable working pressure (MAWP) that is stamped on the boiler[~~with the exception that cast iron steam boilers shall be subjected to a hydrostatic test of not less than forty-five (45) psig~~].

(b) In making a hydrostatic pressure test[~~tests~~], the pressure shall be controlled to prevent the required test pressure from being[~~be~~] exceeded by more than ten (10) psig.

(c) Hydrostatic test water shall be at no less than ambient room temperature, but in no case less than seventy (70) degrees Fahrenheit for boilers and thirty (30) degrees Fahrenheit above the minimum design metal temperature for pressure vessels, nor high enough to allow the metal temperature to exceed 120 degrees Fahrenheit.

(d) The safety valve or safety relief valve shall be removed or each valve disc shall be held to its seat by means of a testing clamp.

(e) To test for tightness, the test pressure shall be equal to the relieving pressure of the safety valve having the lowest relief setting.

(6) General. If the boiler inspector or special inspector finds that a steam heating boiler is unsafe for operation at the pressure previously approved, the pressure shall be reduced, proper repair made, or the boiler retired from service.

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015
FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the supplemental requirements for heating boilers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to specify the supplemental requirements for heating boilers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(1), which requires the department to fix by administrative regulation reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to specify the supplemental requirements for heating boiler safety.

(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 existing code references to ensure conformity with legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July 12, 2012; and updates citations to corresponding administrative regulations that are being amended in conjunction with this amendment.

(b) The necessity of the amendment to this administrative regulation: This regulation must be amended to clarify language of existing provisions, and establish or revise applicable standards required by recent legislative amendments to KRS Chapter 236.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 mandates the Commissioner of the Department of Housing, Buildings and Construction to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and allows the department to establish clear supplemental guidelines specific to heating boilers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of heating

boilers will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of heating boilers will have to review and comply with the updated provisions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not anticipated that this amendment will result in any increase in stakeholder costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding the required standards for power boilers and pressure vessels.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030.

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 is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.
Expenditures (+/-): Neutral.
Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:060. Nuclear vessel requirements.

RELATES TO: KRS Chapter 236
STATUTORY AUTHORITY: KRS 236.030
NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers and pressure piping. This administrative regulation establishes[~~sets forth~~] the basic requirements for nuclear vessels.[~~This amendment is necessary to clarify language in accordance with KRS Chapter 13A~~].

Section 1. Nuclear Vessels. (1) ASME, National Board stamping. All nuclear vessels covered under the scope of Section III of the ASME Boiler and Pressure Vessel Code, as established by KRS 236.040(2), shall be constructed, stamped, and installed in accordance with the boiler safety rules of the latest edition of [~~the~~] ASME[~~Boiler and Pressure Vessel Code,~~] Section III, together with the addenda and code cases. Each vessel[~~These vessels~~] shall be registered with the National Board and stamped to indicate the vessel's[~~their~~] registration.

(2) Responsibilities of parties involved.

(a)1. The various parties involved in the work of producing vessels under ASME Section III[~~of the ASME Boiler and Pressure Vessel Code~~] have definite responsibilities in meeting code requirements.

2. The owner requiring that a vessel or vessels be designed, constructed, tested, and certified to be a code vessel in compliance with the code shall provide a diagram of each vessel, a specification related to operating conditions in sufficient detail to provide a complete basis for design, construction, and inspection in accordance with the code.

3. The diagram shall be treated as a data report form and attached to the other data forms to create a master report, which shall be registered with the Boiler Inspection Section, Division of Plumbing, Department[~~Office of the State Fire Marshal, Office~~] of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[~~5405~~].

(b) Design specifications certified. The design specifications shall be certified as to compliance with the above requirements and ASME Section III[~~, ASME Boiler and Pressure Vessel Code~~] by a registered professional engineer experienced in nuclear pressure vessel design.

(3) Inspections and tests.

(a) The boiler inspector and the special inspector shall[~~It shall be the duty of the inspector to~~] make all inspections specified by[~~the~~] ASME[~~Boiler and Pressure Vessel Code,~~] Section III and other inspections and tests the boiler inspector or special inspector[~~he~~] determines are necessary to verify that the equipment is fabricated and installed in accordance with requirements of the code.

(b) Inspections and tests of nuclear vessels shall be made only by a boiler[~~national board~~] inspector qualified as an authorized nuclear inspector pursuant to ASME[~~inspection specialist, nuclear, under~~] Section III[~~, ASME Boiler and Pressure Vessel Code~~].

(4) Field inspections.

(a) Upon completion of installation, the vessel and associated piping shall be inspected by a boiler[~~national board~~] inspector qualified as an authorized nuclear inspector pursuant to[~~engineering specialist, nuclear, under~~] Article N-612, ASME Section III[~~, ASME Boiler and Pressure Vessel Code~~] and commissioned to inspect pressure vessels in this

commonwealth.[~~At the time of initial inspection,~~] A vessel composed of two (2) or more pressure retaining compartments shall constitute one (1) complete unit for the purpose of assigning and stamping the serial number[~~thereon~~].

(b) Recurring inspections. Recurring inspections of nuclear vessels in service shall be made only by a boiler inspector or special inspector[~~an inspector or inspectors~~] qualified as an authorized nuclear in-service inspector[~~above~~].

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements for nuclear boilers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to specify the requirements for nuclear vessels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030(1), which requires the department to fix by administrative regulation reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping in this state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to specify the requirements for nuclear (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the terminology used to refer to the applicable code reference required by with legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July 12, 2012; and updates the terminology used to describe the types of inspectors responsible for inspecting nuclear vessels.

(b) The necessity of the amendment to this administrative regulation: This regulation must be amended to revise language of existing provisions for consistency with corresponding amendments to other administrative regulation within 815 KAR Title 15.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.030 mandates the Commissioner of the Department of Housing, Buildings and Construction to fix reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and allows the department to utilize consistent terminology throughout its administrative regulations.

(9) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of nuclear vessel will be affected by the amendments to 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 comply with this administrative regulation or amendment: All inspectors, inspecting agencies, installers, repairers, owners, operators, and users of nuclear vessels will have to review and comply with the updated provisions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not anticipated that this amendment will result in any increase in stakeholder costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include clarity regarding the required standards for power boilers and pressure vessels.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: See answer to question #7 above.

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030.

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 is not anticipated to result any change in revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in any change in revenues.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 15:080. Licensing for[~~Fees for licensing new~~] boiler and pressure vessel contractors, owner facilities, owner's piping inspectors, and independent inspection agencies.

RELATES TO: KRS 236.097, 236.210

STATUTORY AUTHORITY: KRS 236.030, 236.097, 236.210(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.210 authorizes the commissioner[~~executive director~~], through the Board of Boiler and Pressure Vessel Rules to establish reasonable fees for the licensing of all new boiler and pressure vessel contractors. KRS 236.030 authorizes the commissioner, through the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, and repair of boilers, pressure vessels, and associated pressure piping in Kentucky. KRS 236.097 requires criteria and fees for the issuance of owner facility, owner's piping inspector, and independent inspection agency licenses, and requires the department to develop the applications required for the issuance and renewal of these licenses. This administrative regulation establishes the fees, standards, and forms incident to the licensing of boiler and pressure vessel contractors, owner facilities, owner's piping inspectors, and independent inspection agencies.

Section 1. Boiler and Pressure Vessel Contractors[~~Filing the Application~~]. (1) A[~~All~~] boiler and[~~or~~] pressure vessel contractor[~~contractors~~] required by KRS 236.210 to be licensed shall comply with the requirements of this section.

(2) An applicant for a boiler and pressure vessel contractor license shall submit to the Boiler Inspection Section:

(a) Proof that the applicant is eighteen (18) years of age or older;

(b) A completed, signed, and notarized Boiler and Pressure Vessel Contractor License Application on Form PLB-BPV-1[~~BPVC #01~~];

(c) A passport-sized, color photograph of the applicant taken within the past six (6) months; and

(d)[~~and (b)~~] A nonrefundable license[~~initial annual~~] fee of $250[~~by check or money order~~] payable to the Kentucky State Treasurer.

(3)(a) An applicant for a boiler and pressure vessel contractor license shall take and pass the examination required by KRS 236.210 before an initial license may be issued under this section.

(b) The applicant shall successfully complete the examination with a passing score of at least seventy (70) percent.

(c) A passing score on the examination shall be valid for a period of ten (10) years.

(4)(a) A boiler and pressure vessel contractor license[~~(2) All licenses for boiler or pressure vessel contractors~~] shall expire on the last day of the licensee's birth month unless renewed in accordance with subsection (6) of this section.

(b) If an initial license is for a period of less than twelve (12) months, the initial application and testing[~~license~~] fee shall be reduced on a pro rata basis.

(c) The initial license fee shall not be prorated for less than seven (7) months.

(5) Termination of application.

(a) The initial application shall remain pending for up to one (1) year after the date the application is submitted, in order to afford the applicant additional time to satisfy the requirements of subsections (2) and (3) of this section.

(b) At the end of one (1) year, the application shall be void.

(6) License Renewal.

(a) Renewal of a license issued under this section shall be renewed on or before the expiration date of the license.

(b) An applicant[~~Section 2. License Renewal. Applicants~~] for renewal of a boiler and[~~or~~] pressure vessel contractor license shall submit to the Boiler Inspection Section:

1.[~~(1)~~] A completed, signed, and notarized Boiler and Pressure Vessel Contractor Renewal Application[~~for License Renewal~~] on Form PLB-BPV-2[~~BPVC #02~~]; and

2.[~~(2)~~] A nonrefundable annual renewal fee of $175[~~by check or money order~~] payable to the Kentucky State Treasurer.

(7) A boiler or pressure vessel contractor shall provide general supervision to and be primarily responsible for all work performed by the licensee's employees.

(8) A boiler or pressure vessel contractor who is an employee of a company and whose license represents the company shall, within thirty (30) days of the occurrence, provide written notice to the department of:

(a) The termination of the licensee's employment by or representation of the company; or

(b) Any change in the name of the company.

Section 2. Owner Facilities. (1) An owner facility seeking to be licensed pursuant to KRS 236.210(1) shall comply with the requirements of this section.

(2) An applicant for an owner facility license shall submit to the Boiler Inspection Section:

(a) A completed, signed, and notarized Owner Facility License Application on Form PLB-BPV-3; and

(b) The fee required by KRS 236.097(1)(d), payable to the Kentucky State Treasurer.

(3) An owner facility license shall expire after a period of two (2) years, on the last day of the month in which the license was initially issued, unless renewed in accordance with subsection (4) of this section.

(4) License Renewal.

(a) An applicant for renewal of an owner facility license issued in accordance with this section shall, by no later than sixty (60) days prior to the expiration of the license, submit to the Boiler Inspection Section:

(a) A completed, signed, and notarized Owner Facility Renewal Application on Form PLB-BPV-4; and

(b) The fee required by KRS 236.097(1)(f), payable to the Kentucky State Treasurer.

(5) An owner facility licensed under this section shall be permitted to conduct that owner facility's own site piping inspections, other than for boiler external piping, in lieu of an inspection by the department, in accordance with KRS 236.097 and this administrative regulation.

(6) An owner facility shall not conduct, or allow to be conducted, any piping inspections under the owner facility's license unless the inspector performing the inspection is licensed pursuant to either Section 3 or Section 4 of this administrative regulation.

Section 3. Owner's Piping Inspectors. (1) An owner's piping inspector required to be licensed pursuant to KRS 236.210(2) shall comply with the requirements of this section.

(2) An applicant for an owner's piping inspector license shall submit to the Boiler Inspection Section:

(a) Proof that the applicant is eighteen (18) years of age or older;

(b) A completed, signed, and notarized Owner's Piping Inspector License Application on Form PLB-BPV-5;

(c) A passport-sized, color photograph of the applicant taken within the past six (6) months; and

(d) The nonrefundable fee required by KRS 236.097(2)(c), payable to the Kentucky State Treasurer.

(3)(a) An owner's piping inspector license shall expire on the last day of the licensee's birth month in the second year following the issue date unless renewed in accordance with subsection (4) of this section.

(b) If an initial license is for a period of less than twenty-four (24) months, the initial license fee shall be prorated in accordance with KRS 236.097(2)(d).

(4) License Renewal.

(a) An applicant for renewal of an owner's piping inspector license issued in accordance with this section shall, on or before the expiration of the license, submit to the Boiler Inspection Section:

(a) A completed, signed, and notarized Owner's Piping Inspector Renewal Application on Form PLB-BPV-6; and

(b) The fee required by KRS 236.097(2)(f), payable to the Kentucky State Treasurer.

Section 4. Independent Inspection Agencies. (1) An independent inspection agency required to be licensed pursuant to KRS 236.210(3) shall comply with the requirements of this section.

(2) An applicant for an independent inspection agency license shall submit to the Boiler Inspection Section:

(a) A completed, signed, and notarized Independent Inspection Agency License Application on Form PLB-BPV-7; and

(b) The fee required by KRS 236.097(3)(b), payable to the Kentucky State Treasurer.

(3) An independent inspection agency license shall expire after a period of two (2) years, on the last day of the month in which the license was initially issued, unless renewed in accordance with subsection (4) of this section.

(4) License Renewal.

(a) An applicant for renewal of an independent inspection agency license issued in accordance with this section shall, on or before the expiration of the license, submit to the Boiler Inspection Section:

(a) A completed, signed, and notarized Independent Inspection Agency Renewal Application on Form PLB-BPV-8; and

(b) The fee required by KRS 236.097(3)(e), payable to the Kentucky State Treasurer.

Section 5.[~~3.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form PLB-BPV-1, "Boiler and Pressure Vessel Contractor License Application", December 2014;

(b) Form PLB-BPV-2, "Boiler and Pressure Vessel Contractor Renewal Application", December 2014;

(c) Form PLB-BPV-3, "Owner Facility License Application", December 2014;

(d) Form PLB-BPV-4, "Owner Facility Renewal Application", December 2014;

(e) Form PLB-BPV-5, "Owner's Piping Inspector License Application", December 2014;

(f) Form PLB-BPV-6, "Owner's Piping Inspector Renewal Application", December 2014;

(g) Form PLB-BPV-7, "Independent Inspection Agency License Application", December 2014: and

(h) Form PLB-BPV-8, Independent Inspection Agency Renewal Application", December 2014[~~BPVC #01, March 2005, Application; and~~

~~(b) Form BPVC #02, Application for License Renewal, June 2005~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Housing, Buildings and Construction, Boiler Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412[~~5405~~], Monday through Friday, 8 a.m. to 4:30 p.m.

GARY A. FECK, Commissioner
AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2015, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 17, 2015 (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky, 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the licensing requirements for boiler and pressure vessel contractors, owner facilities, owner's piping inspectors, and independent inspection agencies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements and procedures for obtaining the various licenses required and established by KRS 236.097 and 236.210 related to the installation or inspection of boilers, pressure vessels, and pressure piping.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation directly conforms to KRS 236.030, which authorizes the department to fix by administrative regulation reasonable regulations necessary to administer the provisions of KRS Chapter 236, and directly implements the licensing standards, application requirements, and fees established by KRS 236.097 and 236.210.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets forth the criteria and requirements to apply for and obtain licensure to work on or inspect boilers and pressure vessels.

(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 implements new licenses for owner facilities, owner's piping inspectors, and independent inspection agencies, in conformity with legislative amendments to KRS 236.040 and other sections of Chapter 236 by 12 RS HB 358 GA, which became effective on July 12, 2012 and established these licenses and associated fees. This amendment also updates the existing application procedures and forms applicable to boiler and pressure vessel contractors in order to establish conformity and consistency with other agency licensure forms and procedures; and establishes new application and renewal forms applicable to owner facilities, owner's piping inspectors, and independent inspection agencies.

(b) The necessity of the amendment to this administrative regulation: This amendment is required in order to conform to legislative amendments to KRS 236.097 and 236.210 by 12 RS HB 358 GA, which became effective on July 12, 2012.

(c) How the amendment conforms to the content of the

authorizing statutes: KRS 236.030 authorizes the department to fix by administrative regulation reasonable regulations necessary to administer the provisions of KRS Chapter 236, and directly implements the licensing standards, application requirements, and fees established by KRS 236.097 and 236.210.

(d) How the amendment will assist in the effective administration of the statutes: This amendment directly effectuates the enabling statutes and implements the statutory licensing criteria for boiler, pressure vessel, and pressure piping installation, design, construction, and inspection necessary to ensure boiler and pressure vessel safety.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All current or prospective boiler and pressure vessel contractors, and all prospective owner facilities, owner's piping inspectors, and independent inspector agencies will be affected by the amendments to 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 comply with this administrative regulation or amendment: The affected parties will have to comply with all application and renewal procedures set forth in this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each entity will have to pay the existing established initial or renewal fees referred to in this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include licensure and the legal authority to engage in the installation, repair, or inspection of boilers, pressure vessels, or pressure piping within the Commonwealth.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any agency costs resulting from these amendments will be met with existing agency funds and the corresponding license or renewal fees referred to in this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment does not require any increase in existing fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied as all applicable parties will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Inspection Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required and authorized by KRS 236.030, 236.097, and 236.210.

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? This amendment is not anticipated to result in more than approximately $11,000 in additional licensing fee revenues in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to result in more than approximately $5,500 in additional renewal fee revenues in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy
(Amendment)

900 KAR 6:100. Certificate of need standards for implementation and biennial review.

RELATES TO: KRS 216B.015[~~216B.010-216B.130, 216B.330-216B.339, 216B.455, 216B.990~~]

STATUTORY AUTHORITY: KRS[~~194A.030, 194A.050,~~] 216B.040(2)(a)1, 216B.086

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the Cabinet for Health and Family Services to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary for the program. KRS 216B.086 authorizes the revocation of certificate of need, or portion thereof, for failure to implement the project in accordance with timetables and standards established by administrative regulation. This administrative regulation establishes the required timetables and standards for implementation as well as requirements for biennial reviews for the orderly administration of the Certificate of Need Program.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 216B.015(5).

(2) "Days" means calendar days, unless otherwise specified.

(3) "Long-term care beds" means nursing home beds, intermediate care beds, skilled nursing beds, nursing facility beds, and Alzheimer nursing home beds.

(4) "Office of Inspector General" means the office within the Cabinet for Health and Family Services that is responsible for licensing and regulatory functions of health facilities and services.

(5) "Show cause hearing" means a hearing during which it is determined whether a person or entity has violated provisions of KRS Chapter 216B.

Section 2. Standards for Implementation. (1) As a condition for the issuance of a certificate of need, a holder of a certificate of need shall submit progress reports on the OHP - Form 8, Certificate of Need Six Month Progress Report, incorporated by reference in 900 KAR 6:055, at the six (6) month intervals specified in this section.

(2) A notice specifying the date each progress report is due shall be sent to every holder of a certificate of need whose project is not fully implemented.

(3) The cabinet or its designee shall review a progress report and shall determine:

(a) If the required elements have been completed; and

(b) If the required elements have not been completed, if sufficient reasons for failure to complete have been provided.

(4) A certificate of need shall be deemed complete if:

(a) The project has been approved for licensure or occupancy by the Office of Inspector General;[~~and~~]

(b) A final cost breakdown has been submitted; and

(c) The required progress report fee pursuant to Section 3 of this administrative regulation has been submitted.

(5) Until a project is deemed complete by the cabinet, the cabinet may require:

(a) The submission of additional reports as specified in subsections (16) through (18) of this section; or

(b) Progress reports in addition to those required at six (6) month intervals under the provisions of this section.

(6) Except for long-term care bed proposals, a certificate of need shall not be revoked for failure to complete the items required during a six (6) month period if the holder of the certificate of need establishes that the failure was due to circumstances that:

(a) Could not reasonably be anticipated and avoided by the holder; or

(b) Were not the result of action or inaction of the holder.

(7) If the cabinet determines that required elements have not been completed for reasons other than those set forth in subsection (6) of this section, it shall notify the holder of the certificate of need, in writing, that it has determined to revoke the certificate of need.

(8) The revocation shall become final thirty (30) days from the date of notice of revocation unless the holder requests a hearing pursuant to KRS 216B.086.

(9) The first progress report for all projects other than long-term care beds shall include:

(a) For projects for the addition of new services or expansion of existing services that do not involve construction, renovation or the installation of equipment: plans for implementation of the project;

(b) For projects for the purchase of equipment only, a copy of the purchase order;

(c) For projects involving the acquisition of real property, evidence of an option to acquire the site; or

(d) For a construction or renovation project, evidence that schematic plans have been submitted to the Public Protection Cabinet, Department of Housing, Buildings, and Construction, and the Office of Inspector General.

(10) For projects other than long-term care beds not deemed complete, a second progress report shall include:

(a) For projects converting beds, documentation that all beds are licensed;

(b) For projects for addition of new services or expansion of existing services that do not involve construction, renovation, or the installation of equipment, documentation of approval for licensure and occupancy by the Office of Inspector General or the Kentucky Board of Emergency Medical Services; or

(c) For construction or renovation projects, the schedule for project completion, evidence of preliminary negotiation with a financial agency, and evidence of preliminary negotiation with contractors.

(11) For projects other than long-term care beds not deemed complete, a third progress report shall include:

(a) For construction or renovation projects:

1. A copy of the deed or lease of land;

2. Documentation of the final enforceable financing agreement, if applicable;

3. Documentation that final plans have been submitted to the Public Protection Cabinet, Department of Housing, Buildings, and Construction, and the Office of Inspector General; and

4. An enforceable contract with a construction contractor; or

(b) For projects for purchase of equipment only, evidence of approval for licensure and occupancy by the Office of Inspector General.

(12) For projects other than long-term care beds not deemed complete, a fourth progress report shall include documentation of final plan approval by the Public Protection Cabinet, Department of Housing, Buildings, and Construction, and the Office of Inspector General and evidence that construction has begun.

(13) For projects other than long-term care beds not deemed complete, a fifth progress report shall include documentation that construction or renovation is progressing according to schedule.

(14) For projects other than long-term care beds not deemed complete, a sixth progress report shall include documentation that the project has been approved for licensure or occupancy by the Office of Inspector General and, if required, that the appropriate license has been approved for the health care service or facility.

(15) For projects other than long-term care beds not deemed complete after the sixth progress report, the certificate holder shall, upon request, provide the cabinet or its designee with a written statement showing cause why the certificate should not be revoked. The cabinet may defer revocation action upon a showing by the certificate holder that the project shall be completed on a revised schedule. The cabinet or its designee may require additional progress reports.

(16) For projects involving long-term care beds:

(a) The first progress report shall include:

1. A copy of the deed or lease of land for projects requiring acquisition of real property; and

2. Evidence that final plans have been submitted to the Public Protection Cabinet, Department of Housing, Buildings, and Construction, and the Office of Inspector General.

(b) For projects involving long-term care beds not deemed complete, a second progress report shall include:

1. For conversion of bed projects, documentation that the beds in the project are licensed; or

2. For construction projects:

a. A schedule for project completion with projected dates;

b. Documentation of final financing;

c. Documentation of final plan approval by the Public Protection Cabinet, Department of Housing, Buildings, and Construction, and the Office of Inspector General; and

d. An enforceable construction contract.

(17) For projects involving long-term care beds not deemed complete, a third progress report shall include documentation that construction or renovation is progressing according to the schedule for project completion.

(18) For projects involving long-term care beds not deemed complete, a fourth progress report shall include documentation that the project has been appropriately licensed and approved for occupancy by the Office of Inspector General.

(19) The cabinet or its designee may grant no more than three (3) additional extensions of six (6) months for good cause shown if the certificate holder of long-term care beds has failed to comply with the relevant progress report requirements established in this section.

(20) If the project involves a capital expenditure, a final cost breakdown shall be included in the final progress report.

(21) If the Office of Inspector General discovers a violation of terms and conditions listed on a certificate of need and license while it is conducting its annual licensure inspection, it shall refer this violation for a show cause hearing in accordance with 900 KAR 6:090, Section 4.

Section 3. Progress Report Fee. (1) Upon the effective date of this administrative regulation, a progress report fee in the amount of $100.00 or one (1) percent of the application fee assessed pursuant to 900 KAR 6:020, whichever amount is greater, shall be submitted by the certificate of need holder with each semi-annual progress report filed for each certificate of need that has been issued for more than three (3) years.

(2) A certificate of need shall be revoked for failure to submit the progress report fee.

Section 4. Voluntary Revocation of a Certificate of Need. If a certificate of need holder requests revocation of a certificate of need or a portion of a certificate of need within six (6) months of the effective date of this administrative regulation and submits a new application for the same proposed health facility or service within five (5) years from the date of revocation, the cabinet shall apply the application fee which was submitted for the revoked

certificate of need or portion of a certificate of need toward the fee assessed pursuant to 900 KAR 6:020 for the new application.

Section 5. Biennial Review. (1) Certificate of need holders may be subject to biennial review to determine if they are in compliance with the terms as listed on their certificate of need.

(2) Biennial review may be conducted within sixty (60) days of the second anniversary of the final progress report and at twenty-four (24) month intervals thereafter.

(3) The cabinet or its designee shall provide sixty (60) days' advance written notification to the subject of any biennial review, including the following:

(a) When the biennial review will be initiated;

(b) Request for information necessary for the review to which the cabinet does not have ready access; and

(c) A deadline for a response to the request for information.

(4) If the cabinet finds that any of the terms and conditions of a certificate of need approval and license have been violated, the review of, and any sanctions for, this violation shall be conducted in accordance with 900 KAR 6:090, Section 4.

ERIC FRIEDLANDER, Acting Executive Director
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 8, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 address tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Diona Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the required timetables and standards for implementation of certificates of need as well as requirements for biennial reviews for the orderly administration of the Certificate of Need Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the orderly administration of the Certificate of Need Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.040(2)(a)1 and 216B.086.

(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 setting forth the cabinet's certificate of need implementation requirements.

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

(a) How the amendment will change this existing administrative regulation: Upon the effective date of this regulation, a progress report fee of $100.00 or 1% of the CON application fee, whichever amount is greater, shall be assessed for each semi-annual progress report filed if the certificate of need is over 3 years old. Also, if a certificate of need or portion of a certificate of need is revoked at the certificate of need holder's request within 6 months of the effective date of this regulation, the Cabinet shall apply the application fee which was submitted for the revoked CON toward the fee assessed for a new application which is filed within 5 years.

(b) The necessity of the amendment to this administrative regulation: The fee is necessary to offset the administrative expenses of the Cabinet for certificates of need that are not implemented in a timely manner.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.040(2)(a)1 and 216B.086..

(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 updating this administrative regulation for implementation of certificates of need.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The administrative regulation affects certificate of need holders who have not implemented certificates of need within three (3) years of the date of issuance.

(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: Certificate of need holders will be assessed a fee of $100.00 or 1% of the CON application fee, whichever amount is greater, for each semi-annual progress report filed if the certificate of need is over 3 years old.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Certificate of need holders will be assessed a fee of $100.00 or 1% of the CON application fee, whichever amount is greater, for each semi-annual progress report filed if the certificate of need is over 3 years old.. A certificate of need holder which elects to request revocation of a certificate of need within 6 months of the effective date of this regulation may have its CON fee applied toward a new application filed within 5 years.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): An entity which submits the required progress report fee will be in compliance with this administrative regulation. A certificate of need holder which requests revocation of a certificate of need within 6 months of the effective date of this regulation may have its CON fee applied toward a new application filed within 5 years.

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

(a) Initially: The cost of implementing this administrative regulation is minimal. The Cabinet will revise its progress report request notice to state when a fee is required.

(b) On a continuing basis: The cost of implementing this administrative regulation is minimal as the Cabinet will request progress report fee when requesting progress report.

(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 certificate of need fees.

(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: Certificate of need holders will be assessed a fee of $100.00 or 1% of the CON application fee, whichever amount is greater, for each semi-annual progress report filed if the certificate of need is over 3 years old.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Certificate of need holders will be assessed a fee of $100.00 or 1% of the CON application fee, whichever amount is greater, for each

semi-annual progress report filed if the certificate of need is over 3 years old.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation amendment impacts the Office of Health Policy as well as holders of certificates of need which have not been implemented in a timely manner.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040(2)(a)1 and 216B.086.

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? Currently 51 certificates of need are over 3 years old and will be required to submit the progress report fee, resulting in annual progress report fees of $16,220.00 if the certificates of need are not implemented.

(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 cabinet would generate $200-$500 per year for each certificate of need that is over three years old and not implemented.

(c) How much will it cost to administer this program for the first year? The cost of implementing this administrative regulation is absorbable.

(d) How much will it cost to administer this program for subsequent years? The cost of implementing this administrative regulation is absorbable.

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
Office of Health Policy
(Amendment)

900 KAR 7:030. Data reporting by health care providers.

RELATES TO: KRS Chapter 13B, 216.2920-216.2929

STATUTORY AUTHORITY: KRS 216.2923(3), 216.2925

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2925 requires that the Cabinet for Health and Family Services promulgate administrative regulations requiring specified health care providers to provide the cabinet with data on cost, quality, and outcomes of health care services provided in the Commonwealth. KRS 216.2923(3) authorizes the cabinet to promulgate administrative regulations to impose fines for failure to report required data. This administrative regulation establishes the required data elements, forms, and timetables for submission of data to the cabinet and fines for noncompliance.

Section 1. Definitions. (1) "Agent" means any entity with which the cabinet may contract to carry out its statutory mandates, and which it may designate to act on behalf of the cabinet to collect, edit, or analyze data from providers.

(2) "Ambulatory facility" is defined by KRS 216.2920(1).

(3) "Cabinet" is defined by KRS 216.2920(2).

(4) "Coding and transmission specifications", "Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals", or "Kentucky Data Coordinator's Manual for Ambulatory Facilities" means the document containing the technical directives the cabinet issues concerning technical matters subject to frequent change, including codes and data for uniform provider entry into particular character positions and fields of the standard billing form and uniform provider formatting of fields and character positions for purposes of electronic data transmissions.

(5) "Hospital" is defined by KRS 216.2920(6).

(6) "Hospitalization" means the inpatient medical episode identified by a patient's admission date, length of stay, and discharge date, that is identified by a provider-assigned patient control number unique to that inpatient episode, except for:

(a) Inpatient services a hospital may provide in swing, nursing facility, skilled, intermediate or personal care beds; or

(b) Hospice care.

(7) "National Provider Identifier" or "NPI" means the unique identifier assigned by the Centers for Medicare and Medicaid Services to an individual or entity that provides health care services and supplies.

(8) "Outpatient services" means services performed on an outpatient basis in a hospital in accordance with Section 3(2) of this administrative regulation or services performed on an outpatient basis by an ambulatory facility in accordance with Section 4 of this administrative regulation.

(9) "Provider" means a hospital, ambulatory facility, clinic, or other entity of any nature providing hospitalizations, mammograms, or outpatient services as defined in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals or the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(10) "Record" means the documentation of a hospitalization or outpatient service in the format prescribed by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals or the Kentucky Data Coordinator's Manual for Ambulatory Facilities as approved by the Statewide Data Advisory Committee on a computer readable electronic medium.

(11) "Standard Billing Form" means the uniform health insurance claim form pursuant to KRS 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare and Medicaid Services, or the HCFA 1500 for use by hospitals and other providers in billing for hospitalizations and outpatient services.

Section 2. Medicare Provider-Based Entity. A licensed outpatient facility that is a Medicare provider-based entity of a hospital and reports under the hospital's provider number shall be separately identifiable through a facility-specific NPI.

Section 3. Data Collection for Hospitals. (1) Inpatient hospitalization records. A hospital shall document every hospitalization it provides on a Standard Billing Form and shall, from every record, copy and provide to the cabinet the data specified in Section 12 of this administrative regulation.

(2) Outpatient services records.

(a) A hospital shall document on a Standard Billing Form the outpatient services it provides and shall from every record, copy and provide to the cabinet the data specified in Section 12 of this administrative regulation.

(b) A hospital shall submit records that contain the required outpatient services procedure codes specified in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(3) Data collection on patients. A hospital shall submit required data on every patient as provided in Section 12 of this administrative regulation, regardless of the patient's billing or payment status.

Section 4. Data Collection for Ambulatory Facilities. (1) Outpatient services records.

(a) An ambulatory facility shall document on a Standard Billing Form the outpatient services it provides and shall, for every record, copy and provide to the cabinet the data specified in Section 13 of

this administrative regulation.

(b) An ambulatory facility shall submit records that contain the required outpatient services procedure codes specified in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(2) Data collection on patients. An ambulatory facility shall submit required data on every patient as provided in Section 13 of this administrative regulation, regardless of the patient's billing or payment status.

Section 5. Data Finalization and Submission by Providers. (1) Submission of final data.

(a) Data shall be final for purposes of submission to the cabinet as soon as a record is sufficiently final that the provider could submit it to a payer[~~payor~~] for billing purposes, regardless of whether the record has actually been submitted to a payer[~~payor~~].

(b) Finalized data shall not be withheld from submission to the cabinet on grounds that it remains subject to adjudication by a payer[~~payor~~].

(c) Data on a hospitalization shall not be submitted to the cabinet before a patient is discharged and before the record is sufficiently final that it could be used for billing.

(2) Data submission responsibility.

(a) If a patient is served by a mobile health service, specialized medical technology service, or another situation where one (1) provider provides services under contract or other arrangement with another provider, responsibility for providing the specified data to the cabinet shall reside with the provider that bills for the service or would do so if a service is unbilled.

(b) Charges for physician services provided within a hospital shall be reported to the cabinet.

1. Responsibility for reporting the physician charge data shall rest with the hospital if the physician is an employee of the hospital.

2. A physician charge contained within a record generated by a hospital shall be clearly identified in a separate field within the record so that the cabinet may ensure comparability when aggregating data with other hospital records that do not contain physician charges.

(3) Transmission of records.

(a) Records submitted to the cabinet by a hospital shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(b) Records submitted to the cabinet by an ambulatory facility shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(c) Each provider shall submit data by electronic transmission as specified by the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(d) Each provider shall provide back-up security against accidental erasure or loss of the data until all incomplete or inaccurate records identified by the cabinet have been corrected and resubmitted.

(4) Verification and audit trail for electronic data submissions.

(a) Each provider shall maintain a date log of data submissions and the number of records contained in each submission, and shall make the log available for inspection upon request by the cabinet.

(b) The cabinet shall, within twenty-four (24) hours of submission, verify by electronic message to each provider the receipt of the provider's data transmissions and the number of records in each transmission.

(c) A provider shall immediately notify the cabinet of a discrepancy between the provider's date log and a verification notice.

Section 6. Data Submission Timetable for Providers. (1) Quarterly submissions. Each provider shall submit data at least once for each calendar quarter. A quarterly submission shall:

(a) Contain data, which during that quarter became final as specified in Section 5(1) of this administrative regulation; and

(b) Be submitted to the cabinet not later than forty-five (45) days after the last day of the quarter.

1. If the 45th day falls on a weekend or holiday, the submission due date shall be the next working day.

2. Calendar quarters shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(2) Submissions more frequent than quarterly. A provider may submit data after records become final as specified in Section 5(1) of this administrative regulation and at a reasonable frequency convenient to a provider for accumulating and submitting batch data.

Section 7. Data Corrections for Providers. (1) Editing. Data received by the cabinet shall, upon receipt, be edited to ensure completeness and validity of the data. Computer editing routines shall identify for correction every record in which the submitted contents of required fields are not consistent with the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(2) Submission of corrections. The cabinet shall allow a provider thirty (30) days in which to submit corrected copies of initially submitted data the cabinet identifies as incomplete or invalid as a result of edits.

(a) The thirty (30) days shall begin on the date of the cabinet's notice informing the provider that corrections are required.

(b) A provider shall submit to the cabinet corrected data by electronic transmission within thirty (30) days.

(c) Corrected data submitted to the cabinet shall be uniformly completed and formatted according to the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals and the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(3) Percentage error rate.

(a) When editing data upon its initial submission, the cabinet shall identify and return to the provider for correction every record in which one (1) or more of the required data elements fails to pass the edit.

(b) When editing data that a provider has submitted, the cabinet shall check for an error rate per quarter of no more than one (1) percent of records or not more than ten (10) records, whichever is greater.

(c) The cabinet may return for further correction any submission of allegedly corrected data in which the provider fails to achieve a corrected error rate per quarter of no more than one (1) percent of records or not more than ten (10) records, whichever is greater.

Section 8. Fines for Noncompliance for Providers. (1) A provider failing to meet quarterly submission guidelines as established in Sections 6 and 7 of this administrative regulation shall be assessed a fine of $500 per violation.

(2) The cabinet shall notify a noncompliant provider by certified mail, return receipt requested, of the documentation of the reporting deficiency and the assessment of the fine.

(3) A provider shall have thirty (30) days from the date of receipt of the notification letter to pay the fine which shall be made payable to the Kentucky State Treasurer and sent by certified mail to the Kentucky Cabinet for Health and Family Services, Office of Health Policy, 275 East Main Street 4 W-E, Frankfort, Kentucky, 40621.

(4) Fines during a calendar year shall not exceed $1,500 per provider.

Section 9. Extension or Waiver of Data Submission Timelines. (1) A provider experiencing extenuating circumstances or a hardship may request from the cabinet, in writing, a data submission extension or waiver.

(a) A provider shall request an extension or waiver from the Office of Health Policy on or before the last day of the data reporting period to receive an extension or waiver for that period.

(b) An extension or waiver shall not exceed a continuous

period of greater than six (6) months.

(2) The cabinet shall consider the following criteria in determining whether to grant an extension or waiver:

(a) Whether the request was made due to an event beyond the provider's control, such as a natural disaster, catastrophic event, or theft of necessary equipment or information;

(b) The severity of the event prompting the request; and

(c) Whether the provider continues to gather and submit the information necessary for billing.

(3) A provider shall not apply for more than three (3) extensions or waivers during a calendar year.

Section 10. Appeals for Providers. (1) A provider notified of its noncompliance and assessed a fine pursuant to Section 8(1) of this administrative regulation shall have the right to appeal within thirty (30) days of the date of the notification letter.

(a) If the provider believes the action by the cabinet is unfair, without reason, or unwarranted, and the provider wishes to appeal, it shall appeal in writing to the Secretary of the Cabinet for Health and Family Services, 5th Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(b) An appeal shall be filed in accordance with KRS Chapter 13B.

(2) Upon receipt of the appeal, the secretary or designee shall issue a notice of hearing no later than twenty (20) days before the date of the hearing. The notice of the hearing shall comply with KRS 13B.050. The secretary shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(3) The hearing officer shall issue a recommendation in accordance with KRS 13B.110. Upon receipt of the recommended order, following consideration of any exceptions filed pursuant to KRS 13B.110(4), the secretary shall enter a final decision pursuant to KRS 13B.120.

Section 11. Working Contacts for Providers. (1) On or before the last day of the data reporting period, a provider shall report by electronic transmission to the cabinet the names and telephone numbers of a designated contact person and one (1) back-up person to facilitate technical follow-up in data reporting and submission.

(a) A provider's designated contact and back-up shall not be the chief executive officer unless no other person employed by the provider has the requisite technical expertise.

(b) The designated contact shall be the person responsible for review of the provider's data for accuracy prior to the publication by the cabinet.

(2) If the chief executive officer, designated contact person, or back-up person changes during the year, the name and telephone number of the replacing person shall be reported immediately to the cabinet.

Section 12. Required Data Elements for Hospitals. (1) A hospital shall ensure that each record submitted to the cabinet contains at least the data elements identified in this section and as provided on the Standard Billing Form.

(2) A single asterisk identifies elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(3) Double asterisks identify elements that shall not be blank if present on the record and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals.

(4) Additional data elements, as specified in the Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals, shall be required by the cabinet to facilitate proper collection and identification of data.

Required	DATA ELEMENT LABEL
Yes	*Provider Assigned Patient Control Number
Yes	**Provider Assigned Medical Record Number
Yes	*Type of Bill (inpatient, outpatient or other)
Yes	**Federal Tax Number or Employer Identification Number (EIN)
Yes	*Facility-specific NPI
Yes	*Statement Covers Period
Yes	*Patient City and Zip Code
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Admission/Start of Care Date
Yes	**Admission Hour
Yes	*Type of Admission
Yes	*Source of Admission
Yes	*Patient Status (at end of service or discharge)
No	Occurrence Codes & Dates
Yes	**Value Codes and Amounts, including birth weight in grams
Yes	*Revenue Codes/Groups
Yes	*HCPCS/Rates/Hipps Rate Codes
Yes	*Units of Service
Yes	*Total Charges by Revenue Code Category
Yes	*Payer [~~Payor~~] Identification – Payer [~~Payor~~] Name
Yes	*National Provider Identifier
Yes	*Diagnosis Version Qualifier - ICD version 9.0 or 10.0
Yes	*Principal Diagnosis Code
Yes	*Principal Diagnosis Code present on admission identifier for non-Medicare claims
Yes	*Principal Diagnosis Code present on admission identifier for Medicare claims
Yes	**Secondary and Other Diagnosis Codes
Yes	**Secondary and Other Diagnosis code present on admission identifier for non-Medicare claims
Yes	**Secondary and Other Diagnosis code present on admission identifier for Medicare claims
Yes	*Inpatient Admitting Diagnosis
Yes	**Outpatient reason for visit
Yes	*External Cause of Injury Code (E-code) if present
Yes	*External Cause of Injury (E-code) present on admission identifier on non-Medicare claims if present
Yes	*External Cause of Injury (E-code) present on admission identifier on Medicare claims if present
Yes	*Principal Procedure Code & Date if present
Yes	**Secondary and Other Procedure Codes & Date if present
Yes	*Attending Physician NPI/QUAL/ID
Yes	*Operating Clinician ID Number/NPI
Yes	**Other Physician NPI/QUAL/ID
Yes	*Race
Yes	*Ethnicity

Section 13. Required Data Elements for Ambulatory Facilities.(1) An ambulatory facility shall ensure that each record submitted to the cabinet contains at least the data elements identified in this section and as provided on the Standard Billing Form.

(2) A single asterisk identifies elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(3) Double asterisks identify elements that shall not be blank if present on the record and shall contain data or a code as specified in the cabinet's coding and transmission specifications contained in the Kentucky Data Coordinator's Manual for Ambulatory Facilities.

(4) Additional data elements, as specified in the Kentucky Data Coordinator's Manual for Ambulatory Facilities, shall be required by

the cabinet to facilitate proper collection and identification of data.

Required	DATA ELEMENT LABEL
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Zip Code
Yes	*1st Individual Payer ID#
Yes	*Admission/Start of Care Date
Yes	*Type of Bill
Yes	*Principal Diagnosis Code
Yes	**Secondary and Other Diagnosis Codes if present
Yes	*Principal Procedure Code & Date
Yes	**Secondary and Other Procedure Codes & Date if present
Yes	*1st Units of Service
Yes	*1st Charge
Yes	**Secondary and Other Units of Service and Charge
Yes	*Total Charges for the Case
Yes	*Attending Clinician NPI
Yes	*Provider Assigned Patient ID#
Yes	**1st Insurer Group #
Yes	**2nd Insurer Group #
Yes	*Operating Clinician NPI
Yes	*Billing Facility-specific NPI
Yes	**Federal Tax Number or Employer Identification Number (EIN)
Yes	*Statement Covers Period
Yes	*Primary Payer [~~Payor~~] Name
Yes	**Secondary Payer [~~Payor~~] Name
Yes	*Race
Yes	*Ethnicity
Yes	*HCPCS/Rates/Hipps Rate Codes

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Inpatient and Outpatient Data Coordinator's Manual for Hospitals", revised October 1, 2015[~~December 1, 2014~~]; and

(b) "Kentucky Data Coordinator's Manual for Ambulatory Facilities," revised October 1, 2015[~~December 1, 2014~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street 4WE, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC FRIEDLANDER, Acting Executive Director
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 8, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 2015, at 9:00 a.m. in Suite B, 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 November 16, 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 cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until November 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, email address tricia.orme@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Diona Mullins

1. Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides clarification and instruction to specified health care providers on the process necessary to submit copies of administrative claims data to the Cabinet.

(b) The necessity of this administrative regulation: This administrative regulation is necessary so that health care providers have a uniform mechanism with timeframes and instructions with which to submit the required data. The administrative regulation contains the updated data submission manuals for hospitals and ambulatory care facilities. The following revisions to the manuals were necessary: Kentucky Spirit of Kentucky, add end date of 1/1/2015; and name change for Coventry Cares of Kentucky to Aetna Better Health of Kentucky effective 2/1/2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary to ensure that health care providers have a uniform mechanism with timeframes and instructions with which to submit the required data to enable the Cabinet to publish the data and reports as required by KRS 216.2925.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides detailed instructions to specified health care providers relating to the data elements, forms and timetables necessary to comply with the statute.

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

(a)How the amendment will change this existing administrative regulation: This administrative regulation incorporates by reference updated data reporting manuals. The following revisions to the manuals were necessary: Kentucky Spirit of Kentucky, add end date of 1/1/2015; and name change for Coventry Cares of Kentucky to Aetna Better Health of Kentucky effective 2/1/2016.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide new data submission manuals to facilities to ensure accuracy of the submitted data.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statute by providing a standardized method of reporting by hospitals and ambulatory care facilities.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes as it provides detailed instructions for submission of required data elements.

3. List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the hospitals and ambulatory facilities which are required to submit data to the Cabinet.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will collect and submit data as required. Entities are already required to submit data. This administrative regulation incorporates by reference updated data reporting manuals. The following revisions to the manuals were necessary: Kentucky Spirit of Kentucky, add end date of 1/1/2015; and name change for Coventry Cares of Kentucky to Aetna Better Health of Kentucky effective 2/1/2016.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each entity will collect and submit data as required. Entities are already required to submit data. This regulation incorporated by reference manuals that were revised to provide detailed submission requirements. Therefore, no additional cost will be incurred by entities to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Data integrity is improved as all applicable payer codes are now included in the manuals and instructions have been provided related to the addition of the requirement to report all outpatient procedures.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation. The Office of Health Policy currently collects data and has the necessary data collection system in place.

(b) On a continuing basis: No additional costs will be incurred.

6. What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding for the implementation and enforcement of this administrative regulation will be the Office of Health Policy's existing budget. No new funding will be needed to implement the provisions of the amended regulation.

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

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

9. TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

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 amendment impacts the Office of Health Policy and may impact any government owned, controlled or proposed hospitals and ambulatory care facilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The authorizing statutes are KRS 216.2920-216.2929.

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 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 administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

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

Revenues (+/-): None
Expenditures (+/-): None
Other Explanation: None

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Maternal and Child Health
(Amendment)

902 KAR 4:030. Newborn screening program.

RELATES TO: KRS 211.180(1)[~~214.155~~]

STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 214.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 214.155 requires the Cabinet for Health and Family Services to operate a newborn screening program for inborn errors of metabolism and other inherited and congenital disorders and conditions, and to establish a schedule of fees to cover the actual costs to the cabinet for the program. This administrative regulation requires that infants be tested for inborn errors of metabolism and other inherited and congenital disorders and conditions as specified in KRS 214.155, and establishes the schedule of fees to cover actual costs of the newborn screening program.

Section 1. Definitions. (1) "Blood spot testing" means laboratory testing that is performed on newborn infants to detect a wide variety of inherited and congenital disorders and conditions by using a laboratory-authorized filter paper specimen card.

(2) "Critical congenital heart disease" or "CCHD" means an abnormality in the structure or function of the heart that exists at birth and places an infant at significant risk of disability or death if not diagnosed and treated soon after birth.

(3) "Diagnostic echocardiogram" means a test that uses ultrasound to provide an image of the heart that is performed by a technician trained to perform pediatric echocardiograms.

(4) "Laboratory" means the Division of Laboratory Services within the Cabinet for Health and Family Services, Department for Public Health.

(5) "Pediatric cardiologist" means a pediatrician that is board-certified to provide pediatric cardiology care.

(6) "Program" means the Newborn Screening Program for inherited and congenital disorders and conditions operated by the Cabinet for Health and Family Services, Department for Public Health.

(7) "Pulse oximetry testing" means a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen.

(8) "Submitter" means a hospital, primary care provider, health department, birthing center, laboratory, or midwife submitting an infant's blood specimen for the purpose of newborn screening.

Section 2. Tests for inborn errors of metabolism or other inherited or congenital disorders and conditions for newborn infants as part of newborn screening shall be consistent with the U.S. Department of Health and Human Services' Recommended Uniform Screening Panel and include the following:

(1) 2-Methyl-3-hydroxybutyric aciduria (2M3HBA);
(2) 2-Methylbutyryl-CoA dehydrogenase deficiency (2MBDH);
(3) 3-Methylcrotonyl-CoA carboxylase deficiency (3MCC);
(4) 3-Methylglutaconic aciduria (3MGA);
(5) 3-Hydroxy 3-Methylglutaric aciduria (HMG);
(6) Argininemia (ARG);
(7) Argininosuccinic acidemia (ASA);
(8) Beta-ketothiolase deficiency (BKT);
(9) Biotinidase disorder (BIOT);
(10) Carnitine acylcarnitine translocase deficiency (CACT);
(11) Carnitine palmitoyl transferase deficiency I (CPT-I);
(12) Carnitine palmitoyl transferase deficiency II (CPT-II);
(13) Carnitine uptake defect (CUD);
(14) Citrullinemia type I (CIT-I);
(15) Citrullinemia type II (CIT-II);
(16) Congenital adrenal hyperplasia (CAH);
(17) Congenital hypothyroidism (CH);
(18) Critical congenital heart disease (CCHD);
(19) Cystic fibrosis (CF);
(20) Ethylmalonic encephalopathy (EE);
(21) Galactosemia (GAL);
(22) Glutaric acidemia type I (GA I);
(23) Glutaric acidemia type II (GA-II);
(24) Glycogen storage disease type II (GSD-II, Pompe Disease);
(25) Homocystinuria (HCY);
(26)[~~(25)~~] Hypermethioninemia (MET);
(27)[~~(26)~~] Hyperphenylalinemia (H-PHE);

(28)[~~(27)~~] Isobutyryl-CoA dehydrogenase deficiency (IBG);
(29)[~~(28)~~] Isovaleric acidemia (IVA);
(30)[~~(29)~~] Long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCAD);
(31)[~~(30)~~] Malonic academia (MAL);
(32)[~~(31)~~] Maple syrup urine disease (MSUD);
(33)[~~(32)~~] Medium-chain acyl-CoA dehydrogenase deficiency (MCAD);
(34)[~~(33)~~] Methylmalonic acidemia (Cbl A,B);
(35)[~~(34)~~] Methylmalonic acidemia (Cbl C,D);
(36)[~~(35)~~] Methylmalonic acidemia mutase deficiency (MUT);
(37) Mucopolysaccharidosis type I (MPS-I, Hurler's Disease);
(38)[~~(36)~~] Multiple carboxylase deficiency (MCD);
(39)[~~(37)~~] Non-ketotic Hyperglycinemia (NKHG);
(40)[~~(38)~~] Phenylketonuria (PKU);
(41)[~~(39)~~] Propionic acidemia (PA);
(42)[~~(40)~~] Severe combined immunodeficiency (SCID);
(43)[~~(41)~~] Short-chain acyl-CoA dehydrogenase deficiency (SCAD);
(44)[~~(42)~~] Sickle cell disease (Hb S/S);
(45)[~~(43)~~] Sickle cell hemoglobin C disease (Hb S/C);
(46)[~~(44)~~] Sickle cell S Beta Thalassemia (Hb S/Th);
(47)[~~(45)~~] Trifunctional protein deficiency (TFP);
(48)[~~(46)~~] Tyrosinemia type I (TYR-I);
(49)[~~(47)~~] Tyrosinemia type II (TYR-II);
(50)[~~(48)~~] Tyrosinemia type III (TYR-III);
(51)[~~(49)~~] Various Hemoglobinopathies (includes Hb E); and
(52)[~~(50)~~] Very long-chain acyl-CoA deficiency (VLCAD).

Section 3. Tests for inborn errors of metabolism or other inherited or congenital disorders and conditions for newborn infants as part of newborn screening shall include the following disorder that is not recommended by the U.S. Department of Health and Human Services, but is required by Kentucky law: Krabbe Disease (KD).

Section 4. Submitter Responsibilities. (1) Except as provided in KRS 214.155(3) and (5), the administrative officer or other person in charge of the hospital or institution caring for newborn infants and the attending primary care provider or midwife shall administer to, or verify administration of tests to, every infant in its care prior to hospital discharge:

(a) A blood spot test to detect inborn errors of metabolism and other inherited and congenital disorders and conditions identified in Sections[~~Section~~] 2 and 3 of this administrative regulation; and

(b) Pulse oximetry testing to detect critical congenital heart disease.

(2) If a baby is not born in a hospital or institution, the attending primary care provider or midwife shall ensure that both tests required by subsection (1) of this section are:

(a) Administered between twenty-four (24) and forty-eight (48) hours of age;

(b) Acted upon if abnormal; and

(c) Reported to the program by fax or by the cabinet's web-based system.

(3) A capillary blood spot specimen shall be obtained from a newborn infant not requiring an extended stay due to illness or prematurity between twenty-four (24) and forty-eight (48) hours of age.

(4) If the infant is to remain in the hospital due to illness or prematurity, the hospital shall obtain the capillary blood spot specimen from that infant after twenty-four (24) and before seventy-two (72) hours of age.

(5) Except as provided by subsection (6) of this section, the pulse oximetry testing shall be performed when the infant is twenty-four (24) hours of age or older and shall occur prior to discharge.

(6) If the infant is discharged prior to twenty-four (24) hours of age, the blood spot and pulse oximetry testing shall be performed as close to twenty-four (24) hours of age as possible.

(7) If an infant is transferred from the birth hospital to another hospital during the newborn hospital stay, the rules established in this subsection shall apply.

(a) The sending hospital shall obtain the capillary blood spot specimen for the newborn screening blood test and the pulse oximetry testing for CCHD if the infant is twenty-four (24) hours of age or more when the infant is transferred to another hospital.

(b) The receiving hospital shall ensure the newborn screening blood spot test and the pulse oximetry testing are performed if the infant is less than twenty-four (24) hours of age when the infant is transferred.

(8) If an infant expires before the newborn screening blood spot test and pulse oximetry test have been performed, the program shall be notified within five (5) calendar days.

(9) If the information on the filter paper specimen card obtained by the submitter and sent to the laboratory is incomplete or inadequate, then the submitter, upon request of the program, shall:

(a) Attempt to locate the infant and obtain a complete and adequate specimen within ten (10) days; and

(b) Report to the program a specimen that is unable to be obtained within ten (10) days.

(10) Submitters that are responsible for the collection of the initial blood spot specimen and pulse oximetry testing for newborn screening shall:

(a) Provide to an infant's parent or guardian educational materials regarding newborn screening and pulse oximetry testing;

(b) Designate a newborn screening coordinator and physician responsible for the coordination of the facility's newborn screening compliance by having a newborn screening protocol;

(c) Notify the program of the name of the individuals designated in paragraph (b) of this subsection each year in January and if the designated individual changes; and

(d) Develop a written protocol for tracking newborn screening compliance which shall:

1. Be submitted to the program each year in January; and

2. Include, at a minimum:

a. A requirement that the name of the primary care provider that will be attending the infant after birth or discharge or, if known, the primary care provider who will be caring for the infant after discharge, shall be placed on the filter paper specimen card sent with the initial blood spot specimen to the laboratory. If the infant is in the neonatal intensive care unit, the name of the attending neonatologist may be placed on the filter specimen card sent with the initial blood spot specimen to the laboratory;

b. Verification that:

(i) Each infant born at that facility has had a specimen obtained for newborn screening and pulse oximetry testing on or before discharge;

(ii) All information on the specimen card has been thoroughly completed; and

(iii) The specimen has been submitted appropriately;

c. A process to ensure that final results of the pulse oximetry screening are entered into the Cabinet's web-based system; and

d. A procedure to assure the hospital or facility that identifies that an infant has not had a specimen obtained for newborn screening and pulse oximetry testing prior to discharge shall:

(i) Notify the program;

(ii) Use every reasonable effort to locate the infant;

(iii) Notify the parent or guardian and the primary care provider immediately; and

(iv) Recommend that the infant present to the hospital or primary care provider immediately for a newborn screening blood spot specimen and pulse oximetry testing.

(11) Hospitals or facilities shall report all written refusals, in accordance with KRS 214.155(5), to the program within five (5) calendar days.

Section 5.[~~4.~~] Blood Specimen Collection. (1) Capillary blood spot specimens required in Section 4[~~3~~] of this administrative regulation shall be obtained by a heel stick.

(2) Blood from the heel stick shall be applied directly to filter paper specimen card.

(3) All circles shall be saturated completely using a drop of blood per circle on a filter paper specimen card.

(4) The specimen collector shall provide, on the filter paper specimen card, information requested by the laboratory.

(5) The capillary blood spot specimen shall be air dried for three (3) hours and then shall be mailed or sent to the laboratory:

(a) Within twenty-four (24) hours of collection of the specimen; or

(b) The next business day in which mail or delivery service is available.

(6) Submitters sending blood spot specimens via regular mail services shall send the specimens to the following address: Cabinet for Health and Family Services, Department for Public Health, Division of Laboratory Services, P.O. Box 2010, Frankfort, Kentucky, 40602.

(7) Submitters sending blood spot specimens via expedited mail services shall ensure the specimens are sent to the following address: Cabinet for Health and Family Services, Department for Public Health, Division of Laboratory Services, 100[~~10~~] Sower Boulevard, Suite 204, Frankfort, Kentucky 40602.

(8) Specimens processed or tracked under the newborn screening program shall be limited to specimens on infants less than six (6) months of age.

Section 6.[~~5.~~] Unsatisfactory or Inadequate Blood Specimen. (1) If a specimen is unsatisfactory or inadequate to produce a valid result, the laboratory shall notify the submitter and the parent on the filter paper specimen card that the newborn screen needs to be repeated as soon as possible.

(2) If a requested repeat specimen has not been received within ten (10) business days from the date the repeat request was issued, the program shall notify the parent by mail of the need for a repeat screening test.

Section 7.[~~6.~~] Special Circumstances - Blood Transfusion. If a newborn infant requires a blood transfusion, the following rules for newborn screening shall apply:

(1) The hospital shall obtain a capillary blood spot specimen for newborn screening prior to the infant being transfused, except in an emergency situation.

(2) If the pre-transfusion blood spot specimen was obtained before twenty-four (24) hours of age, or if it was not obtained due to an emergency situation, then the hospital or primary care provider shall use all reasonable efforts to obtain a repeat capillary blood specimen from the transfused infant and submit it to the laboratory according to the following schedule:

(a) Seventy-two (72) hours after last blood transfusion, rescreen for inborn errors of metabolism and inherited and congenital disorders and conditions listed in Sections[~~Section~~] 2 and 3 of this administrative regulation; and

(b) Ninety (90) days after last blood transfusion, rescreen for any disorder that relies on red blood cell analysis such as hemoglobinopathies, galactosemia, and biotinidase deficiency.

Section 8.[~~7.~~] Reporting Results of Newborn Screening Blood Tests. (1) Normal Results. Upon receipt of normal lab results, the laboratory shall mail results to the primary care provider and the submitter.

(2) Abnormal Results.

(a) Submitters and primary care providers shall receive a copy of all abnormal, presumptive positive, and equivocal results by mail.

(b) In addition to receiving mailed results, primary care providers shall be notified of abnormal, presumptive positive, and equivocal results in the following manner:

1. Upon receipt of an abnormal, equivocal, or a presumptive positive lab result,
the laboratory shall notify the primary care provider listed on the filter paper specimen card within two (2) business days of the result and the need for follow-up testing.

2. Upon receipt of a presumptive positive lab result, the program shall notify the primary care provider listed on the filter paper specimen card of the result and recommend immediate consultation with a university pediatric specialist.

3. If the program is unable to determine the infant's primary care provider to notify them of abnormal, presumptive positive, or equivocal results and the need for follow-up, the program shall use every available means to notify the infant's parent.

(c) The Cabinet for Health and Family Services shall share pertinent test results with state university-based specialty clinics or primary care providers who inform the cabinet they are treating the infant who received the test.

(d) The cabinet may share pertinent test results with the local health department in the infant's county of residence that conducts newborn screening follow-up activities.

(e) These specialty clinics or primary care providers shall report results of diagnostic testing to the program within thirty (30) days or earlier upon request.

(f) The laboratory shall report abnormal, presumptive positive, or equivocal results of tests for inborn errors of metabolism, inherited and congenital disorders and conditions to the program.

(g) If a requested repeat specimen has not been received within ten (10) business days from the date the repeat request was issued, the program shall notify the parent by mail of the need for a repeat screening test.

Section 9.[~~8.~~] Pulse oximetry screening for critical congenital heart disease. Pulse oximetry screening for critical congenital heart defects required by Section 2 of this administrative regulation shall be consistent with the standard of care according to national recommendations by the American Academy of Pediatrics.

Section 10.[~~9.~~] Pulse Oximetry Screening Process. (1) Except as provided by KRS 214.155(3) and subsections (2) and (4) of this section, pulse oximetry testing shall be performed when the infant is between twenty-four (24) and forty-eight (48) hours of age and shall occur no later than the day of discharge.

(2) If the infant is discharged prior to twenty-four (24) hours of age, the blood spot and pulse oximetry testing shall be performed as close to twenty-four (24) hours of age as possible.

(3) Infants in neonatal intensive care units shall be screened when medically appropriate after twenty-four (24) hours of age but prior to discharge.

(4) Infants who have been identified with critical congenital heart disease prior to birth or prior to twenty-four (24) hours of age shall be exempt from the pulse oximetry screening process.

(5) Pulse oximetry screening shall be performed by placing pediatric pulse oximetry sensors simultaneously on the infant's right hand and either foot to obtain oxygen saturation results.

(6) If using a single pediatric pulse oximetry sensor, pulse oximetry screening shall be performed on the infant's right hand and either foot, one after the other, to obtain oxygen saturation results.

Section 11.[~~10.~~] Pulse Oximetry Testing Results. (1) A passed result shall not require further action if:

(a) The pulse oximetry reading in both extremities is greater than or equal to ninety-five (95) percent; and

(b) The difference between the readings of both the upper and lower extremity is less than or equal to three (3) percent.

(2)(a) A pending result shall:

1. Occur if:

a. The pulse oximetry reading is between ninety (90) and ninety-four (94) percent; or

b. The difference between the readings of both the upper and lower extremity is greater than three (3) percent; and

2. Be repeated using the pulse oximetry screening in one (1) hour.

(b) If a repeated pulse oximetry screen is also interpreted as pending, it shall be performed again in one (1) hour.

(c) If the pulse oximetry result on the third screen continues to meet the criteria as pending after three (3) screenings have been performed, it shall be considered failed and the procedures established in subsection (3) of this section shall be followed.

(3) A failed result shall occur if the initial pulse oximetry reading is less than ninety (90) percent in the upper or lower extremity and shall require the following action:

(a) The primary care provider shall be notified immediately;

(b) The infant shall be evaluated for the cause of the low saturation reading; and

(c) If CCHD cannot be ruled out as the cause of the low saturation reading, the attending physician or advanced practice registered nurse shall:

1. Order a diagnostic echocardiogram to be performed without delay;

2. Ensure the diagnostic echocardiogram be interpreted as soon as possible; and

3. If the diagnostic echocardiogram results are abnormal, obtain a consultation with a pediatric cardiologist prior to hospital discharge.

Section 12.[~~11.~~] Reporting Results of Pulse Oximetry Screening. (1) Final results of the pulse oximetry screening shall be entered into the cabinet's web-based system.

(2) A failed result shall be immediately reported to the program by fax or by the cabinet's web-based system.

Section 13.[~~12.~~] Newborn Screening Fees. (1) Submitters obtaining and sending a blood spot specimen to the laboratory shall be billed a fee of $123[~~ninety-nine (99) dollars~~] for the initial newborn screening test.

(2) Submitters obtaining and sending a repeat blood spot specimen to the laboratory shall not be charged an additional fee[~~of ninety-nine (99) dollars~~].

(3) Fees due the Cabinet for Health and Family Services shall be collected through a monthly billing system.

STEPHANIE MAYFIELD GIBSON, MD, FCAP, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 8, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 40602, phone 502-564-7905, fax 502-564-7573, email Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires that all infants born in Kentucky receive the newborn screening test. It requires that infants be tested for inborn errors of metabolism and other inherited and congenital disorders and conditions as specified in KRS 214.155, establishes how tests are to be performed and results reported, and establishes the schedule of fees to cover actual costs of the newborn screening program.

(b) The necessity of this administrative regulation: This administrative regulation improves outcomes for Kentucky's infants by ensuring testing for inborn errors of metabolism and other inherited and congenital disorders and conditions so that they may be diagnosed and potentially treated. KRS 214.155 requires the Cabinet for Health and Family Services to operate this screening program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 214.155 requires the Cabinet to operate the newborn screening program for heritable and congenital disorders. The disorders listed in this administrative regulation are consistent with the recommendations of the American College of Medical Genetics, as required by KRS 214.155, except for the addition of Krabbe Disease, which is required by Senate Bill 75 of the 2015 regular legislative session. Krabbe Disease is not currently federally recommended to be part of the newborn screening program by the U.S. Department of Health and Human Services, in part, because of unreliable testing. New York's experience screening for Krabbe Disease in the first five years of testing indicates only an 8% positive predictive value (of 25 babies that screened positive, only two developed symptoms). The disease is also not federally recommended because of the controversial follow-up for a positive diagnosis. The only potentially effective treatment is hematopoietic cell transplant usually using umbilical cord blood. Studies show the patient may benefit from an early hematopoietic stem cell transplant; however, the mortality rate afterwards is 5-10% and 10% of patients develop severe graft-versus-host disease (Lantos, John D. "Dangerous and expensive screening and treatment for rare childhood diseases: the case of Krabbe disease." *Developmental Disabilities Research Reviews* 17(1), (2011): 15-18). The Division of Laboratory Services does not presently have the resources in-house to test for this disorder, resulting in: a fee to ship the blood spots to Mayo Medical Laboratories for Krabbe testing, the cost of a full-time employee to process the specimens and receive and issue test reports, and expanded follow-up in the Newborn Screening Program to contract with universities for further testing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 214.55 requires the Cabinet for Health and Family Services to operate a newborn screening program for inborn errors of metabolism and other inherited and congenital disorders and conditions. The specific tests on the newborn screening panel are consistent with the recommendations of the American College of Medical Genetics as required by statute, except for the addition of Krabbe Disease which is required as a result of 15 RS Senate Bill 75. This administrative regulation details the process and procedures for compliance with the statute and sets up a fee schedule to cover program costs, as required by statute.

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

(a) How the amendment will change this existing administrative regulation: The Secretary of the U.S. Department of Health and Human Services has modified the Recommended Uniform Screening Panel (RUSP) to include glycogen storage disease type II (Pompe Disease) and mucopolysaccharidosis type I (Hurler's Disease). These disorders are being added to make the Department for Public Health newborn screening panel consistent with federal recommendations. This administrative regulation is also being amended to add Krabbe Disease to the list of disorders, as required by Senate Bill 75 enacted by the 2015 General Assembly, although as mentioned previously this disorder is not federally recommended to be part of the newborn screening program because of unreliable testing and because of the controversial follow-up for a positive diagnosis. The only potentially effective treatment to date is hematopoietic cell transplant usually using umbilical cord blood. Studies show the patient may benefit from an early hematopoietic stem cell transplant; however, the mortality rate afterwards is 5-10% and 10% of patients develop severe graft-versus-host disease. The Division of Laboratory Services does not have the resources in-house to test for this disorder, resulting in: a fee to ship the blood spots to Mayo Medical Laboratories for Krabbe testing, the cost of a full-time employee to process the specimens and receive and issue test reports, and expanded follow-up in the Newborn Screening Program, which tracks positive diagnoses and contracts further testing with

universities.

(b) The necessity of the amendment to this administrative regulation: The 2015 Regular Session enacted Senate Bill 75, which added Krabbe Disease to the panel of diseases to be screened for in newborns. To complete this testing, the newborn screening fee must be increased to cover the associated costs of implementation.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation must be consistent with KRS 214.155, which was amended to include Krabbe Disease during the 2015 Regular Session.

(d) How the amendment will assist in the effective administration of the statutes: Once this amendment is effective, Kentucky newborns will be screened for Krabbe Disease, which is conservatively estimated to be present in 1 in 100,000 individuals.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 60,000 newborns in Kentucky every year. As a result of Senate Bill 75, the Division of Laboratory Services will ship blood spots to Mayo Medical Laboratories for testing and Mayo Clinic will return the results to the Division. To pay for this processing and testing, informational materials for parents, follow-up tracking, and contracts with universities for further testing pursuant to KRS 214.155, hospitals or other entities submitting newborn blood spots for testing will be required to pay an additional $24.00 per child

(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 questions (3) will have to take to comply with this administrative regulation or amendment: The Division of Laboratory Services will have to ship newborn blood spots to Mayo Medical Laboratories. This will require the employment of one full time employee to process and ship the blood spots, receive them back, and report the test results plus the expansion of the Newborn Screening Program which contracts with universities to confirm diagnoses and ensure specialist care for positive diagnoses. To pay for all this, pursuant to KRS 214.155, submitters will be required to pay an additional $24.00 fee.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The addition of Krabbe Disease to the panel of diseases screened for will cost the Division of Laboratory Services $20.00 per blood spot to have them delivered to Mayo Medical Laboratories, tested (possibly re-tested), and results reported. The Division has estimated it will cost the state $2.00 per blood spot to cover the costs to handle and process the blood spots, report the test results, provide informational materials to parents, and track diagnoses; and $2.00 for contracts with the University of Kentucky and the University of Louisville for follow-up testing of positive diagnoses (the two university contracts will be increased by $50,000 each). Therefore, blood spot submitters will be charged an additional $24.00 per sample to cover this cost. This cost will likely be borne primarily by insurers or individuals if they have no health insurance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The estimated 60,000 newborns in Kentucky per year will be tested for Krabbe Disease. Pompe Disease and Hurler's Disease are also being added to the screening panel in this administrative regulation in order to be consistent with disorders included on the RUSP. If a newborn is diagnosed with Krabbe Disease, as is expected in about one out of every 100,000 individuals, the Newborn Screening Program contracts with universities for testing confirmation and the contacting of a specialist for the disorder positively diagnosed. For Krabbe Disease, the parents may elect for their child to receive further testing and may consider the controversial stem cell transplant treatment. In the first 5 years of its program, New York's screening of Krabbe Disease produced an 8% positive predictive value (of 25 babies that screened positive, only two developed symptoms). The only potentially effective treatment is hematopoietic cell transplant usually using umbilical cord blood. Studies show the diseased may benefit from an early hematopoietic stem cell transplant; however, the mortality rate afterwards is 5-10% and 10% of patients develop severe graft-versus-host disease (Lantos, John D. "Dangerous and expensive screening and treatment for rare childhood diseases: the case of Krabbe disease." *Developmental Disabilities Research Reviews* 17(1), (2011): 15-18).

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

(a) Initially: It is estimated to cost the Cabinet $24.00 per blood spot to be screened and tracked. Pursuant to KRS 214.155, this cost is being passed on to the blood spot submitter.

(b) On a continuing basis: $24.00 per blood spot to be screened, with approximately 60,000 blood spots per year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Cabinet does not presently have the resources to test for Krabbe Disease, so dried blood spots will be shipped to the Mayo Medical Laboratories and tested there for $20.00. This fee plus an additional $4.00 per child for Cabinet processing, reporting, and follow-up of positive diagnoses is being passed on to blood spot submitters pursuant to KRS 214.155.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: This amendment includes a fee increase, resulting from 2015 Regular Session legislation. Senate Bill 75 added Krabbe Disease to KRS 214.155, requiring it to be added to the list of disorders screened for in Kentucky newborns. The Division of Laboratory Services presently does not have the resources for screening this disease, so dried blood spots will be sent to the Mayo Medical Laboratories. This fee covers the cost of the testing being done at the Mayo Medical Laboratories, processing and handling the samples, and the expansion of the Newborn Screening Program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This amendment includes a fee increase, resulting from 2015 Regular Session legislation. Senate Bill 75 added Krabbe Disease to KRS 214.155, requiring it to be added to the list of disorders screened for in Kentucky newborns. The Division of Laboratory Services does not have the resources for screening this disease, therefore blood spots will be sent to the Mayo Medical Laboratories. This fee covers the cost of the testing being done at the Mayo Medical Laboratories, processing and handling the samples, and the expansion of the Newborn Screening Program.

(9) TIERING: Is tiering applied? No. All blood spot submitters (such as hospitals) are subject to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Division of Laboratory Services is required to screen newborn blood spots for Krabbe Disease as a result of 2015 legislation (Senate Bill 75). This screening plus the follow-up performed by the Department for Public Health will cost approximately $24.00 per blood spot, with approximately 60,000 blood spots per year.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 214.155 requires the Cabinet to operate the newborn screening program for heritable and congenital disorders. The disorders listed in this administrative regulation are consistent with the recommendations of the American College of Medical Genetics as required by statute, except for the addition of Krabbe Disease, which is required by Senate Bill 75 of the 2015 Regular Session.

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 approximately $7 million, which will cover the cost of the Newborn Screening Program, as required by KRS 214.155.

(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 approximately $7 million per year, which will cover the cost of the Newborn Screening Program, as required by KRS 214.155.

(c) How much will it cost to administer this program for the first year? This amendment to screen blood spots for Krabbe Disease will cost $24.00 per blood spot, with approximately 60,000 samples per year. The program costs approximately $7 million per year. This cost is being passed to blood spot submitters (such as hospitals) by increasing the newborn screening fee included in this amendment.

(d) How much will it cost to administer this program for subsequent years? This entire program costs approximately $7 million per year. Blood spot submitters (such as hospitals) pay for 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:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(Amendment)

907 KAR 1:160. Home and community based waiver services version 1.

RELATES TO: KRS 205.520(3), 205.5605, 205.5606, 205.5607, 205.635, 42 C.F.R. 440.180

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.5606, 42 C.F.R. 440.180, 42 U.S.C. 1396a, 1396b, 1396d, 1396n

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 to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds[~~the provision of medical assistance to Kentucky's indigent citizenry. KRS 205.5606(1) requires the cabinet to promulgate administrative regulations to establish a consumer-directed services program to provide an option for the home and community based services waiver~~]. This administrative regulation establishes the provisions for home and community based waiver services version 1, including participant-[~~a consumer~~]directed services[~~option~~] pursuant to KRS 205.5606.

Section 1. Definitions. (1) "1915(c) home and community based services waiver program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).

(2) "Abuse" regarding:

(a) An adult is defined by KRS 209.020(8); or

(b) A child means abuse pursuant to KRS Chapter 600 or 620.

(3) "ADHC" means adult day health care.

(4)[~~(2)~~] "ADHC center" means an adult day health care center licensed in accordance
with 902 KAR 20:066.

(5)[~~(3)~~] "ADHC services" means health-related services provided on a regularly-scheduled basis that ensure optimal functioning of a participant[~~an HCB recipient~~] who does not require twenty-four (24) hour care in an institutional setting.

(6)[~~(4)~~] "Advanced practice registered nurse[~~practitioner~~]" or "APRN[~~ARNP~~]" means a person who acts within his or her scope of practice and is licensed in accordance with KRS 314.042.

(7)[~~(5)~~] "Assessment team" means a team that[~~which~~]:

(a) Conducts assessment or reassessment services; and

(b) Consists of:

1. Two (2) registered nurses; or

2. One (1) registered nurse and one (1) of the following:

a. A certified social worker;

b. A certified psychologist with autonomous functioning;

c. A licensed psychological practitioner;

d. A licensed marriage and family therapist;[~~or~~]

e. A licensed professional clinical counselor; or

f. A licensed clinical social worker.

(8)[~~(6)~~] "Blended services" means a nonduplicative combination of HCB waiver services identified in Section 5 of this administrative regulation and PDS[~~CDO services~~] identified in Section 6 of this administrative regulation provided pursuant to a recipient's approved plan of care.

(9)[~~(7)~~] "Budget allowance" is defined by KRS 205.5605(1).

(10)[~~(8)~~] "Certified psychologist with autonomous functioning" or "licensed psychological practitioner" means a person licensed pursuant to KRS Chapter 319.

(11) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

(12) "Chemical restraint" means a drug or medication:

(a) Used to restrict an individual's:

1. Behavior; or

2. Freedom of movement; and

(b)1. That is not a standard treatment for the individual's condition; or

2. Dosage that is not an appropriate dosage for the individual's condition.

(13)[~~(9)~~] "Communicable disease" means a disease that is transmitted:

(a) Through direct contact with an infected individual;

(b) Indirectly through an organism that carries disease-causing microorganisms from one (1) host to another or a bacteriophage, a plasmid, or another agent that transfers genetic material from one (1) location to another; or

(c) Indirectly by a bacteriophage, a plasmid, or another agent that transfers genetic material from one (1) location to another.

(14)[~~(10) "Consumer" is defined by KRS 205.5605(2).~~

~~(11) "Consumer-directed option" or "CDO" means an option established by KRS 205.5606 within the home- and community-based services waiver that allows recipients to:~~

~~(a) Assist with the design of their programs;~~

~~(b) Choose their providers of services; and~~

~~(c) Direct the delivery of services to meet their needs.~~

~~(12)~~] "Covered services and supports" is defined by KRS 205.5605(3).

(15)[~~(13)~~] "DCBS" means the Department for Community Based Services.

(16)[~~(14)~~] "Department" means the Department for Medicaid Services or its designee.

(17)[~~(15)~~] "Electronic signature" is defined by KRS 369.102(8).

(18) "Exploitation" regarding:

(a) An adult is defined by KRS 209.020(9); or

(b) A child means exploitation pursuant to KRS Chapter 600 or 620.

(19)[~~(16) "HCB recipient" means an individual who:~~

~~(a) Is a recipient as defined by KRS 205.8451(9);~~

~~(b) Meets the NF level of care criteria established in 907 KAR 1:022; and~~

~~(c) Meets the eligibility criteria for HCB waiver services established in Section 4 of this administrative regulation.~~

~~(17)~~] "Home and community based waiver services" or "HCB waiver services" means home and community based waiver services:

(a) For individuals who meet the requirements of Section 4 of

this administrative regulation; and

(b) Covered by the department pursuant to this administrative regulation.

(20)[~~(18)~~] "Home and community support services" means nonresidential and nonmedical home and community based services and supports that:

(a) Meet the participant's[~~consumer's~~] needs; and

(b) Constitute a cost-effective use of funds.

(21)[~~(19)~~] "Home health agency" means an agency that is:

(a) Licensed in accordance with 902 KAR 20:081; and

(b) Medicare and Medicaid certified.

(22) "Illicit drug" means:

(a) A drug, prescription or not prescription, used illegally or in excess of therapeutic levels; or

(b) A prohibited drug.

(23) "Licensed clinical social worker" means an individual who meets the requirements established in KRS 335.100.

(24)[~~(20)~~] "Licensed marriage and family therapist" or "LMFT" is defined by KRS 335.300(2).

(25)[~~(21)~~] "Licensed practical nurse" or "LPN" means a person who:

(a) Meets the definition established by[~~in~~] KRS 314.011(9); and

(b) Works under the supervision of a registered nurse.

(26)[~~(22)~~] "Licensed professional clinical counselor" or "LPCC" is defined by KRS 335.500(3)

(27) "Neglect" regarding:

(a) An adult is defined by KRS 209.020(16); or

(b) A child means neglect pursuant to KRS Chapter 600 or 620.

(28)[~~(23)~~] "NF" means nursing facility.

(29)[~~(24)~~] "NF level of care" means a high intensity or low intensity patient status determination made by the department in accordance with 907 KAR 1:022.

(30)[~~(25)~~] "Normal baby sitting" means general care provided to a child that[~~which~~] includes custody, control, and supervision.

(31)[~~(26)~~] "Occupational therapist" is defined by KRS 319A.010(3).

(32)[~~(27)~~] "Occupational therapy assistant" is defined by KRS 319A.010(4).

(33) "Participant" means a recipient who meets the:

(a) NF level of care criteria established in 907 KAR 1:022; and

(b) Eligibility criteria for HCB waiver services established in Section 4 of this administrative regulation.

(34)[~~(28)~~] "Patient liability" means the financial amount an individual is required to contribute toward cost of care in order to maintain Medicaid eligibility.

(35) "PDS" means participant-directed services.

(36) "Physical restraint" means any manual method or physical or mechanical device, material, or equipment that:

(a) Immobilizes or reduces the ability of a person to move his or her arms, legs, body, or head freely; and

(b) Does not including orthopedically prescribed devices or other devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a person for the purpose of:

1. Conducting routine physical examinations or tests;

2. Protecting the person from falling out of bed; or

3. Permitting the person to participate in activities without the risk of physical harm.

(37)[~~(29)~~] "Physical therapist" is defined by KRS 327.010(2).

(38)[~~(30)~~] "Physical therapist assistant" means a skilled health care worker who:

(a) Is certified by the Kentucky Board of Physical Therapy; and

(b) Performs physical therapy and related duties as assigned by the supervising physical therapist.

(39)[~~(31)~~] "Physician assistant" or "PA" is defined by KRS 311.840(3).

(40)[~~(32)~~] "Plan of care" or "POC" means a written individualized comprehensive plan that:

(a) Encompasses all HCB waiver services; and

(b) Is developed by a participant[~~an HCB recipient~~] or a participant's[~~an HCB recipient's~~] legal representative, case manager, or other individual designated by the participant[~~HCB recipient~~].

(41)[~~(33)~~] "Plan of treatment" means a care plan developed and used by an ADHC center based on the recipient's individualized ADHC service needs, goals, interventions and outcomes.

(42) "Prohibited drug" means a drug or substance that is illegal under KRS Chapter 218A or statutes or administrative regulations of the Commonwealth of Kentucky.

(43)[~~(34)~~] "Registered nurse" or "RN" means a person who:

(a) Meets the definition established by[~~in~~] KRS 314.011(5); and

(b) Has one (1) year or more experience as a professional nurse.

(44)[~~(35)~~] "Representative" is defined by KRS 205.5605(6).

(45)[~~(36)~~] "Sex crime" is defined by KRS 17.165(1).

(46)[~~(37) "Social worker" means a person with a bachelor's degree in social work, sociology, or a related field.~~

~~(38)~~] "Speech-language pathologist" is defined by KRS 334A.020(3).

(47)[~~(39)~~] "Support broker" means an individual chosen by a participant[~~consumer~~] from an agency designated by the department to:

(a) Provide training, technical assistance, and support to a participant[~~consumer~~]; and

(b) Assist a participant[~~consumer~~] in any other aspects of PDS [~~CDO~~].

(48)[~~(40)~~] "Support spending plan" means a plan for a participant[~~consumer~~] that identifies the:

(a) PDS[~~CDO services~~] requested;

(b) Employee name;

(c) Hourly wage;

(d) Hours per month;

(e) Monthly pay;

(f) Taxes; and

(g) Budget allowance.

(49)[~~(41)~~] "Violent crime" is defined by KRS 17.165(3).

(50) "Violent offender" is defined by KRS 17.165(2).

Section 2. Provider Participation. (1) In order to provide HCB waiver services version 1, excluding participant-[~~consumer~~] directed [~~option~~] services, an HCB waiver[~~a~~] provider shall be a home health agency or ADHC center that provides services:

(a) Directly; or

(b) Indirectly through a subcontractor.

(2) An out-of-state provider shall comply with the requirements of this administrative regulation.

(3) An HCB waiver[~~A~~] provider[~~shall~~]:

(a) Shall comply with the following administrative regulations and program requirements:

1. 902 KAR 20:081[~~, Operations and services; home health agencies~~];

2. 907 KAR 1:671[~~, Conditions of Medicaid provider participation; withholding overpayments, administrative appeal process, and sanctions~~];

3. 907 KAR 1:672[~~, Provider enrollment, disclosure, and documentation for Medicaid participation~~];

4. 907 KAR 1:673[~~, Claims processing~~];

5. The Department for Medicaid Services Home and Community Based Waiver Services Manual; and

6. The Department for Medicaid Services Adult Day Health Care Services Manual;

(b) Shall not enroll a participant[~~an HCB recipient~~] for whom the provider cannot provide HCB waiver services;

(c) Shall be permitted to accept or not accept a participant[~~an HCB recipient~~];

(d) Shall implement a procedure to ensure that the following is reported:

1. Abuse, neglect, or exploitation of a participant[~~an HCB recipient~~] in accordance with KRS Chapters 209 or 620;

2. A slip or fall;

3. A transportation incident;

4. Improper administration of medication;

5. A medical complication; or

6. An incident caused by the recipient, including:

a. Verbal or physical abuse of staff or other recipients;

b. Destruction or damage of property; or

c. Recipient self-abuse;

(e) Shall ensure a copy of each incident reported in accordance with paragraph (d) of this subsection is maintained in a central file subject to review by the department;

(f) Shall implement a process for communicating the incident, the outcome, and the prevention plan to:

1. A participant[an HCB recipient], family member, or [his] responsible party; and

2. The attending physician, PA, or APRN[ARNP];

(g) Shall maintain documentation of any communication provided in accordance with paragraph (f) of this subsection. The documentation shall be:

1. Recorded in the participant's[HCB recipient's] case record; and

2. Signed and dated by the staff member making the entry;

(h) Shall implement a procedure that ensures the reporting of a recipient or any interested party's complaint against the provider or its personnel to the provider agency or facility;

(i) Shall ensure that a copy of each complaint reported is maintained in a central file subject to review by the department;

(j) Shall implement a process for communicating a complaint, the resulting outcome, and related prevention plan to:

1. The participant[HCB recipient], family member, or the participant's[HCB recipient's] responsible party; and

2. The attending physician, PA, or APRN[ARNP] if appropriate;

(k) Shall maintain documentation of any communication provided in accordance with paragraph (j) of this subsection. The documentation shall be:

1. Recorded in the participant's[HCB recipient's] case record; and

2. Signed and dated by the staff member making the entry;

(l) Shall inform a recipient or any interested party in writing of the provider's:

1. Hours of operation; and

2. Policies and procedures;

(m) Shall not permit a staff member who has contracted a communicable disease to provide a service to a participant[an HCB recipient] until the condition is determined to no longer be contagious;[and]

(n) Shall ensure that a staff member who provides direct services:

1. Demonstrates the ability to:

a. Read;

b. Write;

c. Understand and carry out instructions;

d. Keep simple records; and

e. Interact with a participant[an HCB recipient] when providing an HCB waiver service;

2. Is trained by an HCB waiver provider; and

3. Is supervised by an RN at least every other month;

(o) Shall ensure that each staff person:

1. Prior to independently providing a direct service, is trained regarding:

a. Abuse, neglect, fraud, and exploitation;

b. The reporting of abuse, neglect, fraud, and exploitation;

c. Person-centered planning principles;

d. Documentation requirements; and

e. HCB services definitions and requirements;

2. Receives cardio pulmonary resuscitation certification and first aid certification provided by a nationally accredited entity within six (6) months of employment;

3. Maintains current CPR certification and first aid certification for the duration of the staff person's employment;

4.a. Completes a tuberculosis (TB) risk assessment performed by a licensed medical professional within the past twelve (12) months and annually thereafter; and

b.(i) If a TB risk assessment resulted in a TB skin test being performed, have a negative result within the past twelve (12) months as documented on test results received by the provider within thirty (30) days of the date of hire; and

(ii) If it is determined that signs or symptoms of active disease are present, in order for the person to be allowed to work, he or she shall be administered follow-up testing by his or her physician with the testing indicating the person does not have active TB disease; and

5. Prior to the beginning of employment, has successfully passed a drug test with no indication of prohibited or illicit drug use;

(p) Prior to hiring an individual:

1. Shall obtain:

a. The result of a criminal record check from the Kentucky Administrative Office of the Courts and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment;

b. The results of a Nurse Aide Abuse Registry check as described in 906 KAR 1:100 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment;

c. The results of a Caregiver Misconduct Registry check as described in 922 KAR 5:120 and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment; and

d. Within thirty (30) days of the date of hire, the results of a Central Registry check as described in 922 KAR 1:470 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment; or

2. May use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this paragraph; and

(q) Shall not allow a staff person to provide HCB waiver services if the individual:

1. Has a prior conviction of or pled guilty to a:

a. Sex crime; or

b. Violent crime;

2. Is a violent offender;

3. Has a prior felony conviction;

4. Has a drug related conviction, felony plea bargain, or amended plea bargain conviction within the past five (5) years;

5. Has a positive drug test for an illicit or a prohibited drug;

6. Has a conviction of abuse, neglect, or exploitation;

7. Has a Cabinet for Health and Family Services finding of:

a. Child abuse or neglect pursuant to the Central Registry as described in 922 KAR 1:470; or

b. Adult abuse, neglect, or exploitation pursuant to the Caregiver Misconduct Registry as described in 922 KAR 5:120;

8. Is listed on the Nurse Aide Abuse Registry pursuant to 906 KAR 1:100;

9. Within the twelve (12) months prior to employment, is listed on or has a finding indicated on another state's equivalent of the:

a. Nurse Aide Abuse Registry as described in 906 KAR 1:100 if the other state has an equivalent;

b. Caregiver Misconduct Registry as described in 922 KAR 5:120 if the other state has an equivalent; or

c. Central Registry as described in 922 KAR 1:470 if the other state has an equivalent; or

10. Has been convicted of Medicaid or Medicare fraud.

Section 3. Maintenance of Records. (1) An HCB waiver provider shall maintain:

(a) A clinical record for each participant[HCB recipient]. The clinical record shall contain the following:

1. Pertinent medical, nursing, and social history;

2. A comprehensive assessment entered on form MAP-351, Medicaid Waiver Assessment and signed by the:

a. Assessment team; and

b. Department;

3. A completed MAP 109, Plan of Care/Prior Authorization for Waiver Services;

4. A copy of the MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form signed by the recipient or recipient's[his] legal representative at the time of application or reapplication and each recertification thereafter;

5. The name of the case manager;

6. Documentation of all level of care determinations;

7. All documentation related to prior authorizations, including requests, approvals, and denials;

8. Documentation of each contact with, or on behalf of, a participant[an HCB recipient];

9. Documentation that the participant[HCB recipient] receiving ADHC services was provided a copy of the ADHC center's posted hours of operation;[and]

10. Documentation that the participant[recipient] or legal representative was informed of the procedure for reporting complaints; and

11. Documentation of each service provided that shall include:

a. The date the service was provided;

b. The duration of the service;

c. The arrival and departure time of the provider, excluding travel time, if the service was provided at the participant's[HCB recipient's] home;

d. Itemization of each personal care or homemaking service delivered;

e. The participant's[HCB recipient's] arrival and departure time, excluding travel time, if the service was provided at the ADHC center;

f. Progress notes, which shall include documentation of changes, responses, and treatments utilized to evaluate the participant's[HCB recipient's] needs; and

g. The name, title, and signature of the service provider; and

(b) Fiscal reports, service records, and incident reports regarding services provided. These reports shall be retained:

1. At least six (6) years from the date that a covered service is provided; or

2. For a minor, three (3) years after the recipient reaches the age of majority under state law, whichever is longest.

(2) Upon request, an HCB waiver provider shall make information regarding service and financial records available to the:

(a) Department;

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

(c) Department for Health and Human Services or its designee;

(d) General Accounting Office or its designee;

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

(f) Office of the Attorney General or its designee.

Section 4. Participant[HCB Recipient] Eligibility Determinations and Redeterminations. (1) An HCB waiver service shall be provided to a Medicaid eligible participant[HCB recipient] who:

(a) Is determined by the department to meet NF level of care requirements; and

(b) Would, without waiver services, be admitted by a physician's order to an NF.

(2) The department shall perform an NF level of care determination for each participant[HCB recipient] at least once every twelve (12) months or more often if necessary.

(3) An HCB waiver service shall not be provided to an individual who:

(a) Does not require a service other than:

1. A minor home adaptation;

2. Case management; or

3. A minor home adaptation and case management;

(b) Is an inpatient of:

1. A hospital;

2. An NF; or

3. An intermediate care facility for individuals with an intellectual disability[an individual with mental retardation or a developmental disability];

(c) Is a resident of a licensed personal care home; or

(d) Is receiving services from another 1915(c)[Medicaid] home and community based services waiver program.

(4) An HCB waiver provider shall:

(a) Inform a participant[an HCB recipient] or the participant's[his] legal representative of the choice to receive:

1. HCB waiver services; or

2. Institutional services; and

(b) Require a participant[an HCB recipient] to sign a MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form at the time of application or reapplication and at each recertification to document that the individual was informed of the choice to receive HCB waiver or institutional services.

(5) An eligible participant[HCB recipient] or the participant's [recipient's] legal representative shall select a participating HCB waiver provider from which the participant[recipient] wishes to receive HCB waiver services.

(6) The department may exclude from the HCB waiver program an individual for whom the aggregate cost of HCB waiver services would reasonably be expected to exceed the cost of NF services.

(7) An HCB waiver provider shall use a MAP-24, Memorandum to notify the local DCBS office and the department of a participant's[an HCB recipient's]:

(a) Termination from the HCB waiver program; or

(b)1. Admission to an NF for less than sixty (60) consecutive days; and

2. Return to the HCB waiver program from an NF within sixty (60) consecutive days.

Section 5. Covered Services. (1) An HCB waiver service shall:

(a) Be prior authorized by the department to ensure that the service or modification of the service already meets the needs of the participant[HCB recipient];

(b) Be provided pursuant to a plan of care or, for a PDS[CDO service], pursuant to a plan of care and support spending plan;

(c) Except for a PDS[CDO service], not be provided by a member of the participant's[HCB recipient's] family. A PDS[CDO service] may be provided by a participant's[an HCB recipient's] family member; and

(d) Be accessed within sixty (60) days of the date of prior authorization.

(2) To request prior authorization, a provider shall submit a completed MAP 10, MAP 109, Plan of Care/Prior Authorization for Waiver Services, and MAP 351, Medicaid Waiver Assessment to the department.

(3) Covered HCB services shall include:

(a) A comprehensive assessment, which shall:

1. Identify a participant's[an HCB recipient's] needs and the services that the participant[HCB recipient] or the participant's[recipient's] family cannot manage or arrange for on the participant's[recipient's] behalf;

2. Evaluate a participant's[an HCB recipient's] physical health, mental health, social supports, and environment;

3. Be requested by an individual seeking HCB waiver services or the individual's family, legal representative, physician, physician assistant, or APRN[ARNP];

4. Be conducted by an assessment team within seven (7) calendar days of receipt of the request for assessment; and

5. Include at least one (1) face-to-face home visit by a member of the assessment team with the participant[HCB recipient] and, if appropriate, the participant's[recipient's] family;

(b) A reassessment service, which shall:

1. Determine the continuing need for HCB waiver services and, if appropriate, PDS[CDO services];

2. Be performed at least every twelve (12) months;

3. Be conducted using the same procedures used in an assessment service;

4. Not be retroactive; and

5. Be initiated by an HCB waiver provider or support broker who shall:

a. Notify the department no more than three (3) weeks prior to the expiration of the current level of care certification to ensure that certification is consecutive; and

b. Not be reimbursed for a service provided during a period that a participant[an HCB recipient] is not covered by a valid level of care certification;

(c) A case management service, which shall:

1. Consist of coordinating the delivery of direct and indirect services to a participant[an HCB recipient];

2. Be provided by a case manager who shall:

a. Be an RN, LPN, certified social worker, certified psychologist

with autonomous functioning, licensed psychological practitioner, LMFT, licensed clinical social worker, or an LPCC;

b. Arrange for a service but not provide a service directly;

c. Contact the participant[~~HCB recipient~~] monthly by telephone or through a face-to-face visit at the participant's[~~HCB recipient's~~] residence or in the ADHC center, with a minimum of one (1) face-to-face visit between the case manager and the participant[~~recipient~~] every other month; and

d. Assure that service delivery is in accordance with a participant's[~~an HCB recipient's~~] plan of care;

3. Not include a group conference; and

4. Include development of a plan of care that shall:

a. Be completed on the MAP 109, Plan of Care/Prior Authorization for Waiver Services;

b. Reflect the needs of the participant[~~HCB recipient~~];

c. List goals, interventions, and outcomes;

d. Specify services needed;

e. Determine the amount, frequency, and duration of services;

f. Provide for reassessment at least every twelve (12) months;

g. Be developed and signed by the assessment team, case manager, and participant[~~HCB recipient~~] or participant's[~~his~~] family; and

h. Be submitted to the department no later than thirty (30) calendar days after receiving the department's verbal approval of NF level of care;

(d) A homemaker service, which shall consist of general household activities and shall be provided:

1. By staff pursuant to Section 2(3)(m) and (n) of this administrative regulation; and

2. To a participant[~~an HCB recipient~~]:

a. Who is functionally unable, but would normally perform age-appropriate homemaker tasks; and

b. If the caregiver regularly responsible for homemaker activities is temporarily absent or functionally unable to manage the homemaking activities;

(e) A personal care service, which shall consist of age-appropriate medically-oriented services and be provided:

1. By staff pursuant to Section 2(3)(m) and (n) of this administrative regulation; and

2. To a participant[~~an HCB recipient~~]:

a. Who does not need highly skilled or technical care;

b. For whom services are essential to the participant's[~~recipient's~~] health and welfare and not for the participant's[~~recipient's~~] family; and

c. Who needs assistance with age-appropriate activities of daily living;

(f) An attendant care service, which shall consist of hands-on care that is:

1. Provided by staff pursuant to Section 2(3)(m) and (n) of this administrative regulation to a participant[~~an HCB recipient~~] who:

a. Is medically stable but functionally dependent and requires care or supervision twenty-four (24) hours per day; and

b. Has a family member or other primary caretaker who is employed and not able to provide care during working hours;

2. Not of a general housekeeping nature; and

3. Not provided to a participant[~~an HCB recipient~~] who is receiving any of the following HCB waiver services:

a. Personal care;

b. Homemaker; or

c. ADHC;

(g) A respite care service, which shall be short term care based on the absence or need for relief of the primary caretaker and be:

1. Provided by staff pursuant to Section 2(3)(m) and (n) of this administrative regulation who provide services at a level that appropriately and safely meets the medical needs of the participant[~~HCB recipient~~] in the following settings:

a. A participant's[~~an HCB recipient's~~] place of residence; or

b. An ADHC center during posted hours of operation;

2. Provided to a participant[~~an HCB recipient~~] who has care needs beyond normal baby sitting;

3. Used no less than every six (6) months; and

4. Provided in accordance with 902 KAR 20:066;

(h) A minor home adaptation service, which shall be a physical adaptation to a home that is necessary to ensure the health, welfare, and safety of a participant,[~~an HCB recipient~~] and which shall:

1. Meet all applicable safety and local building codes;

2. Relate strictly to the participant's[~~HCB recipient's~~] disability and needs;

3. Exclude an adaptation or improvement to a home that has no direct medical or remedial benefit to the participant[~~HCB recipient~~]; and

4. Be submitted on form MAP-95 Request for Equipment Form for prior authorization; or

(i) An ADHC service, which shall:

1. Except for a participant[~~an HCB recipient~~] approved for an ADHC service prior to May 1, 2003, be provided to a participant[~~an HCB recipient~~] who is at least twenty-one (21) years of age;

2. Include the following basic services and necessities provided to participants[~~Medicaid waiver recipients~~] during the posted hours of operation:

a. Skilled nursing services provided by an RN or LPN, including ostomy care, urinary catheter care, decubitus care, tube feeding, venipuncture, insulin injections, tracheotomy care, or medical monitoring;

b. Meal service corresponding with hours of operation with a minimum of one (1) meal per day and therapeutic diets as required;

c. Snacks;

d. The presence of[~~Supervision by~~] an RN or LPN;

e. Age and diagnosis appropriate daily activities; and

f. Routine services that meet the daily personal and health care needs of a participant[~~an HCB recipient~~], including:

(i) Monitoring of vital signs;

(ii) Assistance with activities of daily living; and

(iii) Monitoring and supervision of self-administered medications, therapeutic programs, and incidental supplies and equipment needed for use by a participant[~~an HCB recipient~~];

3. Include developing, implementing, and maintaining nursing policies for nursing or medical procedures performed in the ADHC center;

4. Include ancillary services in accordance with 907 KAR 1:023, if ordered by a physician, PA, or APRN[~~ARNP~~] in a participant's[~~an HCB recipient's~~] ADHC plan of treatment. Ancillary services shall:

a. Consist of evaluations or reevaluations for the purpose of developing a plan, which shall be carried out by the participant[~~HCB recipient~~] or ADHC center staff;

b. Be reasonable and necessary for the participant's[~~HCB recipient's~~] condition;

c. Be rehabilitative in nature;

d. Include physical therapy provided by a physical therapist or physical therapist[~~therapy~~] assistant, occupational therapy provided by an occupational therapist or occupational therapy[~~therapist~~] assistant, or speech therapy provided by a speech-language pathologist; and

e. Comply with the physical, occupational, and speech therapy requirements established in Technical Criteria for Reviewing Ancillary Services for Adults;

4. Include respite care services pursuant to paragraph (g) of this subsection;

5. Be provided to a participant[~~an HCB recipient~~] by the health team in an ADHC center, which may include:

a. A physician;

b. A physician assistant;

c. An APRN[~~ARNP~~];

d. An RN;

e. An LPN;

f. An activities director;

g. A physical therapist;

h. A physical therapist assistant;

i. An occupational therapist;

j. An occupational therapy assistant;

k. A speech pathologist;

l. A certified social worker;

m. A licensed clinical social worker;

n. A nutritionist;
o.[~~n.~~] A health aide;
p.[~~o.~~] An LPCC;
q.[~~p.~~] An LMFT;
r.[~~q.~~] A certified psychologist with autonomous functioning; or
s.[~~r.~~] A licensed psychological practitioner; and
7. Be provided pursuant to a plan of treatment. The plan of treatment shall:
a.[~~(i)~~] Be developed and signed by each member of the plan of treatment team, which shall include the participant[~~recipient~~] or a legal representative of the participant[~~recipient~~];
b.[~~(ii)~~] Include pertinent diagnoses, mental status, services required, frequency of visits to the ADHC center, prognosis, rehabilitation potential, functional limitation, activities permitted, nutritional requirements, medication, treatment, safety measures to protect against injury, instructions for timely discharge, and other pertinent information; and
c.[~~(iii)~~] Be developed annually from information on the MAP 351, Medicaid Waiver Assessment and revised as needed.
(4) Modification of an ancillary therapy service or an ADHC unit of service shall require prior authorization as established in this subsection.[~~follows:~~]
(a) Prior authorization shall:
1. Be requested by an RN or designated ADHC center staff; and
2. Require submission of a revised MAP 109, Plan of Care/Prior Authorization for Waiver Services and an order signed by a physician, physician assistant, or APRN.[~~ARNP;~~]
(b) An RN or designated ADHC center staff shall forward a copy of the documents required in paragraph (a) of this subsection to the HCB case manager or the participant's[~~consumer's~~] support broker for inclusion in the participant's[~~HCB recipient's~~] case records within ten (10) working days of the prior authorization request.[~~; and~~]
(c) Upon approval or denial of a prior authorization request, the department shall provide written notification to the HCB agency, the ADHC center, and the participant[~~HCB recipient~~].
(d) The case manager or support broker shall:
1. Inform the ADHC center of approval or denial; and
2. Document the approval or denial in the case record.
(5)(a) An ADHC center shall maintain a sign in and out log documenting the provision of services to participants.
(b) Documentation shall include:
1. The date the service was provided;
2. The duration of the service;
3. The arrival and departure time of the participant;
4. A description of the service provided; and
5. The title and signature of the staff who provided the service.

Section 6. Participant-[~~Consumer~~] Directed Services[~~Option~~]. (1) Covered services and supports provided to a participant[~~an HCB recipient~~] participating in PDS[~~CDO~~] shall include:
(a) A home and community support service, which shall:
1. Be available only under the participant-[~~consumer~~] directed services [~~option~~];
2. Be provided in the participant's[~~consumer's~~] home or in the community;
3. Be based upon therapeutic goals and not divisional in nature; and
4. Not be provided to a participant[~~an individual~~] if the same or similar service is being provided to the participant[~~individual~~] via non-PDS[~~CDO~~] HCB waiver services; or
(b) Goods and services, which shall:
1. Be individualized;
2. Meet identified needs required by the participant's[~~individual's~~] plan of care that[~~which~~] are necessary to ensure the health, welfare and safety of the participant[~~individual~~];
3. Be items or minor adaptations[~~in the~~] that are utilized to reduce the need for personal care or to enhance independence within the home or community of the participant[~~recipient~~];
4. Not include experimental goods or services; and
5. Not include chemical or physical restraints.
(2) To be covered, a PDS[~~CDO service~~] shall be specified in the plan of care.
(3) Reimbursement for a PDS[~~CDO service~~] shall not exceed the department's allowed reimbursement for the same or similar service provided in a non-PDS[~~CDO~~] HCB setting.
(4) A participant[~~consumer~~], including a married participant[~~consumer~~], shall choose providers and a participant's[~~consumer's~~] choice shall be reflected or documented in the plan of care.
(5)(a) A participant[~~consumer~~] may designate a representative to act on the participant's[~~consumer's~~] behalf.
(b) A PDS[~~The CDO~~] representative shall:
1.[~~(a)~~] Be twenty-one (21) years of age or older;
2.[~~(b)~~] Not be monetarily compensated for acting as the PDS [~~CDO~~] representative or providing a PDS[~~CDO service~~];[~~and~~]
3.[~~(c)~~] Be appointed by the participant[~~consumer~~] on a MAP 2000, Initiation/Termination of Participant-Directed Services;
4. Comply with the requirements for background and related checks established in Section 2(3)(p) of this administrative regulation; and
5. Not be a PDS representative if found in violation of any of the provisions established in subsection (11)(i) of this section[~~form~~].
(6) A participant[~~consumer~~] may voluntarily terminate PDS[~~CDO services~~] by completing a MAP 2000, Initiation/ Termination of Participant-Directed Services and submitting it to the support broker.
(7) The department shall immediately terminate a participant[~~consumer~~] from PDS[~~CDO services~~] if:
(a) Imminent danger to the participant's[~~consumer's~~] health, safety, or welfare exists;
(b) The participant[~~consumer~~] fails to pay patient liability;
(c) The participant's[~~consumer's~~] plan of care indicates he or she requires more hours of service than the program can provide, which may jeopardize the participant's[~~consumer's~~] safety and welfare due to being left alone without a caregiver present; or
(d) The participant[~~consumer~~], caregiver, family, or guardian threaten or intimidate a support broker or other PDS[~~CDO~~] staff.
(8) The department may terminate a participant[~~consumer~~] from PDS[~~CDO services~~] if it determines that the participant's PDS[~~consumer's CDO~~] provider has not adhered to the plan of care.
(9) Except as provided in subsection (7) of this section to a participant's[~~consumer's~~] termination from PDS[~~CDO services~~], the support broker shall:
(a) Notify the assessment or reassessment service provider of potential termination;
(b) Assist the participant[~~consumer~~] in developing a resolution and prevention plan;
(c) Allow at least thirty (30) but no more than ninety (90) days for the participant[~~consumer~~] to resolve the issue, develop and implement a prevention plan, or designate a PDS[~~CDO~~] representative;
(d) Complete[~~,~~] and submit to the department[~~,~~] a MAP 2000, Initiation/Termination of Participant-Directed Services terminating the participant[~~consumer~~] from PDS[~~CDO services~~] if the participant[~~consumer~~] fails to meet the requirements in paragraph (c) of this subsection; and
(e) Assist the participant[~~consumer~~] in transitioning back to traditional HCB waiver services.
(10) Upon an involuntary termination of PDS[~~CDO services~~], the department shall:
(a) Notify a participant[~~consumer~~] in writing of its decision to terminate the participant's PDS[~~consumer's CDO~~] participation; and
(b) Except if a participant[~~in a case where a consumer~~] failed to pay patient liability, inform the participant[~~consumer~~] of the right to appeal the department's decision in accordance with Section 9[~~8~~] of this administrative regulation.
(11) A PDS[~~CDO~~] provider shall:
(a) Be selected by the participant[~~consumer~~];
(b) Submit a completed Kentucky Participant-[~~Consumer~~] Directed Services[~~Option~~] Employee Provider Contract to the support broker;

(c) Be eighteen (18) years of age or older;

(d) Be a citizen of the United States with a valid Social Security number or possess a valid work permit if not a U.S. citizen;

(e) Be able to communicate effectively with the participant [~~consumer~~], participant[~~consumer~~] representative, or family;

(f) Be able to understand and carry out instructions;

(g) Be able to keep records as required by the participant[~~consumer~~];

(h) Submit to the[~~a criminal~~] background and related checks established in Section 2(3)(p) of this administrative regulation[~~check~~];

(i) Not be a PDS provider if the individual:

1. Has a prior conviction of or pled guilty to a:

a. Sex crime; or

b. Violent crime;

2. Is a violent offender;

3. Has a prior felony conviction;

4. Has a drug related conviction, felony plea bargain, or amended plea bargain conviction within the past five (5) years;

5. Has a conviction of abuse, neglect, or exploitation;

6. Has a Cabinet for Health and Family Services finding of:

a. Child abuse or neglect pursuant to the Central Registry as described in 922 KAR 1:470; or

b. Adult abuse, neglect, or exploitation pursuant to the Caregiver Misconduct
Registry as described in 922 KAR 5:120;

7. Is listed on the Nurse Aide Abuse Registry pursuant to 906 KAR 1:100;

8. Within twelve (12) months prior to employment, is listed on or has a finding indicated on another state's equivalent of the:

a. Nurse Aide Abuse Registry as described in 906 KAR 1:100 if the other state has an equivalent;

b. Caregiver Misconduct Registry as described in 922 KAR 5:120 if the other state has an equivalent; or

c. Central Registry as described in 922 KAR 1:470 if the other state has an equivalent; or

9. Has been convicted of Medicaid or Medicare fraud[~~Submit to a check of the nurse aide abuse registry maintained in accordance with 906 KAR 1:100, and not be found on the registry~~];

(j) Prior to the beginning of employment,[~~Not have pled guilty or been convicted of committing a sex crime or violent crime as defined in KRS 17.165(1) through (3)~~];

~~(k)~~] complete training on the reporting of abuse, neglect, or exploitation in accordance with KRS 209.030 or 620.030 and on the needs of the participant[~~consumer~~];

(k) Comply with the TB risk assessment and test requirements established in Section 2(3)(o)4 of this administrative regulation;

(l)1. Obtain first aid certification within six (6) months of providing PDS services; and

2. Maintain first aid certification for the duration of being a PDS provider; and

(m)1. Except as established in subparagraph 2 of this paragraph:

a. Obtain cardiopulmonary resuscitation (CPR) certification by a nationally accredited entity within six (6) months of employment; and

b. Maintain CPR certification for the duration of being a PDS provider; or

2. If the participant to whom a PDS provider provides services has a signed Do Not Resuscitate order, not be required to meet the requirements established in subparagraph 1 of this paragraph;

(n)[~~(l)~~] Be approved by the department;

(o)[~~(m)~~] Maintain and submit timesheets documenting hours worked; and

(p)[~~(n)~~] Be a friend, spouse, parent, family member, other relative, employee of a provider agency, or other person hired by the participant[~~consumer~~].

(12) A PDS provider[~~parent, parents combined or a spouse~~] shall not provide more than forty (40) hours of PDS[~~services~~] in a calendar week (Sunday through Saturday)[~~regardless of the number of children who receive waiver services~~].

(13)(a) The department shall establish a budget for a participant[~~consumer~~] based on the individual's historical costs minus five (5) percent to cover costs associated with administering the participant-[~~consumer~~] directed services[~~option~~]. If no historical cost exists for the participant[~~consumer~~], the participant's[~~consumer's~~] budget shall equal the average per capita, per service historical costs of HCB recipients minus five (5) percent.

(b) Cost of services authorized by the department for the participant's[~~individual's~~] prior year plan of care but not utilized may be added to the budget if necessary to meet the participant's[~~individual's~~] needs.

(c) The department shall adjust a participant's[~~consumer's~~] budget based on the participant's[~~consumer's~~] needs and in accordance with paragraphs (d) and (e) of this subsection.

(d) A participant's[~~consumer's~~] budget shall not be adjusted to a level higher than established in paragraph (a) of this subsection unless:

1. The participant's[~~consumer's~~] support broker requests an adjustment to a level higher than established in paragraph (a) of this subsection; and

2. The department approves the adjustment.

(e) The department shall consider the following factors in determining whether to allow for a budget adjustment:

1. If the proposed services are necessary to prevent imminent institutionalization;

2. The cost effectiveness of the proposed services;

3. Protection of the participant's[~~consumer's~~] health, safety and welfare; and

4. If a significant change has occurred in the participant's[~~recipient's~~]:

a. Physical condition resulting in additional loss of function or limitations to activities of daily living and instrumental activities of daily living;

b. Natural support system; or

c. Environmental living arrangement resulting in the participant's[~~recipient's~~] relocation.

(f) A participant's[~~consumer's~~] budget shall not exceed the average per capital cost of services provided to individuals in an[~~a~~] NF.

(14) Unless approved by the department pursuant to subsection (13)(b) through (e) of this section, if a PDS[~~CDO service~~] is expanded to a point in which expansion necessitates a budget allowance increase, the entire service shall only be covered via a traditional (non-PDS[~~CDO~~]) waiver service provider.

(15) A support broker shall:

(a) Provide any needed assistance to a participant[~~consumer~~] with any aspect of PDS[~~CDO~~] or blended services;

(b) Be available to a participant[~~consumer~~] twenty-four (24) hours per day, seven (7) days per week;

(c) Comply with all applicable federal and state laws and requirements;

(d) Continually monitor a participant's[~~consumer's~~] health, safety, and welfare; and

(e) Complete or revise a plan of care using the person-centered planning principles established in Person Centered Planning: Guiding Principles.

(16)(a) For a PDS[~~CDO~~] participant, a support broker may conduct an assessment or reassessment; and

(b) A PDS[~~CDO~~] assessment or reassessment performed by a support broker shall comply with the assessment or reassessment provisions established in Section 5(3) of this administrative regulation.

Section 7. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A home health provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, and contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature[~~immediately upon request~~].

Section 8. Applicability and Transition to HCB Waiver Version 2. (1) The provisions and requirements established in this administrative regulation shall:

(a) Apply to HCB waiver services provided to an HCB waiver service recipient until the recipient transitions to the HCB waiver version 2; and

(b) Not apply to individuals receiving HCB waiver services version 2 pursuant to 907 KAR 7:010.

(2) An HCB waiver recipient receiving services pursuant to this administrative regulation shall transition to receiving services pursuant to 907 KAR 7:010 upon the recipient's next level-of-care determination provided that the determination confirms that the individual is still eligible for HCB waiver services.

(3) The provisions and requirements established in this administrative regulation shall become null and void at the time that every eligible HCB waiver recipient served in accordance with this administrative regulation has transitioned to the HCB waiver services Version 2 program pursuant to 907 KAR 7:010.

Section 9. Appeal Rights. An appeal of a department determination regarding NF level of care or services to a participant[~~an HCB recipient or a consumer~~] shall be in accordance with 907 KAR 1:563.

Section 10.[~~9.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Department for Medicaid Services Adult Day Health Care Services Manual", May 2005[~~edition~~];

(b) "Department for Medicaid Services Home and Community Based Waiver Services Manual", September 2006[~~edition~~];

(c) "Person Centered Planning: Guiding Principles", March 2005 [~~edition~~];

(d) "Technical Criteria for Reviewing Ancillary Services for Adults", November 2003[~~edition~~];

(e) "MAP-24, [~~The Commonwealth of Kentucky, Cabinet for Health and Family Services, Department for Community Based Services~~] Memorandum", August 2008[~~February 2001 edition~~];

(f) "MAP-95 Request for Equipment Form" June 2007[~~edition~~];

(g) "MAP 109, Plan of Care/Prior Authorization for Waiver Services", July 2008[~~March 2007 edition~~];

(h) "MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form", July 2008[~~January 2000 edition~~];

(i) "MAP-351,[~~The Department for Medicaid Services,~~] Medicaid Waiver Assessment", July 2015;[~~March 2007 edition:~~]

(j) "MAP 2000, Initiation/Termination of Participant-[~~Consumer~~] Directed Services[~~Option (CDO)~~]", June 2015[~~2007, edition~~];

(k) "MAP-10, Waiver Services Physician's Recommendation", August 2014[~~March 2007 edition~~]; and

(l) Kentucky Participant-[~~Consumer~~] Directed Services[~~Option~~] Employee Provider Contract, June 2015[~~March 2008~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to 4:30 p.m.907 KAR 1:160

LISA LEE, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 13, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 the Medicaid program coverage provisions and requirements regarding home and community based (HCB) waiver services. This program enables individuals who have nursing facility level of care needs to be able to reside in and receive services in a community setting (including their own residence) rather than have to be admitted to a nursing facility.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Medicaid program coverage provisions and requirements regarding

(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 helping enable individuals who have nursing facility level of care needs to reside in and receive services in a community setting rather than in a nursing facility.

(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 authorizing statutes by helping enable individuals who have nursing facility level of care needs to reside in and receive services in a community setting rather than in a nursing facility.

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

(a) How the amendment will change this existing administrative regulation: The amendments including establishing that the provisions in this administrative regulation apply to individuals receiving services under the current version of this waiver program until they transition to a new version – Version 2. The Department for Medicaid Services (DMS) is concurrently promulgating administrative regulations (907 KAR 7:010 and 907 KAR 7:015) which establish provisions and requirements associated with Version 2 of this waiver program. Individuals currently receiving HCB waiver services will continue to receive services pursuant to this administrative regulation until their next "recertification." The recertification is an annual process whereby individuals are re-assessed to verify that they continue to meet the criteria to qualify for HCB waiver services. At the time individuals are recertified (provided they continue to meet the criteria) they will transition to Version 2 of this program. Until then they will receive services pursuant to this administrative regulation (Version 1 of the program.) After all individuals have transitioned to Version 2, DMS intends to repeal this administrative regulation. Additional amendments include safeguards to protect program participants such as prohibiting HCB provider staff (as well as individuals who provide participant directed services) from providing services if they've pled guilty to or been convicted of a sex crime or

violent crime or have a felony conviction; requiring providers to perform background checks such as a criminal records check of the Kentucky Administrative Office of the Courts, a Nurse Aid Abuse Registry check, a Caregiver Misconduct Registry check, a Central Registry check (or allowing the checks established in the Office of Inspector General's Kentucky Applicant Registry and Employment Screening (KARES) Program satisfy the aforementioned checks); requiring providers to have staff complete training in abuse, neglect, fraud, and exploitation; requiring provider staff to obtain cardiopulmonary resuscitation (CPR) certification and first aid certification; requiring provider staff to have been assessed for tuberculosis (TB) risk and prohibited from providing care if signs of TB are present; prohibiting providers from hiring individuals who have not successfully passed a drug test; requiring individuals chosen by participants to represent them (representatives) or to provide participant-directed services to them to meet background and related check requirements; requiring individuals who provide participant-directed services to obtain CPR and first aid certification; and other safeguards. Other amendments include defining terms for clarity; replacing the term "consumer-directed option" or "CDO" with "participant-directed services" or "PDS"; and language or formatting revisions to comply with KRS Chapter 13A standards.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to enable DMS to transition individuals who receive HCB waiver services over the course of a year from this version of the program to Version 2. Additional amendments are necessary to protect the health, safety, and welfare of individuals receiving services via this program.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by enabling DMS to transition individuals from the current version of this program to a new version over the course of a year and by enhancing health, safety, and welfare safeguards for individuals who receive services via this program.

(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 enabling DMS to transition individuals from the current version of this program to a new version over the course of a year and by enhancing health, safety, and welfare safeguards for individuals who receive services via this program.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: There are currently sixty-three (63) providers (home health departments and adult day health care centers) enrolled as HCB waiver program providers. Over 9,500 individuals are currently receiving services through the 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 action is required by providers. No 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): No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation continues the program as is temporarily; thus, there is no change in benefits.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates that the amendment will be budget neutral initially.

(b) On a continuing basis: DMS anticipates that the amendment will be budget neutral 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 sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(19), and 42 C.F.R. 447.26.

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(19) requires Medicaid programs to provide care and services consistent with the best interests of Medicaid recipients.

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, additional or different requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment will affect the Department for Medicaid Services.

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).

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 any additional revenue for state or local governments during the first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates that the amendment will be budget neutral for the first year.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that the amendment will be budget neutral 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: No additional expenditures are necessary to implement this amendment.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(Amendment)

907 KAR 1:170. Reimbursement for home and community based waiver services version 1.

RELATES TO: 42 C.F.R. 441 Subparts B, G, 42 U.S.C. 1396a, 1396b, 1396d, 1396n

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds[~~for the provision of medical assistance to Kentucky's indigent citizenry~~]. This administrative regulation establishes the [~~method for determining amounts payable by the~~] Medicaid Program reimbursement provisions and requirements regarding[~~for services provided by~~] home and community based waiver services version 1[~~service providers to an eligible recipient as an alternative to nursing facility care~~].

Section 1. Definitions. (1) "ADHC" means adult day health care.

(2) "ADHC center" means an adult day health care center that is:

(a) Licensed in accordance with 902 KAR 20:066, Section 4; and

(b) Certified for Medicaid participation by the department.

(3) "Cost report" means the Home Health and Home and Community Based Cost Report and the Home Health and Home and Community Based Cost Report Instructions.

(4) "DD" means developmentally disabled.

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

(6) "Fixed upper limit" means the maximum amount the department shall reimburse for a unit of service.

(7) "HCB" means home and community based waiver.

(8)[~~"HCB recipient" means an individual who:~~

~~(a) Meets the criteria for a recipient as defined in KRS 205.8451; and~~

~~(b) Meets the criteria for HCB services as established in 907 KAR 1:160.~~

~~(9)~~] "Level I reimbursement" means a reimbursement rate paid to an ADHC center for a basic unit of service provided by the ADHC center to a participant[~~an individual designated as an HCB recipient~~].

(9)[~~(10)~~] "Level II reimbursement" means a reimbursement rate paid to an ADHC center for a basic unit of service provided by the ADHC center to a participant[~~an individual designated as an HCB recipient~~], if the ADHC center meets the criteria established in Sections 5 and 6[~~and 7~~] of this administrative regulation.

(10)[~~(11)~~] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(11)[~~(12)~~] "Metropolitan statistical area" means the designation of an urban population center based on the national census and updated on a yearly basis as published by the United States Office of Management and Budget.

(12)[~~(13)~~] "Nonprofit organization" means a legally constituted organization under the Internal Revenue Service code whose objective is to support or engage in activities of public or private interest without any commercial or monetary profit.

(13)[~~(14)~~] "Occupational therapist" is defined by KRS 319A.010(3).

(14)[~~(15)~~] "Occupational therapy assistant" is defined by KRS 319A.010(4).

(15) "Participant" means a recipient who:

(a) Meets the nursing facility level of care criteria established in 907 KAR 1:022; and

(b) Meets the eligibility criteria for HCB services established in Section 4 of this administrative regulation.

(16) "Physical therapist" is defined by KRS 327.010(2).

(17) "Physical therapist assistant" means a skilled health care worker who:

(a) Is certified by the Kentucky Board of Physical Therapy; and

(b) Performs physical therapy and related duties as assigned by the supervising physical therapist.

(18) "Quality improvement organization" or "QIO" is defined in 42 C.F.R. 475.101.

(19)[~~"Revenue code service" means:~~

~~(a) An assessment, reassessment, homemaking, personal care, respite, or attendant care service; or~~

~~(b) A minor home adaptation.~~

~~(20) "Safety net provider" means a provider which:~~

~~(a) Provides 100,000 or more units, adjudicated by the department, of revenue code services via the department's home and community based waiver services program per year;~~

~~(b) Provides revenue code services via the department's home and community based waiver services program in an area that is not a Metropolitan Statistical Area of the Commonwealth; and~~

~~(c) Is a nonprofit organization.~~

~~(21)~~] "Speech-language pathologist" is defined by KRS 334A.020(3).

Section 2. HCB Service Reimbursement. (1)(a) Except as provided in Section 3, 4, or 5 of this administrative regulation, the department shall reimburse for a home and community based waiver service provided in accordance with 907 KAR 1:160 at the lesser of:

1. Billed charges; or

2. The fixed upper payment rate for each unit of service.

(b) The unit amounts,[~~following rates shall be the~~] fixed upper payment rate limits, and other limits established in the following table shall apply:

Home and Community Based Waiver Service	Fixed Upper Payment Rate Limit	Unit of Service
Assessment	$100.00	Entire assessment process
Reassessment	$100.00	Entire reassessment process
Case Management	$15.00	15 minutes
Homemaking	$13.00	30 minutes
Personal Care	$15.00	30 minutes
Attendant Care	$11.50	1 hour (not to exceed 45 hours per week)
Respite	$2,000 per 6 months (January 1 through June 30 and July 1 through December 31, not to exceed $4,000 per calendar year)	1 hour
Minor Home Adaptation	$500 per calendar year	

(2) A service listed in subsection (1) of this section shall not be subject to cost settlement by the department unless provided by a local health department.

(3) A homemaking service shall be limited to no more than four (4) units per week per participant[~~HCB recipient~~].

Section 3. Local Health Department HCB Service Reimbursement. (1) The department shall reimburse a local health department for HCB services:

(a) Pursuant to Section 2 of this administrative regulation; and

(b) Equivalent to the local health department's HCB services cost for a fiscal year.

(2) A local health department shall submit a cost report to the department at fiscal year's end.

(3) The department shall determine, based on a local health department's most recently submitted annual cost report, the local health department's estimated costs of providing HCB services by multiplying the cost per unit by the number of units provided during the period.

(4) If a local health department's[~~department~~] HCB service reimbursement for a fiscal year is less than its cost, the department shall make supplemental payment to the local health department equal to the difference between:

(a) Payments received for HCB services provided during a fiscal year; and

(b) The estimated cost of providing HCB services during the same time period.

(5) If a local health department's HCB service cost as estimated from its most recently submitted annual cost report is less than the payments received pursuant to Section 2 of this administrative regulation, the department shall recoup any excess payments.

(6) The department shall audit a local health department's cost report if it determines an audit is necessary.

Section 4.[~~Safety Net Provider Standard Reimbursement. (1) The department shall reimburse for a revenue code service provided by a safety net provider a rate equal to the median rate of all local health departments for the revenue code service.~~

~~(2) The median rate referenced in subsection (1) of this section shall be the median rate subsequent to any supplemental payment pursuant to Section 3(4) or recoupment pursuant to Section 3(5) of this administrative regulation.~~

~~Section 5.~~] Reimbursement for an ADHC Service. (1) Reimbursement shall:

(a) Be made:

1. Directly to an ADHC center; and

2. For a service only if the service was provided on site and during an ADHC center's posted hours of operation;

(b) If made to an ADHC center for a service not provided during the center's posted hours of operation, be recouped by the department; and

(c) Be limited to 120 units per calendar week at each participant's[~~HCB recipient's~~] initial review or recertification.

(2) Level I reimbursement shall be the lesser of:

(a) The provider's usual and customary charges; or

(b) Two (2) dollars and fifty-seven (57) cents per unit of service.

(3) Level II reimbursement shall be the lesser of:

(a) The provider's usual and customary charges; or

(b) Three (3) dollars and twelve (12) cents per unit of service.

(4) The department shall not reimburse an ADHC center for more than twenty-four (24) basic units of service per day per participant[~~HCB recipient~~].

(5) An ADHC basic daily service shall:

(a) Constitute care for one (1) participant[~~HCB recipient~~]; and

(b) Not exceed twenty-four (24) units per day.

(6) One (1) unit of ADHC basic daily service shall equal fifteen (15) minutes.

(7) An ADHC center may request a Level II reimbursement rate for a participant[~~an HCB recipient~~] if the ADHC center meets the following criteria:

(a) The ADHC center has an average daily census limited to individuals designated as:

1. Participants[~~HCB recipients~~];

2. Private pay; or

3. Covered by insurance; and

(b) The ADHC center has a minimum of eighty (80) percent of its individuals meeting the requirements for DD as established in Section 5(2)[~~6(2)~~] of this administrative regulation.

(8) If an ADHC center does not meet the Level II reimbursement requirements established in Section 5[~~6~~] of this administrative regulation, the ADHC center shall be reimbursed at a Level I reimbursement[~~payment~~] rate for the quarter for which the ADHC center requested Level II reimbursement.

(9) To qualify for Level II reimbursement, an ADHC center that was not a Medicaid provider before July 1, 2000 shall:

(a) Have an average daily census of at least twenty (20) individuals who meet the criteria established in subsection (7)(a) of this section; and

(b) Have a minimum of eighty (80) percent of its individuals meet the description of DD as established in Section 5(2)[~~6(2)~~] of this administrative regulation.

(10) To qualify for reimbursement as an ancillary therapy, a service shall be:

(a) Medically necessary;

(b) Ordered by a physician; and

(c) Limited to:

1. Physical therapy provided by a physical therapist or physical therapist assistant;

2. Occupational therapy provided by an occupational therapist[~~therapy~~] or occupational therapy[~~therapist~~] assistant; or

3. Speech therapy provided by a speech-language pathologist.

(11) Ancillary therapy service reimbursement shall be:

(a) Per participant[~~HCB recipient~~] per encounter; and

(b) The usual and customary charges not to exceed the Medicaid upper limit of seventy-five (75) dollars per encounter per participant[~~HCB recipient~~].

(12) A respite service shall:

(a) Be provided on site in an ADHC center; and

(b) Be provided pursuant to 907 KAR 1:160.

(13) One (1) respite service unit shall equal one (1) hour to one (1) hour and fifty-nine (59) minutes.

(14) The length of time a participant[~~an HCB recipient~~] receives a respite service shall be documented.

(15) A covered respite service shall be reimbursed as established in Section 2 of this administrative regulation.

Section 5.[~~6.~~] Criteria for DD ADHC Level II Reimbursement. To qualify for Level II reimbursement:

(1) An ADHC center shall meet the requirements established in Section 4[~~5~~] of this administrative regulation; and

(2) Eighty (80) percent of its ADHC service individuals shall have:

(a) A substantial disability that shall have manifested itself before the individual reaches twenty-two (22) years of age;

(b) A disability that is attributable to an intellectual disability or a related condition which shall include:

1. Cerebral palsy;

2. Epilepsy;

3. Autism; or

4. A neurological condition that results in impairment of general intellectual functioning or adaptive behavior, such as an intellectual disability, which significantly limits the individual in two (2) or more of the following skill areas:

a. Communication;

b. Self-care;

c. Home-living;

d. Social skills;

e. Community use;

f. Self direction;

g. Health and safety;

h. Functional academics;

i. Leisure; or

j. Work; and

(c) An adaptive behavior limitation similar to that of a person with an intellectual disability, including:

1. A limitation that directly results from or is significantly influenced by substantial cognitive deficits; and

2. A limitation that is not attributable to only a physical or sensory impairment or mental illness.

Section 6.[~~7.~~] The Assessment Process for ADHC Level II[~~ADHC~~] Reimbursement.

(1)(a) To apply for Level II[~~ADHC~~] reimbursement, an ADHC center shall contact the QIO on the first of the third month of the current calendar quarter.

(b) If the first of the month is on a weekend or holiday, the ADHC center shall contact the QIO the next business day.

(2) The QIO shall be responsible for randomly determining the date each quarter for conducting a Level II reimbursement assessment of an ADHC center.

(3) In order for an ADHC center to receive Level II reimbursement:

(a) The[~~An~~] ADHC center shall:

1. Document on a MAP-1021, ADHC Payment Determination Form that it meets the Level II reimbursement criteria established in Section 5[~~6~~] of this administrative regulation;

2. Submit the completed MAP-1021, ADHC Payment Determination Form to the QIO via facsimile or mail no later than ten (10) working days prior to the end of the current calendar quarter in order to be approved for Level II reimbursement for the following calendar quarter; and

3. Attach to the MAP-1021, ADHC Payment Determination Form a completed and signed copy of the ["]Adult Day Health Care Attending Physician Statement["] for each individual listed on the MAP-1021, ADHC Payment Determination Form;

(b) The QIO shall review the MAP-1021, ADHC Payment Determination Form submitted by the ADHC center and determine if the ADHC center qualifies for Level II reimbursement; and

(c) The department shall review a sample of the ADHC center's Level II assessments and validate the QIO's determination.

(4) If the department invalidates an ADHC center Level II reimbursement assessment, the department shall:

(a) Reduce the ADHC center's current rate to the Level I rate; and

(b) Recoup any overpayment made to the ADHC center.

(5) If an ADHC center disagrees with an invalidation of a Level II reimbursement determination, the ADHC center may appeal in accordance with 907 KAR 1:671, Sections 8 and 9.

Section 7. Applicability and Transition to Version 2. (1) The provisions and requirements established in this administrative regulation shall:

(a) Apply to HCB waiver services provided to an HCB waiver service pursuant to 907 KAR 1:160; and

(b) Not apply to individuals receiving HCB waiver services version 2 pursuant to 907 KAR 7:010.

(2) The provisions and requirements established in this administrative regulation shall become null and void at the time that every eligible HCB waiver recipient served in accordance with 907 KAR 1:160 has transitioned to the HCB waiver services version 2 program pursuant to 907 KAR 7:010.

Section 8. Appeal Rights. An HCB service provider may appeal a department decision as to the application of this administrative regulation as it impacts the provider's reimbursement in accordance with 907 KAR 1:671, Sections 8 and 9.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Map-1021, ADHC Payment Determination Form", August 2000[~~Edition~~];

(b) "Adult Day Health Care Attending Physician Statement", August 2000 [~~Edition~~];

(c) "The Home Health and Home and Community Based Cost Report", November 2007 [~~Edition~~]; and

(d) "The Home Health and Home and Community Based Cost Report Instructions", November 2007 [~~Edition~~].

(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, 40601, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at http://www.chfs.ky.gov/dms/incorporated.htm.

LISA LEE, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 13, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 the Medicaid program reimbursement provisions and requirements regarding home and community based (HCB) waiver services. This program enables individuals who have nursing facility level of care needs to be able to reside in and receive services in a community setting (including their own residence) rather than have to be admitted to a nursing facility.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Medicaid program coverage provisions and requirements regarding

(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 helping enable individuals who have nursing facility level of care needs to reside in and receive services in a community setting rather than in a nursing facility.

(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 authorizing statutes by helping enable individuals who have nursing facility level of care needs to reside in and receive services in a community setting rather than in a nursing facility.

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

(a) How the amendment will change this existing administrative regulation. The amendment eliminates the safety net provider reimbursement; replaces the term "HCB recipient" with "participant" as that is the term adopted by the Centers for Medicare and Medicaid Services (CMS) for individuals receiving home and community based waiver services; contains formatting and revisions to comply with KRS Chapter 13A requirements; and establishes that the provisions in this administrative regulation apply to services rendered to individuals under the current version of this waiver program until they transition to a new version – Version 2. The Department for Medicaid Services (DMS) is concurrently promulgating administrative regulations (907 KAR 7:010 and 907 KAR 7:015) which establish provisions and requirements associated with Version 2 of this waiver program. Individuals currently receiving HCB waiver services will continue to receive services pursuant to 907 KAR 1:160 until their next "recertification." Likewise, DMS's reimbursement for services

provided pursuant to 907 KAR 1:160 will continue to be as established in this administrative regulation. The recertification is an annual process whereby individuals are re-assessed to verify that they continue to meet the criteria to qualify for HCB waiver services. At the time individuals are recertified (provided they continue to meet the criteria) they will transition to Version 2 of this program. Until then they will receive services pursuant to 907 KAR 1:160 (Version 1 of the program) and for which DMS will continue to pay pursuant to this administrative regulation. After all individuals have transitioned to Version 2, DMS intends to repeal 907 KAR 1:160 and this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Eliminating the safety net reimbursement is necessary as it is no longer needed to ensure an adequate provider base and to comply with the federal upper payment limit. When DMS launched the safety net provider reimbursement two (2) entities qualified with one (1) eventually no longer qualifying. The existing qualifying entity has ended up receiving reimbursement well above costs as well as the federal upper payment limit. Consequently, DMS is terminating the payment to protect the receipt of federal Medicaid funding, to protect taxpayer monies, and to ensure compliance with federal payment requirements. The amendment regarding transitioning to Version 2 fo the program is necessary to enable DMS to transition individuals who receive HCB waiver services over the course of a year from this version of the program to Version 2.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by ensuring compliance with federal upper payment limits and by enabling DMS to transition individuals from the current version of this program to a new version over the course of a year.

(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 ensuring compliance with federal upper payment limits and by enabling DMS to transition individuals from the current version of this program to a new version over the course of a year.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: There are currently sixty-three (63) providers (home health departments and adult day health care centers) enrolled as HCB waiver program providers. Over 9,500 individuals are currently receiving services through the 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 action is required by providers.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Participants in the program will benefit by being able to receive services under this version of the program until they transition to the transformed version of the program that is addressed in 907 KAR 7:010 and 907 KAR 7:015.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates no costs initially as a result of the amendment.

(b) On a continuing basis: DMS anticipates no costs on a continuing basis 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 the Social Security Act, Title XIX and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(19), and 42 C.F.R. 447.26.

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(19) requires Medicaid programs to provide care and services consistent with the best interests of Medicaid recipients.

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, additional or different requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment will affect the Department for Medicaid Services.

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).

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 any additional revenue for state or local governments during the first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates no costs for the first year as a result of the amendment.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates no costs in subsequent years 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: No additional expenditures are necessary to implement this amendment.

NEW ADMINISTRATIVE REGULATIONS

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(New Administrative Regulation)

201 KAR 9:470. Standardized medical order for scope of treatment form.

RELATES TO: KRS 311.530-311.620, 311.990
STATUTORY AUTHORITY: KRS 311.565(1)(a), 311.6225(2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a) authorizes the board to promulgate administrative regulations to regulate the conduct of its licensees. KRS 311.6225(2) authorizes the board to promulgate administrative regulations to develop the format for a standardized medical order for scope of treatment form to be approved by the board. This administrative regulation establishes the format of the standardized medical order for scope of treatment form approved by the board and authorized for use by board licensees practicing within the Commonwealth of Kentucky.

Section 1. Definition. "MOST form" means the medical order for scope of treatment form defined in KRS 311.621(12).

Section 2. Format of the MOST form. The MOST form shall have the title "MOST, Medical Orders for Scope of Treatment," shall be printed on a single double-sided eight and a half (8.5) x eleven (11) inch piece of pink paper and shall be in a typed font of a size and style sufficient to include the following information:
(1) An advisory that completing the medical order for scope of treatment form is voluntary and not required for treatment;
(2) Identification of the person who discussed and agreed to the options for medical intervention that are selected;
(3) The effective date of the form;
(4) The expiration or review date of the form, which shall be no more than one (1) calendar year from the effective date of the form;
(5) Indication of whether the patient has a living will directive or health care power of attorney, a copy of which shall be attached to the form if available;
(6) An advisory that the medical order for scope of treatment may be revoked by the patient, the surrogate, or a responsible party at any time;
(7) A statement written in boldface type directly above the signature line for the patient that states "You are not required to sign this form to receive treatment"; and
(8) All other information mandated by KRS 311.6225(1).

Section 3. Availability of the MOST form. The MOST form shall be available for board licensees to download and print directly from the board's Web site.

PRESTON P. NUNNELLEY, M.D., President
APPROVED BY AGENCY: October 9, 2015
FILED WITH LRC: October 12, 2015 at 4 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 30, 2015 at 10:00 a.m. at the offices of the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by November 19, 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. 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 November 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: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7118.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leanne K. Diakov
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the format of the standardized medical order for scope of treatment form in the Commonwealth of Kentucky as mandated by KRS 311.6225 and to be used by the board's licensees.
(b) The necessity of this administrative regulation: This regulation is being promulgated as mandated by the General Assembly and to make available to the board's licensees a medical order for scope of treatment form consistent with KRS 311.6225.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation acts specifically to establish the format of the standardized medical order for scope of treatment form in the Commonwealth of Kentucky as mandated by KRS 311.6225.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to establish the format of the standardized medical order for scope of treatment form in the Commonwealth of Kentucky as mandated by KRS 311.6225 and to be used by the board's licensees.
(2) If this is an amendment to an existing regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.
(d) How the amendment will assist in the effective administration of the statutes: Not applicable.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect all physicians licensed in Kentucky whose patients wish to memorialize their preferences for levels of life-prolonging treatment within their medical charts.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this 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: Physicians whose patients wish to memorialize their preferences for levels of life-prolonging treatment within their medical charts are required to use the standardized MOST form mandated by KRS 311.6225. This regulation sets forth the authorized format for the MOST form.
(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 associated with the requirements of this administrative regulation known to the board.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits to the physician include having clear directives on what information the MOST form must include and the format in which it must be presented.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of funding to be used for the implementation and enforcement of this administration regulation: None.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Licensure 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 311.565(1)(a) and 311.6225(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. None

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Administrative Regulation)

902 KAR 100:037. Physical protection of category 1 and category 2 quantities of radioactive material.

RELATES TO: KRS 194A.005(1), 211.180(1), 211.842 - 211.852, 211.990(4), 10 C.F.R. Part 37

STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 211.844(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844(1) requires the Cabinet for Health and Family Services to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation establishes requirements for the physical security of Category 1 and Category 2 quantities of radioactive material.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 194A.005(1).

(2) "Licensee" means a person subject to 10 C.F.R. Part 37, Physical protection of category 1 and category 2 quantities of radioactive material.

Section 2. Applicability. This administrative regulation shall apply to a licensee. The licensee shall comply with 10 C.F.R. Part 37 except as established in subsections (1) and (2) of this section.

(1) The licensee shall not be subject to:

(a) 10 C.F.R. 37.7;

(b) 10 C.F.R. 37.13;

(c) 10 C.F.R. 37.107; or

(d) 10 C.F.R. 37.109.

(2) Reference to the commission or NRC shall be deemed to be a reference to the cabinet, Department for Public Health, Radiation Health Branch, except in:

(a) 10 C.F.R. 37.5, Definitions: Agreement State, Byproduct material, Commission, Fingerprint orders, and Person;

(b) 10 C.F.R. 37.25;

(c) 10 C.F.R. 37.27;

(d) 10 C.F.R. 37.29; or

(e) 10 C.F.R. 37.71.

Section 3. Reporting of events or notifications. The required reporting of events or notifications to the Radiation Health Branch shall be directed to:

(1) 275 East Main Street, Mailstop HS1C-A, Frankfort, Kentucky 40621;

(2) (502) 564-3700, Monday through Friday from 8 a.m. to 4:30 p.m.; or

(3) (800) 255-2587, at other hours.

STEPHANIE MAYFIELD GIBSON, MD, FCAP, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 8, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 40602, phone 502-564-7905, fax 502-564-7573, email Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires affected entities to comply with the federal requirements contained in 10 C.F.R. Part 37. The U.S. Nuclear Regulatory Commission (NRC) issued orders requiring licensees to implement enhanced security to control access to radioactive material quantities of concern and to protect sensitive security-related information and requiring criminal history records checks for unescorted access to certain radioactive material. In conjunction, Agreement States (states that regulate the use of certain radioactive material pursuant to an agreement with the NRC) were required to issue compatible requirements within their regulatory jurisdiction. The Agreement State Radiation Health program is required to issue legally binding requirements to its licensees consistent with NRC regulations. Kentucky is required to do this as an Agreement State with the primary authority to regulate, inspect, and take enforcement actions against licensees.

(b) The necessity of this administrative regulation: As an Agreement State with the authority to operate its radiation program, the Department for Public Health, Radiation Health Branch, is required to maintain a compatible set of regulations to those of the NRC which govern the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth. The NRC adopted the federal counterpart to this regulation on March 19, 2013, and the Department has three years to promulgate a compatible regulation in its own program. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. 902 KAR Chapter 100 contains the Cabinet's requirements for the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth.

(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 protecting the health of the individual citizens of the Commonwealth and giving the Cabinet the authority to enforce the requirements contained in 10 C.F.R. Part 37, Physical protection of category 1 and category 2 quantities of radioactive material. Housing these requirements for radioactive material in the Kentucky Administrative Regulations Chapter 100 creates less of a burden for regulated entities, as that is where other radioactive material requirements are found.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Of the approximately 400 entities in the Commonwealth of Kentucky issued specific radioactive material licenses by the Cabinet, only 18 will be affected by this new 902 KAR 100:037. This administrative regulation will not change or adjust the number of licensees currently operating under the requirements established by the NRC. Aside from the University of Kentucky and the University of Louisville, the other licensees subject to this new regulation are privately owned businesses and publicly traded corporations, many of which are already complying with the corresponding 10 C.F.R. Part 37 in other states.

(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 questions (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation adopts federal standards released as orders published by the NRC that all category 1 and category 2 licensees are subject to, but contains a couple additional requirements since the orders were issued: As a result of the federal requirements, these 18 licensees are required to perform a background investigation every 10 years. Licensees are also required to reinvestigate individuals granted unescorted access of radioactive material every 10 years. The cost for the FBI fingerprint criminal history records check currently imposed by the NRC is $26.00 per person. These 18 licensees are also required to take their existing Increased Controls Policies and Procedures and divide the policy into a separate Access Authorization Program, Access Control Program, Security Program and Physical Protection Program including a Maintenance and Testing Program. The foundations for these currently exist in their Policies and Procedures already so this is not a burden or hardship.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The 18 licensees subject to this administrative regulation will be required to reinvestigate individuals granted unescorted access of radioactive material every 10 years, costing them $26.00 per person.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with federal and state requirements ensures safety when transferring category 1 and category 2 quantities of radioactive material. Licensees who are compliant will not be subject to enforcement actions.

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

(a) Initially: There are no additional costs to implement this administrative regulation.

(b) On a continuing basis: There are no additional costs to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency fees and general funds are currently being used and will continue to be used to operate the radioactive material program. No additional funds are required to implement this regulation.

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

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

(9) TIERING: Is tiering applied? No, this administrative regulation applies to all subject licensees equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Department for Public Health, Radiation Health Branch, will be affected by this administrative regulation as the Department will be responsible for enforcing it.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. 10 C.F.R. Part 37, Physical protection of category 1 and category 2 quantities of radioactive material is the federal regulation for this material.

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 generates no revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation generates no revenue.

(c) How much will it cost to administer this program for the first year? Adding this administrative regulation to the radioactive material program will not require additional costs.

(d) How much will it cost to administer this program for subsequent years? Adding this administrative regulation to the radioactive material program will not require additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Energy Policy Act of 2005 and 10 C.F.R. Part 37.

2. State compliance standards. This regulation adopts the federal standards for the physical protection of category 1 and category 2 quantities of radioactive material.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires state regulations to be compatible with the equivalent federal regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no different, stricter or additional responsibilities or requirements.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(New Administrative Regulation)

907 KAR 7:010. Home and community based waiver services version 2.

RELATES TO: KRS 205.520(3), 205.5605, 205.5606, 205.5607, 205.635, 42 C.F.R. 440.180

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.5606, 42 C.F.R. 440.180, 42 U.S.C. 1396a, 1396b, 1396d, 1396n

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 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 the coverage provisions and requirements for home and community based waiver services version 2.

Section 1. Definitions. (1) "1915(c) home and community based services waiver program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).

(2) "Abuse" regarding:

(a) An adult is defined by KRS 209.020(8); or

(b) A child means abuse pursuant to KRS Chapter 600 or 620.

(3) "ADHC" means adult day health care.

(4) "ADHC center" means an adult day health care center licensed in accordance with 902 KAR 20:066.

(5) "ADHC services" means health-related services provided on a regularly-scheduled basis that ensure optimal functioning of a participant who:

(a) Does not require twenty-four (24) hour care in an institutional setting; and

(b) May need twenty-four (24) hour respite services when experiencing a short-term crisis due to the temporary or permanent loss of the primary caregiver.

(6) "Advanced practice registered nurse" or "APRN" is defined by KRS 314.011(7).

(7) "Area agency on aging and independent living" means:

(a) An area agency on living as defined by 42 U.S.C. 3002(6); and

(b) A local agency designated by the Department for Aging and Independent Living to administer funds received under Title III for a given planning and service area.

(8) "Assessment" means an evaluation completed using the Kentucky Home Assessment Tool.

(9) "Blended services" means a non-duplicative combination of HCB waiver services that are not participant-directed services as well as participant-directed services.

(10) "Budget allowance" is defined by KRS 205.5605(1).

(11) "Center for independent living" is defined by 42 U.S.C. 796a(1).

(12) "Certified nutritionist" is defined by KRS 310.005(12).

(13) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

(14) "Chemical restraint" means a drug or medication:

(a) Used to restrict an individual's:

1. Behavior; or

2. Freedom of movement; and

(b)1. That is not a standard treatment for the individual's condition; or

2. Dosage that is not an appropriate dosage for the individual's condition.

(15) "Communicable disease" means a disease that is transmitted:

(a) Through direct contact with an infected individual;

(b) Indirectly through an organism that carries disease-causing microorganisms from one (1) host to another or a bacteriophage, a plasmid, or another agent that transfers genetic material from one (1) location to another; or

(c) Indirectly by a bacteriophage, a plasmid, or another agent that transfers genetic material from one (1) location to another.

(16) "DAIL" means the Department for Aging and Independent Living.

(17) "DCBS" means the Department for Community Based Services.

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

(19) "Electronic signature" is defined by KRS 369.102(8).

(20) "Exploitation" regarding:

(a) An adult is defined by KRS 209.020(9); or

(b) A child means exploitation pursuant to KRS Chapter 600 or 620.

(21) "Home and community based waiver services" or "HCB waiver services" means home and community based waiver services:

(a) Covered pursuant to this administrative regulation; and

(b) For individuals who meet the requirements of Section 4 of this administrative regulation.

(22) "Home and community support services" means nonresidential and nonmedical home and community based services and supports that:

(a) Meet the participant's needs; and

(b) Constitute a cost-effective use of funds.

(23) "Home delivered meal provider" means a food service establishment as defined by KRS 217.015(21).

(24) "Home health agency" means an agency that is:

(a) Licensed in accordance with 902 KAR 20:081; and

(b) Medicare and Medicaid certified.

(25) "Illicit drug" means:

(a) A drug, prescription or not prescription, used illegally or in excess of therapeutic levels; or

(b) A prohibited drug.

(26) "Licensed clinical social worker" means an individual who meets the requirements established by KRS 335.100.

(27) "Licensed dietitian" is defined by KRS 310.005(11).

(28) "Licensed medical professional" means:

(a) A physician;
(b) An advanced practice registered nurse;
(c) A physician assistant;
(d) A registered nurse;
(e) A licensed practical nurse; or
(f) A pharmacist.
(29) "Licensed practical nurse" or "LPN" means a person who:
(a) Meets the definition established by KRS 314.011(9); and
(b) Works under the supervision of a registered nurse.
(30) "MWMA portal" means the Kentucky Medicaid Waiver Management Application internet portal located at http://chfs.ky.gov/dms/mwma.htm.
(31) "Natural supports" means a non-paid person, persons, or community resource who can provide or has historically provided assistance to the participant or due to the familial relationship would be expected to provide assistance.
(32) "Neglect" regarding:
(a) An adult is defined by KRS 209.020(016); or
(b) A child means neglect pursuant to KRS Chapter 600 or 620.
(33) "NF" means nursing facility.
(34) "NF level of care" means a high intensity or low intensity patient status determination made by the department in accordance with 907 KAR 1:022.
(35) "Normal baby-sitting" means general care provided to a child that includes custody, control, and supervision.
(36) "Participant" means a recipient who:
(a) Meets the NF level of care criteria established in 907 KAR 1:022; and
(b) Meets the eligibility criteria for HCB waiver services established in Section 4 of this administrative regulation.
(37) "Participant corrective action plan" means a written plan that is developed by the case manager or service advisor in conjunction with the participant or representative to identify, eliminate, and prevent future violations from occurring by:
(a) Providing the participant or representative with the specific administrative regulation that has been violated;
(b) Identifying factual information regarding the violation; and
(c) Reaching an agreement between the case manager and the participant or representative to the resolution and being in compliance within the timeframe established in the participant corrective action plan being issued.
(38) "Patient liability" means the financial amount an individual is required to contribute toward cost of care in order to maintain Medicaid eligibility.
(39) "PDS" means participant-directed services.
(40) "Person-centered service plan" means a written individualized plan of services for a participant that meets the requirements established in Section 7 of this administrative regulation.
(41) "Physical restraint" means any manual method or physical or mechanical device, material, or equipment that:
(a) Immobilizes or reduces the ability of a person to move his or her arms, legs,
body, or head freely; and
(b) Does not include orthopedically prescribed devices or other devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a person for the purpose of:
1. Conducting routine physical examinations or tests;
2. Protecting the person from falling out of bed; or
3. Permitting the person to participate in activities without the risk of physical harm.
(42) "Physician assistant" or "PA" is defined by KRS 311.840(3).
(43) "Plan of treatment" means a care plan developed and used by an ADHC center based on the participant's individualized ADHC service needs, goals, interventions, and outcomes.
(44) "Prohibited drug" means a drug or substance that is illegal under KRS Chapter 218A or statutes or administrative regulations of the Commonwealth of Kentucky.
(45) "Public health department" means an agency recognized by the Department for Public Health pursuant to 902 KAR Chapter 8.
(46) "Recipient" is defined by KRS 205.8451(9).
(47) "Registered nurse" or "RN" means a person who:
(a) Meets the definition established by KRS 314.011(5); and
(b) Has one (1) year or more experience as a professional nurse.
(48) "Representative" is defined by KRS 205.5605(6).
(49) "Service advisor" is defined by KRS 205.5605(7).
(50) "Sex crime" is defined by KRS 17.165(1).
(51) "Support spending plan" means a component of the person-centered service plan that identifies the:
(a) Services requested;
(b) PDS employee or service provider name;
(c) Hourly wage or unit rate;
(d) Hours per month;
(e) Monthly pay or reimbursement; and
(f) PDS employer taxes.
(52) "Violent crime" is defined by KRS 17.165(3).
(53) "Violent offender" is defined by KRS 17.165(2).

Section 2. Provider Participation Requirements Excluding Participant-Directed Services. (1) In order to provide HCB waiver services, excluding participant-directed services, an HCB waiver provider shall:
(a) Be:
1. Approved by the department, licensed, or certified; and
2.a. An adult day health care center;
b. A home health agency;
c. A center for independent living;
d. A public health department;
e. A home delivered meal provider; or
f. An area agency on aging and independent living; and
(b) Meet the service requirements specified in Section 5 for any service provided by the provider.
(2) An out-of-state HCB waiver provider shall comply with the requirements of this administrative regulation.
(3) An HCB waiver provider:
(a) Shall comply with:
1. 907 KAR 1:671;
2. 907 KAR 1:672;
3. 907 KAR 1:673;
4. 907 KAR 7:005 if the provider is a certified waiver provider; and
5. This administrative regulation;
(b) Shall not enroll a participant for whom the provider cannot provide HCB waiver services;
(c) Shall be permitted to accept or not accept a participant;
(d)1. Shall implement a procedure to ensure that critical incident reporting is done in accordance with Section 9 of this administrative regulation;
2. Shall implement a process for communicating the critical incident, the critical incident outcome, and the critical incident prevention plan to the participant, a family member of the participant, or participant's guardian or legal representative; and
3. Shall maintain documentation of any communication provided in accordance with subparagraph 2 of this paragraph by:
a. Entering a record of the communication in the:
(i) MWMA portal; and
(ii) Participant's case record; and
b. Having the documentation signed and dated by the staff member making the entry;
(e) Shall inform a participant or any interested party in writing of the provider's:
1. Hours of operation; and
2. Policies and procedures;
(f) Shall not permit a staff member who has contracted a communicable disease to provide a service to a participant until the condition is determined to no longer be contagious;
(g) Shall ensure that a staff supervisor is available at all times to provide oversight and technical assistance;
(h) Shall ensure that each staff person:
1. Prior to independently providing a direct service is trained regarding:
a. Abuse, neglect, fraud, and exploitation;

b. The reporting of abuse, neglect, fraud, and exploitation;
c. Person-centered planning principles;
d. Documentation requirements; and
e. HCB services definitions and requirements;
2. Receives DAIL attendant care certification training initially and then annually thereafter;
3. Receives cardio pulmonary resuscitation certification and first aid certification provided by a nationally accredited entity within six (6) months of employment;
4. Maintains current CPR certification and first aid certification for the duration of the staff person's employment;
5.a. Completes a tuberculosis (TB) risk assessment performed by a licensed medical professional within the past twelve (12) months and annually thereafter; and
b.(i) If a TB risk assessment resulted in a TB skin test being performed, have a
negative result within the past twelve (12) months as documented on test results
received by the provider within thirty (30) days of the date of hire; and
(ii) If it is determined that signs or symptoms of active disease are present, in order for the person to be allowed to work, he or she shall be administered follow-up testing by his or her physician with the testing indicating the person does not have active TB disease; and
6. Prior to the beginning of employment, has successfully passed a drug test with no indication of prohibited or illicit drug use;
(i) Shall maintain documentation:
1.a. Of an annual TB risk assessment or negative TB test for each staff who provides services or supervision; or
b. Annually for each staff with a positive TB test that ensures no active disease symptoms are present; and
2. Of the results of a drug test for each staff;
(j)1. Shall:
a. Prior to hiring an individual obtain:
(i) The results of a criminal record check from the Kentucky Administrative Office
of the Courts and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment;
(ii) The results of a Nurse Aide Abuse Registry check as described in 906 KAR 1:100 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment; and
(iii) The results of a Caregiver Misconduct Registry check as described in 922 KAR 5:120 and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment; and
b. Within thirty (30) days of the date of hire, obtain the results of a Central Registry check as described in 922 KAR 1:470 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment; or
2. May use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this paragraph; and
(k) Shall not allow a staff person to provide HCB waiver services if the individual:
1. Has a prior conviction of or pled guilty to a:
a. Sex crime; or
b. Violent crime;
2. Is a violent offender;
3. Has a prior felony conviction;
4. Has a drug related conviction, felony plea bargain, or amended plea bargain conviction within the past five (5) years;
5. Has a positive drug test for an illicit or a prohibited drug;
6. Has a conviction of abuse, neglect, or exploitation;
7. Has a Cabinet for Health and Family Services finding of:
a. Child abuse or neglect pursuant to the Central Registry as described in 922 KAR 1:470; or
b. Adult abuse, neglect, or exploitation pursuant to the Caregiver Misconduct
Registry as described in 922 KAR 5:120;
8. Is listed on the Nurse Aide Abuse Registry pursuant to 906 KAR 1:100;
9. Within twelve (12) months prior to employment is listed on or has a finding indicated on another state's equivalent of the:
a. Nurse Aide Abuse Registry as described in 906 KAR 1:100 if the other state has an equivalent;
b. Caregiver Misconduct Registry as described in 922 KAR 5:120 if the other state has an equivalent; or
c. Central Registry as described in 922 KAR 1:470 if the other state has an equivalent; or
10. Has been convicted of Medicaid or Medicare fraud.
(4) A home delivered meal provider shall:
(a) Comply with KRS Chapter 217 and 902 KAR 45:005 requirements regarding food and food service establishments; and
(b) Be subject to:
1. Monitoring; and
2. Annual certification by DAIL in accordance with 907 KAR 7:005.

Section 3. Maintenance of Records. (1)(a) Regarding each participant, an HCB waiver provider shall maintain:
1. A case record; and
2. Fiscal reports, service records, and incident reports regarding services provided.
(b) A case record shall:
1. Be maintained in the MWMA portal; and
2. Contain:
a. A comprehensive assessment approved by the department;
b. A completed person-centered service plan;
c. A copy of the MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form signed by the participant or participant's legal representative at the time of application or reapplication and each recertification thereafter;
d. The name of the case manager, service advisor, and independent assessor;
e. Documentation of all level of care determinations;
f. Documentation related to prior authorizations including requests, approvals, and denials;
g. Documentation of each contact with, or on behalf of, the participant;
h. Documentation that the participant, if receiving ADHC services, was provided a copy of the ADHC center's posted hours of operation;
i. Documentation that the participant or participant's legal representative was informed of the procedure for reporting complaints and incidents; and
j. Documentation of each service provided, which shall include:
(i) The date the service was provided;
(ii) The duration of the service;
(iii) The arrival and departure time of the provider, excluding travel time, if the service was provided at the participant's home;
(iv) Itemization of each service delivered;
(v) The participant's arrival and departure time, excluding travel time, if the service was provided at the ADHC center;
(vi) A monthly progress note each month, which shall include documentation of changes, responses, and services utilized to evaluate the participant's health, safety, and welfare needs; and
(vii) The signature of the service provider.
(c) Fiscal reports, service records, and incident reports regarding services provided shall be retained:
1. At least six (6) years from the date that a covered service is provided unless the participant is a minor; or
2. If the participant is a minor, the longer of:
a. Three (3) years after the participant reaches the age of majority under state law; or
b. Six (6) years from the date that a covered service is provided.
(2) Upon request, an HCB provider shall make information regarding service and financial records available to the:
(a) Department;
(b) Cabinet for Health and Family Services, Office of Inspector General or its designee;
(c) DAIL;

(d) The United States Department for Health and Human Services or its designee;

(e) General Accounting Office or its designee;

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

(g) Office of the Attorney General or its designee.

Section 4. Participant Eligibility Determinations and Redeterminations. (1)(a) To be eligible to receive HCB waiver services, an individual:

1. Shall be determined by the department to meet NF level of care requirements;

2. Without waiver services may be admitted by a physician's order to an NF;

3. Shall be screened by the department for the purpose of making a preliminary determination of whether the individual might qualify for HCB waiver services; and

4. Shall meet the Medicaid eligibility requirements established in 907 KAR 20:010.

(b) In addition to the individual meeting the requirements established in paragraph (a) of this subsection, the individual, a representative on behalf of the individual, or independent assessor shall:

1. Apply for 1915(c) home and community based waiver services via the MWMA portal; and

2. Complete and upload into the MWMA portal a:

a. MAP - 115 Application Intake - Participant Authorization; and

b. MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form.

(c) A participant, participant's guardian, or participant's legal representative shall annually sign a MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form at the time of each recertification to document that the participant was informed of the choice to receive HCB waiver or institutional services.

(3) The department shall perform a level of care determination for each participant at least:

(a) Once every twelve (12) months; or

(b) More often due to a change in function or condition.

(4) An HCB waiver service shall not be provided to a participant who:

(a) Does not require a service other than:

1. An environmental or minor home adaptation;

2. A home delivered meal;

3. Conflict free case management; or

4. Goods and services;

(b) Is an inpatient of:

1. A hospital;

2. An NF; or

3. An intermediate care facility for individuals with an intellectual disability;

(c) Is a resident of a licensed personal care home;

(d) Has a primary diagnosis that is not related to age or a disability; or

(e) Is receiving services from another Medicaid 1915(c) home and community based services waiver program.

(5) An eligible participant or the participant's legal representative shall select a participating HCB waiver provider from which the participant wishes to receive HCB waiver services.

(6) The department may exclude from the HCB waiver program an individual for whom the aggregate cost of HCB waiver services would reasonably be expected to exceed the cost of NF services.

(7) An HCB waiver provider shall notify in writing electronically or in print the local DCBS office and the department of a participant's:

(a) Termination from the HCB waiver program;

(b)1. Admission to an NF for less than sixty (60) consecutive days; and

2. Return to the HCB waiver program from an NF within sixty (60) consecutive days; or

(c) Failure to access services within the parameters of the participant's level of care determination for greater than sixty (60) days.

Section 5. Covered Services and Related Requirements. (1)(a) HCB waiver services shall include:

1. Conflict free case management;

2. Attendant care;

3. Specialized respite care services;

4. Environmental or minor home adaptations;

5. ADHC services;

6. Goods and services; or

7. Home delivered meals.

(b)1. Participant-directed services shall include:

a. Environmental or minor home adaptations;

b. Goods and services;

c. Home and community supports;

d. Non-specialized respite care services; or

e. PDS coordination services.

2. Participant-directed services provided to a participant shall not replace the participant's natural support system.

(2)(a) An HCB waiver service and a PDS, except as established in subparagraph 3 of this paragraph, shall:

1. Be prior authorized by the department based upon a request that provides all of the information needed to ensure that the service or modification of the service meets the needs of the participant;

2. Be provided pursuant to the participant's person-centered service plan;

3. Except for PDS, not be provided by an immediate family member, guardian, or legally responsible individual of the participant;

4. Be accessed within sixty (60) days of the date of prior authorization;

5. Be a one (1) on one (1) encounter except for:

a. An ADHC service in which case the ADHC center providing the service shall comply with the ADHC personnel requirements established in 902 KAR 20:066; or

b. A service for which a one (1) on one (1) encounter is not appropriate due to the participant's circumstances or condition in which case the circumstances or condition shall be documented in the:

(i) Assessment; and

(ii) Person-centered service plan;

6. Not occur at the same time as another service, regardless of payer source, except for a:

a. Doctor visit; or

b. Physical therapy, occupational therapy, or speech-language pathology service appointment; and

7. Be provided by an individual who:

a. Does not have a communicable disease pursuant to Section 2(3)(f) of this administrative regulation; and

b. Provides services at a level that appropriately and safely meets the needs of the participant.

(b) A 1915(c) home and community based waiver service that is not part of a hospice service package may be covered in conjunction with hospice services.

(3) To request prior authorization:

(a) For a non-PDS HCB waiver service, a case manager shall submit a completed MAP-10, Waiver Services Physician's Recommendation, and a person-centered service plan to the department; or

(b) For a PDS, a service advisor shall submit a completed MAP-10, Waiver Services Physician's Recommendation, and a person-centered service plan to the department.

(4) Services shall not begin and payment shall not be made for services until:

(a) A level of care determination has been approved by the department;

(b) A person-centered service plan has been:

1. Developed by the person-centered team; and

2. Approved by the department; and

(c)1. DCBS has determined that the individual meets financial eligibility requirements and a valid MAP 552 is on file for a new applicant for Medicaid; or

2. The first day of the month following the level of care determination if the applicant is a recipient currently enrolled with a

managed care organization. The managed care organization shall be responsible for ensuring the applicant's health, safety, and welfare during the period between the level of care determination and the first day of the month following the level of care determination.

(5)(a) Case management requirements shall be as established in Section 8 of this administrative regulation.

(b) Except for the requirement established in Section 8(7)(b), the requirements established in Sections 6 and 8 of this administrative regulation shall apply to service advisors.

(6)(a) An attendant care service shall provide care that consists of:

1. General household activities including:

a. Cleaning;

b. Cooking; or

c. Chores;

2. Personal care services including assistance with:

a. Bathing;

b. Grooming;

c. Dressing;

d. Eating;

e. Toileting;

f. Transferring; or

g. Assistance with self-administration of medication; or

3. Transporting a participant to a needed place as specified in the participant's person-centered service plan including:

a. A grocery;

b. A pharmacy; or

c. An appointment.

(b)1. An individual transporting a participant shall have a valid driver's license.

2. A minimum of current liability insurance shall be required for a vehicle used to transport a participant.

(c)1. An attendant care provider shall maintain a sign in and out log documenting the provision of services to participants.

2. Documentation shall include:

a. The date the service was provided;

b. The duration of the service;

c. The arrival and departure time of the provider;

d. A description of the service provided; and

e. The name, title, and signature of the staff who provided the service.

(7)(a) A specialized respite care service shall:

1. Be short-term care based on the absence or need for relief of the non-paid primary caregiver;

2. Be provided by staff who provides services at a level that appropriately and safely meets the needs of the participant;

3. Be provided to a participant who has care needs beyond normal baby-sitting or normal care sitting;

4. If the participant receiving the service is assessed pursuant to 907 KAR 7:015 as qualifying the provider for Level II reimbursement, have twenty-four (24) hour access to an RN for emergency situations and consultations; and

5. If applicable, be provided in accordance with 902 KAR 20:066.

(b)1. A provider of specialized respite care shall maintain a sign in and out log documenting the provision of services to participants.

2. Documentation shall include:

a. The date the service was provided;

b. The duration of the service;

c. The arrival and departure time of the provider;

d. A description of the service provided; and

e. The name, title, and signature of the staff who provided the service.

(8)(a) An environmental or minor home adaptation service shall:

1. Be a physical adaptation to a home owned by the participant or family member of the participant that is necessary to ensure the health, welfare, and safety of the participant;

2. Meet all applicable safety and local building codes;

3. Relate strictly to the participant's disability and needs;

4. Exclude an adaptation or improvement to a home that has no direct medical or remedial benefit to the participant;

5. Be provided by a licensed and insured provider qualified to provide the modification;

6. Not add to the total square footage of a home except if necessary to complete an adaptation;

7. Be submitted on the person-centered service plan for prior authorization; and

8. Not be covered unless prior authorized.

(b) A person emergency response system shall be considered to be a covered environmental or minor home adaptation if it meets the requirements established in this subsection.

(9)(a) An ADHC service shall:

1. Be provided to a participant who is at least twenty-one (21) years of age;

2. Include the following basic services and necessities provided to participants during the posted hours of operation:

a. Skilled nursing services provided by an RN or LPN, including ostomy care, urinary catheter care, decubitus care, tube feeding, venipuncture, insulin injections, tracheotomy care, or medical monitoring;

b. Meal service corresponding with hours of operation with a minimum of one (1) meal per day and therapeutic diets as required;

c. Snacks;

d. The presence of an RN or LPN;

e. Age and diagnosis appropriate daily activities; and

f. Routine services that meet the daily personal and health care needs of a participant, including:

(i) Monitoring of vital signs;

(ii) Assistance with activities of daily living; and

(iii) Monitoring and supervision of self-administered medications, therapeutic programs, and incidental supplies and equipment needed for use by a participant;

3. Include developing, implementing, and maintaining nursing policies for nursing or medical procedures performed in the ADHC center;

4. Include specialized respite care services pursuant to subsection (7) of this section;

5. Be provided to a participant by the health team in an ADHC center, which may include:

a. A physician;

b. A physician assistant;

c. An APRN;

d. An RN;

e. An LPN;

f. An activities director;

g. A certified social worker;

h. A licensed clinical social worker;

i. A certified nutritionist; or

j. A health aide; and

6. Be provided pursuant to a plan of treatment that is included in the participant's person-centered service plan.

(b) A plan of treatment shall:

1. Be developed and signed by each member of the plan of treatment team, which shall include the participant, participant's guardian, or participant's legal representative;

2. Include:

a. Pertinent diagnoses;

b. Mental status;

c. Services required;

d. Medication or food allergies and special diet;

e. Contradictions for specific types of activities and preventive health care measures;

f. Frequency of visits to the ADHC center;

g. Prognosis;

h. Rehabilitation potential;

i. Functional limitation;

j. Activities permitted;

k. Nutritional requirements;

l. Medication;

m. Treatment;

n. Safety measures to protect against injury;

o. Instructions for timely discharge; and

p. Other pertinent information; and

3. Be developed annually from information on the assessment and revised as needed.

(c)1. Modification of an ADHC unit of service shall require:

a. Modification of the participant's person-centered service plan; and

b. Prior authorization.

2. Upon approval or denial of a prior authorization request, the department shall provide written notification to the case manager and to the participant.

3. A case manager shall:

a. Inform the ADHC center of approval or denial; and

b. Document the approval or denial in the case record.

(d)1. An ADHC center shall maintain a sign in and out log documenting the provision of services to participants.

2. Documentation shall include:

a. The date the service was provided;

b. The duration of the service;

c. The arrival and departure time of the participant;

d. A description of the service provided; and

e. The title, name, and signature of the staff who provided the service.

(11) Goods and services shall:

(a) Be individualized;

(b) Meet identified needs required by the participant's person-centered service plan that are necessary to ensure the health, welfare, and safety of the participant;

(c) Be items that are utilized to reduce the need for personal care or to enhance independence within the participant's home or community;

(d) Not include experimental goods or services;

(e) Not include chemical or physical restraints; and

(f) Not be covered unless prior authorized by the department.

(12) A home delivered meal shall:

(a) Meet at least one-third (1/3) of the recommended daily allowance per meal and meet the requirements of the dietary guidelines for Americans;

(b) Be provided to a participant who is unable to prepare his or her own meals and for whom there are no other persons available to do so including natural supports;

(c) Be furnished in accordance with menus that are approved in writing by a licensed dietitian;

(d) Take into consideration the participant's medical restrictions; religious, cultural, and ethnic background; and dietary preferences;

(e) Be individually packaged heated meals;

(f)1. Be provided for inclement weather, holidays, or emergencies if prior approval is provided by the department and if the meals:

1. Are individually packaged if not heated;

2. Are shelf stable; or

3. Have components separately packaged if the components are clearly marked as components of a single meal; and

(g) Not:

1. Supplement or replace meal preparation activities that occur during the provision of attendant care services or any other similar service;

2. Supplement or replace the purchase of food or groceries;

3. Include bulk ingredients, liquids, and other food used to prepare meals independently or with assistance;

4. Be provided while the participant is hospitalized, residing in an institutional setting, or while in attendance at an ADHC center; or

5. Duplicate a service provided through other programs operated by any governmental agency.

(13)(a) Home and community support services shall consist of:

1. General household activities including;

a. Cleaning;

b. Cooking; or

c. Chores;

2. Personal care services including assistance with:

a. Bathing;

b. Grooming;

c. Dressing;

d. Eating;

e. Toileting;

f. Transferring; or

g. Assistance with self-administration of medication; or

3. Transporting a participant to a needed place as specified in the participant's person-centered service plan including:

a. A grocery;

b. A pharmacy; or

c. An appointment.

(b)1. An individual transporting a participant shall have a valid driver's license.

2. A minimum of current liability insurance shall be required for a vehicle used to transport a participant.

(14) Non-specialized respite care shall be provided:

(a) To a participant who has care needs beyond normal baby-sitting or normal care sitting; and

(b) In relief of a non-paid primary caregiver.

(15)(a) PDS coordination services shall include service advisory and management of funds.

(b) The financial management service provider shall:

1. Perform the employer responsibilities on behalf of the participant of payroll processing, which shall include:

a. Issuing paychecks;

b. Withholding federal, state, and local tax and making tax payments to the appropriate tax authorities; and

c. Issuing W-2 forms;

2. Be responsible for performing all fiscal accounting procedures at least every thirty (30) days including issuing expenditure reports to:

a. The participant, the participant's guardian, or the participant's legal representative;

b. The participant's case manager; and

c. Upon request, to the department;

3. Maintain a separate account for each participant while continually tracking and reporting funds, disbursements, and the balance of the participant's prior authorizations; and

4. Process and pay invoices for:

a. PDS goods and services approved in the person-centered service plan; and

b. Environmental or minor home adaptations in the person-centered service plan.

Section 6. Miscellaneous Participant-Directed Services Requirements. (1) A PDS provider shall:

(a) Be selected by the participant;

(b) Be at least eighteen (18) years of age;

(c) Be a citizen of the United States with a valid Social Security number or possess a valid work permit if not a U.S. citizen;

(d) Be able to communicate effectively with the participant, representative, participant's guardian, or family of the participant;

(e) Be able to understand and carry out instructions;

(f) Be able to keep records as required by the participant;

(g) Comply with the requirements for background and related checks established in Section 2(3)(j) of this administrative regulation;

(h) Not be a PDS provider if the individual:

1. Has a prior conviction of or pled guilty to a:

a. Sex crime; or

b. Violent crime;

2. Is a violent offender;

3. Has a prior felony conviction;

4. Has a drug related conviction, felony plea bargain, or amended plea bargain conviction within the past five (5) years;

5. Has a conviction of abuse, neglect, or exploitation;

6. Has a Cabinet for Health and Family Services finding of:

a. Child abuse or neglect pursuant to the Central Registry as described in 922 KAR 1:470; or

b. Adult abuse, neglect, or exploitation pursuant to the Caregiver Misconduct Registry as described in 922 KAR 5:120;

7. Is listed on the Nurse Aide Abuse Registry pursuant to 906 KAR 1:100;

8. Within twelve (12) months prior to employment is listed on or

has a finding indicated on another state's equivalent of the:

a. Nurse Aide Abuse Registry as described in 906 KAR 1:100 if the other state has an equivalent;

b. Caregiver Misconduct Registry as described in 922 KAR 5:120 if the other state has an equivalent; or

c. Central Registry as described in 922 KAR 1:470 if the other state has an equivalent; or

9. Has been convicted of Medicaid or Medicare fraud;

(i)1. Prior to the beginning of employment, complete training on the:

a. Reporting of abuse, neglect, or exploitation in accordance with KRS 209.030 or 620.030; and

b. Needs of the participant; and

2. Receive DAIL attendant care training initially and then annually thereafter;

(j)1. Obtain first aid certification within six (6) months of providing PDS services; and

2. Maintain first aid certification for the duration of being a PDS provider;

(k)1. Except as established in subparagraph 2 of this paragraph:

a. Obtain cardiopulmonary resuscitation (CPR) certification by a nationally accredited entity within six (6) months of employment; and

b. Maintain CPR certification for the duration of being a PDS provider; or

2. If the participant to whom a PDS provider provides services has a signed Do Not Resuscitate order, not be required to meet the requirements established in subparagraph 1 of this paragraph;

(l) Comply with the TB risk assessment and test requirements established in Section 2(3)(h)5. of this administrative regulation;

(m) Maintain and submit timesheets:

1. Signed by the:

a. Participant or representative; and

b. Provider; and

2. Documenting:

a. Hours worked;

b. The provision of a service including:

(i) A full description of the service provided; and

(ii) Any concerns or issues, if existing, regarding the general well-being of the participant; and

c. The participant's choice of daily activities and services; and

(n) Submit a completed Kentucky Participant-Directed Services Employee Provider Contract to the service advisor.

(2)(a) A participant may designate a representative to act on the participant's behalf.

(b) A representative shall:

1. Submit to all of the background and related checks established in Section 2(3)(j) of this administrative regulation;

2. Be at least eighteen (18) years of age;

3. Be chosen by the participant, except as established in paragraph (d) of this subsection, to manage and direct all related aspects of the participant's PDS; and

4. Not be a PDS representative if found in violation of the provisions established in subsection (1)(h) of this section.

(c) A representative shall be chosen for a participant if a condition established in this paragraph exists. If the participant:

1. Is under eighteen (18) years of age, a family member of the participant shall appoint a representative for the participant;

2. Has a guardian or legal representative, the participant's guardian or legal representative shall appoint a representative for the participant; or

3. Has failed to adhere to the terms of a participant corrective action plan and chooses to continue receiving PDS, the participant's person-centered team shall present a list of multiple potential representatives to the participant from which the participant shall choose a representative.

(d) A participant's choice of representative shall be made via a MAP-2000, Initiation/Termination of Participant-Directed Service, which the participant shall submit to the participant's service advisor.

(3) A participant may voluntarily terminate PDS by completing a MAP-2000, Initiation/Termination of Participant-Directed Service and submitting it to the participant's service advisor.

(4) The department shall immediately terminate a participant from receiving PDS if:

(a) Imminent danger to the participant's health, safety, or welfare exists; or

(b) The participant's person-centered service plan indicates he or she requires more hours of service than the program can provide, which may jeopardize the participant's safety and welfare due to being left alone without a caregiver present.

(5) A service advisor:

(a) Providing PDS coordination shall:

1. Meet the case manager requirements established in Section 8(1) and (2) of this administrative regulation; and

2. Within seven (7) days of receiving a referral regarding a participant from an independent assessor, schedule a face-to-face visit with the participant, the participant's guardian, or the participant's legal representative;

(b) Shall work with the participant or participant's legal representative to develop a participant corrective action plan:

1. If the participant, participant's legal representative, or PDS employee has exhibited abusive, intimidating, or threatening behavior; or

2. Pursuant to Section 8(7)(d) of this administrative regulation;

(c) For a participant with a participant corrective action plan shall:

1. Monitor the progress of the participant corrective action plan; and

2.a. Determine that the participant corrective action plan has been satisfied and continue with PDS;

b. Appoint a representative pursuant to subsection (2)(c) of this section; or

c. Proceed with involuntary termination of PDS if the participant or legal representative is unable or unwilling to comply with the participant corrective action plan;

(d) If proceeding with involuntary termination, shall:

1. Notify the independent assessor in writing of termination of PDS within thirty (30) days;

2. Provide the participant or participant's legal representative with written information regarding the traditional waiver program and traditional waiver providers;

3. Provide the participant or participant's legal representative with information regarding the right to appeal the PDS denial in accordance with 907 KAR 1:563;

4. Complete and submit to the department a MAP-2000, Initiation/Termination of Participant-Directed Service terminating the participant from PDS; and

5. Document the:

a. Reason for the termination;

b. Actions taken to assist the participant with the participant corrective action plan; and

c. Outcomes; and

(e) Shall conduct at least one (1) in person visit with:

1. The participant each month at:

a. The participant's residence; or

b. ADHC center if the participant receives services at an ADHC center; and

2. The participant's representative each three (3) months if designated by the participant.

(6) Except as provided in subsection (4) or (5) of this section regarding a participant's termination from PDS, the participant's service advisor shall:

(a) Notify the independent assessor and service provider of potential termination;

(b) Assist the participant in developing a participant corrective action plan;

(c) Allow at least thirty (30) but no more than ninety (90) days for the participant to resolve the issue, develop and implement a prevention plan, or designate a PDS representative;

(d) Complete and submit to the department a MAP-2000, Initiation/Termination of Participant-Directed Service terminating the participant from receiving PDS if the participant fails to meet the requirements established in paragraph (c) of this subsection; and

(e) Assist the participant in transitioning back to traditional HCB services by providing a current list of traditional HCB service providers.

(7) A personal services agency shall:

(a) Meet the requirements established in 906 KAR 1:180; and

(b) Comply with the requirements of this section of this administrative regulation.

(8) An immediate family member, guardian, or legally responsible individual may provide a PDS upon written approval from the department if:

(a) The individual submits to the department a completed PDS Request Form for Immediate Family Member, Guardian, or Legally Responsible Individual as a Paid Service Provider;

(b) The individual has unique abilities necessary to meet the needs of the participant;

(c) The individual has obtained education, job experience, volunteerism, or training beyond the direct care of the participant;

(d) The services being provided are not natural supports;

(e) The individual enables the participant to be integrated in the community; and

(f)1. The nearest provider is more than thirty (30) miles from the participant's residence; or

2. A qualified provider cannot:

a. Provide the necessary services according to the person-centered service plan; or

b. Accommodate the participant's schedule.

(9) A service advisor through PD care coordination shall:

(a) Advise a participant regarding any aspect of PDS or blended services and facilitate access to services;

(b) Provide information for accessing assistance twenty-four (24) hours per day, seven (7) days per week;

(c) Comply with all applicable federal and state laws and requirements;

(d) Continually monitor a participant's health, safety and welfare and provide information on how to access resources;

(e) Request a:

1. Copy of the participant's current person-centered service plan; or

2. Reassessment through the independent assessor; and

(f) Conduct at least one (1) face-to-face visit:

1. With the participant monthly;

2. With the participant and the participant's representative, if the participant has a representative, at least once every three (3) months; and

3. At the participant's residence at least once every three (3) months.

(10) A participant shall be responsible for all employer-related expenses and responsibilities.

(11) A PDS provider shall not provide more than forty (40) hours of PDS in a calendar week (Sunday through Saturday).

Section 7. Person-centered Service Plan Requirements. (1) A person-centered service plan shall:

(a) Be established for each participant;

(b) Be developed by:

1. The participant, the participant's guardian, or the participant's legal representative;

2. The participant's case manager;

3. The participant's person-centered team; and

4. Any other individual chosen by the participant if the participant chooses any other individual to participate in developing the person-centered service plan;

(c) Use a process that:

1. Provides the necessary information and support to empower the participant, the participant's guardian, or participant's legal representative to direct the planning process in a way that empowers the participant to have the freedom and support to control the participant's schedules and activities without coercion or restraint;

2. Is timely and occurs at times and locations convenient for the participant;

3. Reflects cultural considerations of the participant;

4. Provides information:

a. Using plain language in accordance with 42 C.F.R. 435.905(b); and

b. In a way that is accessible to an individual with a disability or who has limited English proficiency;

5. Offers an informed choice defined as a choice from options based on accurate and thorough knowledge and understanding to the participant regarding the services and supports to be received and from whom;

6. Includes a method for the participant to request updates to the person-centered service plan as needed;

7. Enables all parties to understand how the participant:

a. Learns;

b. Makes decisions; and

c. Chooses to live and work in the participant's community;

8. Discovers the participant's needs, likes, and dislikes; and

9. Empowers the participant's person-centered team to create a person-centered service plan that:

a. Is based on the participant's:

(i) Assessed clinical and support needs;

(ii) Strengths;

(iii) Preferences; and

(iv) Ideas;

b. Encourages and supports the participant's:

(i) Rehabilitative needs;

(ii) Habilitative needs; and

(iii) Long term satisfaction;

c. Is based on reasonable costs given the participant's support needs;

d. Includes:

(i) The participant's goals;

(ii) The participant's desired outcomes; and

(iii) Matters important to the participant;

e. Includes a range of supports including funded, community, and natural supports that shall assist the participant in achieving identified goals;

f. Includes:

(i) Information necessary to support the participant during times of crisis; and

(ii) Risk factors and measures in place to prevent crises from occurring;

g. Assists the participant in making informed choices by facilitating knowledge of and access to services and supports;

h. Records the alternative home and community-based settings that were considered by the participant;

i. Reflects that the setting in which the participant resides was chosen by the participant;

j. Is understandable to the participant and to the individuals who are important in supporting the participant;

k. Identifies the individual or entity responsible for monitoring the person-centered service plan;

l. Is finalized and agreed to with the informed consent of the participant or participant's representative in writing with signatures by each individual who will be involved in implementing the person-centered service plan;

m. Shall be distributed to the individual and other people involved in implementing the person-centered service plan;

n. Includes those services that the individual elects to self-direct; and

o. Prevents the provision of unnecessary or inappropriate services and supports; and

(d) Include in all settings the ability for the participant to:

1. Have access to make private phone calls, texts, or emails at the participant's preference or convenience; and

2.a. Choose when and what to eat;

b. Have access to food at any time;

c. Choose with whom to eat or whether to eat alone; and

d. Choose appropriating clothing according to the:

(i) Participant's preference;

(ii) Weather; and

(iii) Activities to be performed.

(2) If a participant's person-centered service plan includes ADHC services, the ADHC services plan of treatment shall be addressed in the person-centered service plan.

(3)(a) A participant's person-centered service plan shall be:

1. Entered into the MWMA portal by the participant's case manager; and

2. Updated in the MWMA portal by the participant's case manager.

(b) A participant or participant's authorized representative shall complete and upload into the MWMA portal a MAP - 116 Service Plan – Participant Authorization prior to or at the time the person-centered service plan is uploaded into the MWMA portal.

Section 8. Case Management Requirements. (1) A case manager shall:

(a) Have:

1.a. A bachelor's degree in a health or human services field from an accredited college or university; and

b.(i) At least one (1) year of experience in a health or human services field; or

(ii) The educational or experiential equivalent in the field of aging or disabilities; or

(b) Be a registered nurse who has:

1. At least two (2) years of experience as a professional nurse in the field of aging or disabilities; or

2. A master's degree in a health or human services field from an accredited college or university.

(2) A case manager shall be supervised by a case management supervisor who:

(a) Has at least four (4) years of experience as a case manager in the field of aging or disabilities; and

(b) Meets the requirements established in subsection (1) of this section.

(3) A case manager shall meet with a participant, the participant's guardian, or the participant's legal representative within seven (7) days of receiving a referral from an independent assessor regarding the participant.

(4) A case manager shall:

(a) Communicate in a way that ensures the best interest of the participant;

(b) Be able to identify and meet the needs of the participant;

(c)1. Be competent in the participant's language either through personal knowledge of the language or through interpretation; and

2. Demonstrate a heightened awareness of the unique way in which the participant interacts with the world around the participant;

(d) Ensure that:

1. The participant is educated in a way that addresses the participant's:

a. Need for knowledge of the case management process;

b. Personal rights; and

c. Risks and responsibilities as well as awareness of available services; and

2. All individuals involved in implementing the participant's person-centered service plan are informed of changes in the scope of work related to the person-centered service plan as applicable;

(e) Have a code of ethics to guide the case manager in providing case management that shall address:

1. Advocating for standards that promote outcomes of quality;

2. Ensuring that no harm is done;

3. Respecting the rights of others to make their own decisions;

4. Treating others fairly; and

5. Being faithful and following through on promises and commitments;

(f)1. Lead the person-centered service planning team;

2. Take charge of coordinating services through team meetings with representatives of all agencies involved in implementing a participant's person-centered service plan;

(g)1. Include the participant's participation, guardian's participation, or legal representative's participation in the case management process; and

2. Make the participant's preferences and participation in decision making a priority;

(h) Document:

1. A participant's interactions and communications with other agencies involved in implementing the participant's person-centered service plan; and

2. Personal observations;

(i) Advocate for a participant with service providers to ensure that services are delivered as established in the participant's person-centered service plan;

(j) Be accountable to:

1. A participant to whom the case manager provides case management in ensuring that the participant's needs are met;

2. A participant's person-centered team and provide leadership to the team and follow through on commitments made; and

3. The case manager's employer by following the employer's policies and procedures;

(k) Stay current regarding the practice of case management and case management research;

(l) Assess the quality of services, safety of services, and cost effectiveness of services being provided to a participant in order to ensure that implementation of the participant's person-centered service plan is successful and done so in a way that is efficient regarding the participant's financial assets and benefits;

(m) Accurately reflect in the MWMA portal if a participant is:

1. Terminated from the HCB waiver program;

2. Admitted to a hospital;

4. Admitted to a skilled nursing facility;

4. Transferred to another Medicaid 1915(c) home and community based waiver service program; or

5. Relocated to a different address; and

(n) Provide information about participant-directed services to the participant, participant's guardian, or participant's legal representative:

1. At the time the initial person-centered service plan is developed; and

2. At least annually thereafter and upon inquiry from the participant, participant's guardian, or participant's legal representative.

(5)(a) Case management for any individual who begins receiving HCB waiver services after the effective date of this administrative regulation shall be conflict free except as allowed in paragraph (b) of this subsection.

(b)1. Conflict free case management shall be a scenario in which a provider including any subsidiary, partnership, not-for-profit, or for-profit business entity that has a business interest in the provider who renders case management to a participant shall not also provide another 1915(c) home and community based waiver service to that same participant unless the provider is the only willing and qualified HCB waiver provider within thirty (30) miles of the participant's residence.

2. An exemption to the conflict free case management requirement shall be granted if:

a. A participant requests the exemption;

b. The participant's case manager provides documentation of evidence to the department that there is a lack of a qualified case manager within thirty (30) miles of the participant's residence;

c. The participant or participant's representative and case manager signs a completed MAP 531 Conflict-Free Case Management Exemption; and

d. The participant, participant's representative, or case manager uploads the completed MAP 531 Conflict-Free Case Management Exemption into the MWMA portal.

3. If a case management service is approved to be provided despite not being conflict free, the case management provider shall document conflict of interest protections, separating case management and service provision functions within the provider entity and demonstrate that the participant is provided with a clear and accessible alternative dispute resolution process.

4. An exemption to the conflict free case management requirement shall be requested upon reassessment or at least annually.

(c) A participant who receives HCB waiver services prior to the effective date of this administrative regulation shall transition to conflict free case management when the participant's next level of care determination occurs.

(d) During the transition to conflict free case management, any case manager providing case management to a participant shall

educate the participant and members of the participant's person-centered team of the conflict free case management requirement in order to prepare the participant to decide, if necessary, to change the participant's:

1. Case manager; or

2. Provider of non-case management HCB waiver services.

(e) If a participant chooses a new case manager in order to comply with the conflict free case management requirement, the new case manager and the participant's assessment team shall be responsible for:

1. Developing the material necessary for the participant's next level of care determination;

2. Submitting the material associated with the participant's next level of care determination to the MWMA portal;

3. Developing the participant's next person-centered service plan; and

4. Submitting the participant's next person-centered service plan to the MWMA portal.

(6) Case management shall involve:

(a) A constant recognition of what is and is not working regarding a participant; and

(b) Changing what is not working.

(7) A case manager shall:

(a) Arrange for a service but not provide a service directly;

(b) Contact the participant at least monthly by telephone or through a face-to-face visit with a minimum of one (1) face-to-face visit between the case manager and the participant:

1. Every other month in:

a. An adult day health care center; or

b. The participant's residence;

2. At least three (3) times a calendar year in the participant's residence;

(c) Ensure that services are provided in accordance with the participant's person-centered service plan;

(d) Issue a participant corrective action plan if:

1. The participant does not comply with the person-centered service plan;

2. The participant, a family member of the participant, an employee of the participant, the participant's guardian, or a legal representative of the participant threatens, intimidates, or consistently refuses services from any HCB waiver provider;

3. Imminent threat of harm to the participant's health, safety or welfare exists;

4. The participant, a family member of the participant, an employee of the participant, the participant's guardian, or a legal representative of the participant interferes with or denies the provision of an assessment, case management, or service advisory; or

5. If the PDS provider does not comply with the PDS provider requirements established in Section 6(1) of this administrative regulation; and

(e) Issue a recommendation to the department for termination from HCB waiver services or PDS if a participant corrective action plan cannot be agreed upon or fulfilled by the participant, participant's guardian, or participant's legal representative.

Section 9. Critical Incident Reporting. (1)(a) An event that potentially or actually impacts the health, safety, or welfare of the participant shall be a critical incident.

(b) A critical incident may include:

1. Death;

2. Alleged or suspected abuse, neglect, or exploitation;

3. Homicidal or suicidal ideation;

4. Missing person;

5. A medication error resulting in consultation or intervention of a licensed medical professional;

6. An event involving police or emergency response personnel intervention; or

7. Other action or event that may result in harm to the participant.

(2)(a) If a critical incident occurs, the individual who witnessed the critical incident or discovered the critical incident shall immediately act to ensure the health, safety, and welfare of the at-risk participant.

(b) If the critical incident:

1. Requires reporting of abuse, neglect, or exploitation, the critical incident shall be immediately reported via the MWMA portal by the individual who witnessed or discovered the critical incident; or

2. Does not require reporting of abuse, neglect, or exploitation, the critical incident shall be reported by the individual who witnessed or discovered the critical incident via the MWMA portal within eight (8) hours of discovery.

(c) The HCB waiver provider shall:

1. Conduct an immediate investigation and involve the participant's case manager in the investigation; and

2. Prepare a report of the investigation, which shall be recorded in the MWMA portal and shall include:

a. Identifying information of the participant involved in the critical incident and the person reporting the critical incident;

b. Details of the critical incident; and

c. Relevant participant information including:

(i) A listing of recent medical concerns;

(ii) An analysis of causal factors; and

(iii) Recommendations for preventing future occurrences.

(d) The participant's case manager shall follow up to ensure that the participant's health, safety, and welfare are not jeopardized.

(3)(a) Following a death of a participant receiving services from an HCB waiver provider, the participant's case manager shall enter mortality data documentation into the MWMA portal within fourteen (14) days of the death.

(b) Mortality data documentation shall include:

1. The participant's person-centered service plan at the time of death;

2. Any current assessment forms regarding the participant;

3. The participant's medication administration records from all service sites for the past three (3) months along with a copy of each prescription;

4. Progress notes regarding the participant from all service elements for the past thirty (30) days;

5. The results of the participant's most recent physical exam;

6. All incident reports, if any exist, regarding the participant for the past six (6) months;

7. Any medication error report, if any exists, related to the participant for the past six (6) months;

8. A full life history of the participant including any update from the last version of the life history;

9. Names and contact information for all staff members who provided direct care to the participant during the last thirty (30) days of the participant's life;

10. Emergency medical services notes regarding the participant if available;

11. The police report if available;

12. A copy of:

a. The participant's advance directive, medical order for scope of treatment, living will, or health care directive if applicable;

b. The cardiopulmonary resuscitation and first aid card for any HCB provider's staff member who was present at the time of the incident that resulted in the participant's death;

13. A record of all medical appointments or emergency room visits by the participant within the past twelve (12) months; and

14. A record of any crisis training for any staff member present at the time of the incident that resulted in the participant's death.

(4) An HCB provider shall report a medication error by making an entry into the MWMA portal.

Section 10. Involuntary Termination of HCB Waiver Services. (1) If the department involuntarily terminates a participant's participation in the HCB waiver program, the department shall:

(a) Notify in writing of the decision to terminate services the:

1. Participant's independent assessor;

2. Participant, participant's guardian, or participant's legal representative;

3. Participant's case manager; and

4. Participant's HCB waiver service providers; and

(b) Inform the participant, participant's guardian, or participant's legal representative of the right to appeal the department's decision to terminate HCB waiver services.

(2)(a) If an HCB waiver provider involuntarily terminates providing HCB waiver services to a participant, the HCB waiver provider shall:

1. At least thirty (30) days prior to the effective date of the termination:

a. Simultaneously notify in writing the:

(i) Participant, participant's guardian, or participant's legal representative;

(ii) Participant's case manager;

(iii) The participant's independent assessor; and

(iv) Department;

2. Document the termination in the MWMA portal; and

3. In conjunction with the participant's case manager:

a. Provide the participant, participant's guardian, or participant's legal representative with the name, address, and telephone number of each HCB waiver provider in Kentucky;

b. Provide assistance to the participant, participant's guardian, or participant's legal representative in contacting another HCB waiver provider; and

c. Provide a copy of pertinent information to the participant, participant's guardian, or participant's legal representative.

(b) The notice referenced in paragraph (a) of this subsection shall include:

1. A statement of the intended action;

2. The basis for the intended action;

3. The authority by which the intended action is taken; and

4. The participant's right to appeal the intended action through the provider's appeal or grievance process.

Section 11. Use of Electronic Signatures. The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

Section 12. Applicability and Transition to Version 2. (1) The provisions and requirements established in this administrative regulation shall not apply to individuals receiving HCB waiver services version 1 pursuant to 907 KAR 1:160.

(2) A participant receiving services pursuant to 907 KAR 1:160 shall transition to receiving services pursuant to this administrative regulation upon the participant's next level-of-care determination provided that the determination confirms that the individual is still eligible for HCB waiver services.

Section 13. Appeal Rights. An appeal of a department determination regarding NF level of care or services to a participant shall be in accordance with 907 KAR 1:563.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "MAP – 115 Application Intake – Participant Authorization", May 2015;

(b) "MAP – 116 Service Plan – Participant Authorization", May 2015;

(c) "MAP – 531 Conflict-Free Case Management Exemption", May 2015;

(d) "PDS Request Form for Immediate Family Member, Guardian, or Legally Responsible Individual as a Paid Service Provider", August 1, 2015;

(e) "MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form", June 2015;

(f) "MAP 2000, Initiation/Termination of Participant-Directed Services", June 2015;

(g) "MAP-10, Waiver Services Physician's Recommendation", June 2015;

(h) "Kentucky Participant-Directed Services Employee Provider Contract", June 2015; and

(i) "Kentucky Home Assessment Tool (K-HAT)", July 1, 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At 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: October 13, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 the Medicaid program coverage provisions and requirements regarding a new version – Version 2 – of home and community based (HCB) waiver services. The HCB program enables individuals who have nursing facility level-of-care needs to live, and receive services, in a community setting rather than in a nursing facility. Individuals will be transitioned to the new version of the HCB program at the time of their next level-of-care certification/determination. The certification is a process that assesses the individual to determine if they still meet HCB waiver program participation criteria (i.e. still have nursing facility level-of-care needs). Differences between Version 2 and Version 1 include establishing new federally-mandated case management requirements (that case management be free from conflict of interest); requiring, as federally mandated, that an online portal (Medicaid Waiver Management Application or MWMA) be used to apply for admission to the program and to complete forms and documents associated with the program; establishing a person-centered service plan along with associated requirements (federally mandated) for each program participant. The over-arching requirement of the person-centered service plan is to more greatly involve and afford more choice by the participant and/or participant's representative in designing the plan and related components as well as better enable them to assimilate into their community. Additional differences include adding home-delivered meals as a covered service; creating a new service (home and community supports) by consolidating former services (homemaking and personal care); establishing a specialized and non-specialized version of respite; adding a new service called participant-directed service (PDS) coordination; adds new rights that must be guaranteed for individuals receiving services; require providers to check the Caregiver Misconduct Registry before hiring an individual and prohibits the hiring of anyone listed on the registry; and narrows the classes of incidents (to be reported) from

two (2) classes to one (1) class (critical).

(b) The necessity of this administrative regulation: The administrative regulation is necessary to establish coverage policies for a new version – Version 2 - of Medicaid's home and community based waiver program and in accordance with federal requirements.

(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 Medicaid coverage provisions and requirements for a new version of a program that enables individuals who have nursing facility level-of-care needs to live, and receive services, in a community setting rather than in a nursing facility.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation will assist in the effective administration of the authorizing statutes by establishing Medicaid coverage provisions and requirements for a program that enables individuals who have nursing facility level-of-care needs to live, and receive services, in a community setting rather than in a nursing facility.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Currently sixty-three (63) providers (home health departments and adult day health care centers) enrolled as HCB waiver program providers and over 9,500 individuals are receiving services through the 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: Providers will need to ensure they comply with the conflict free case management requirements.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals receiving services will benefit from greater involvement and direction in the types of services they receive as well as when and where they receive the services which will enhance their independence as well as assimilation in their local community.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates that the amendments to this administrative regulation will be budget neutral initially.

(b) On a continuing basis: DMS anticipates that the amendments to this administrative regulation will be budget neutral on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX and state matching funds from general fund and restricted fund appropriations are utilized to fund the 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. Neither an increase in fees nor funding is necessary to implement the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. 441.730(b) and 42 C.F.R. 441.725.

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Among the mandates in 42 C.F.R. 441.730(b) are that services to waiver participants are free from conflict of interest. In the context of the SCL program that means that the individual who provides case management to a given waiver participant provide actual SCL waiver services or work for an entity that provides actual SCL waiver services or entity that has a business interest in a provider of actual SCL waiver services. 42 C.F.R. 447.425 establishes the person-centered service plan requirements which are many but the underlying requirement is that the plan be customized to the individual's needs (based on input from the individual or representatives of the individual among other parties) and promote/enhance the individual's independence and choice in their services and activities as well as integration their community.

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, additional or different requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment will affect the Department for Medicaid Services and the Department for Behavioral Health, Intellectual and Developmental Disabilities.

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), 42 C.F.R. 441.730(b), and 42 C.F.R. 441.725.

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 any additional revenue for state or local governments during the first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates that the amendment will be budget neutral for the first year.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that the amendment will be budget neutral in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(New Administrative Regulation)

907 KAR 7:015. Reimbursement for home and community based waiver services version 2.

RELATES TO: 42 C.F.R. 441 Subparts B, G, 42 U.S.C. 1396a, 1396b, 1396d, 1396n

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program reimbursement requirements and provisions for home and community based waiver services version 2.

Section 1. Definitions. (1) "1915(c) home and community based services waiver program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).

(2) "ADHC" means adult day health care.

(3) "ADHC center" means an adult day health care center that is:

(a) Licensed in accordance with 902 KAR 20:066; and

(b) Certified for Medicaid participation by the department.

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

(5) "Fixed upper payment limit" means the maximum amount the department shall reimburse per unit.

(6) "HCB" means home and community based waiver.

(7) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Participant" means a recipient who:

(a) Meets the nursing facility level of care criteria established in 907 KAR 1:022; and

(b) Meets the eligibility criteria for HCB services established in 907 KAR 7:010.

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

Section 2. HCB Service Reimbursement. (1)(a) Except as provided in Section 3 or 5 of this administrative regulation, the department shall reimburse for a home and community based waiver service or item at the lesser of the billed charges or the fixed upper payment limit for each unit.

(b) The fixed upper payment limits, unit amounts, and reimbursement maximums established in the following table shall apply:

Service	Fixed Upper Payment Rate Limit	Unit Amount	Maximum
PDS coordination	$162.50 per unit		Two (2) units per month
Case management	$100.00	One (1) month	One (1) unit per month
Attendant care not as a PDS	$24.00 per hour	One (1) hour	$200 per day alone or in combination with ADHC services. Travel to and from the participant's residence shall be excluded
Home and community supports	$2.88 per unit	Fifteen (15) minutes	Forty-five (45) hours per week; Maximum of $200 per day alone or in combination with ADHC services; Travel to and from the participant's residence shall be excluded
Non-specialized respite	$2.75 per unit	Fifteen (15) minutes	$200 per day alone or in combination with specialized respite. Non-specialized respite alone or in combination with specialized respite shall not exceed $4,000 per level of care year.
Goods and services	$3,500 per level of care year	Level of care year	$3,500 per level of care year; shall not be covered unless prior authorized
Home delivered meals	$7.50 per hot meal	One (1) hot meal	One (1) hot meal per day and five (5) hot meals per week
Adult day health care services	$2.83 per unit for Level I services; $3.43 per unit for Level II services	Fifteen (15) minutes	200 units per week
Specialized respite	$4.00 per unit	Fifteen (15) minutes	$200 per day alone or in combination with non-specialized respite. Specialized respite alone or in combination with non-specialized respite shall not exceed $4,000 per level of care year.
Environmental or minor home adaptation	$2,500 per level of care year	One (1) level of care year	$2,500 per level of care year; shall not be covered unless prior authorized

(2)(a) Reimbursement for a service provided as a PDS shall not exceed the department's allowed reimbursement for the same service as established in the table in subsection (1) of this section.

(b) Participants receiving services through the PDS option shall have three (3) months from the date of level of care recertification to comply with the reimbursement limit established in paragraph (a) of this subsection.

(3)(a) Three (3) quotes from a prospective provider shall be required for:

1. An environmental or minor home adaptation; or
2. Goods and services.

(b) Documentation justifying the need for the following shall be uploaded into the MWMA portal:

1. An environmental or minor home adaptation; or
2. Goods and services.

(5) A service listed in subsection (1) of this section shall not be subject to cost settlement by the department unless provided by a local health department.

Section 3. Local Health Department HCB Service Reimbursement. (1) The department shall reimburse a local health department for HCB services:

(a) Pursuant to Section 2 of this administrative regulation; and

(b) Equivalent to the local health department's HCB services cost for a fiscal year.

(2) A local health department shall:

(a) Each year complete a Home Health and Home and Community Based Cost Report completed in accordance with the Home Health and Home and Community Based Cost Reporting Instructions; and

(b) Submit the Home Health and Home and Community Based Cost Report to the department at fiscal year's end.

(3) The department shall determine, based on a local health department's most recently submitted annual Home Health and Home and Community Based Cost Report, the local health department's estimated costs of providing HCB services by multiplying the cost per unit by the number of units provided during the period.

(4) If a local health department's HCB service reimbursement for a fiscal year is less than its cost, the department shall make supplemental payment to the local health department equal to the difference between:

(a) Payments received for HCB services provided during a fiscal year; and

(b) The estimated cost of providing HCB services during the same time period.

(5) If a local health department's HCB service cost as estimated from its most recently submitted annual Home Health and Home and Community Based Cost Report is less than the payments received pursuant to Section 2 of this administrative regulation, the department shall recoup any excess payments.

(6) The department shall audit a local health department's Home Health and Home and Community Based Cost Report if it determines an audit is necessary.

Section 4. Reimbursement for an ADHC Service. (1) Reimbursement for an ADHC service shall:

(a) Be made:

1. Directly to an ADHC center; and

2. For a service only if the service was provided on site and during an ADHC center's posted hours of operation;

(b) If made to an ADHC center for a service not provided during the center's posted hours of operation, be recouped by the department; and

(c) Be limited to 200 units per calendar week.

(2) Level I reimbursement shall be the lesser of:

(a) The provider's usual and customary charges; or

(b) Two (2) dollars and eighty-three (83) cents per unit of service.

(3)(a) Level II reimbursement shall be the lesser of:

1. The ADHC center's usual and customary charges; or

2. Three (3) dollars and forty-three (43) cents per unit of service.

(b) An ADHC center's reimbursement for Level II services shall be:

1. Per participant; and

2. Based upon the participant's assessed level of care and most recent person-centered service plan.

(4) An ADHC basic daily service shall constitute care for one (1) participant.

(5) One (1) unit of ADHC basic daily service shall equal fifteen (15) minutes.

(6) The level of and reimbursement rate for any ADHC service provided to a participant shall be determined by an assessment of the participant using the Kentucky Home Assessment Tool (K-HAT).

Section 5. Criteria for High Intensity Level II Reimbursement. (1) Any ADHC service provided to a participant by an ADHC center shall qualify for Level II reimbursement if the participant meets the Level II High Intensity criteria established in the Kentucky Home Assessment Tool (K-HAT).

(2) Specialized respite care provided to a participant by a home health agency shall qualify for Level II reimbursement if the participant meets the Level II High Intensity criteria established in the Kentucky Home Assessment Tool (K-HAT).

(3) If a participant's assessment determines that:

(a) ADHC services to the participant do not qualify for Level II reimbursement, the department shall reimburse the Level I rate to the ADHC center for services provided to the participant; or

(b) Specialized respite care to the participant does not qualify for Level II reimbursement, the department shall reimburse the Level I rate to the ADHC center or home health agency for the specialized respite care service.

Section 6. Applicability. The reimbursement provisions and requirements established in this administrative regulation shall:

(1) Apply to services or items provided to individuals who receive home and community based services version 2 pursuant to 907 KAR 7:010; and

(2) Not apply to services or items provided to individuals receiving home and community based services version 1 pursuant to 907 KAR 1:160.

Section 7. Appeal Rights. An HCB service provider may appeal a department decision as to the application of this administrative regulation as it impacts the provider's reimbursement in accordance with 907 KAR 1:671, Sections 8 and 9.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Home Assessment Tool (K-HAT)", July 1, 2015;

(b) "The Home Health and Home and Community Based Cost Report", November 2007; and

(c) "The Home Health and Home and Community Based Cost Report Instructions", November 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40601, 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: October 13, 2015

FILED WITH LRC: October 14, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 23, 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 November 16, 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 November 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 is a new administrative regulation which establishes the Medicaid program reimbursement provisions and requirements regarding a new

version of home and community based waiver program services (Version 2.) This program enables individuals who have nursing facility level of care needs to, rather than receive services in a nursing facility, live in and receive services in a community setting. Differences between Version 1 and Version 2 include: adding reimbursement for a new service - home-delivered meals; adding reimbursement for home and community supports which results from consolidating former services (homemaking and personal care); establishing reimbursement for two (2) types of respite - specialized and non-specialized version; adding reimbursement for a new service called participant-directed service (PDS) coordination; increasing the rate for Level I adult day health care (ADHC) center services from $2.57 per unit to $2.83 per unit; revising the criteria for Level II adult day health care (ADHC) center reimbursement as well as increasing the rates from $3.12 per unit to $3.43 per unit; and eliminating reimbursement for a "safety net provider".

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Medicaid program reimbursement provisions and requirements for a new version of the home and community based waiver services program. Increasing reimbursement for Level I and Level II ADHC services is necessary to help providers of such services meet the demand for services. Eliminating the safety net provider category and reimbursement is necessary to comply with a federal mandate and to ensure receipt of federal funds. The safety net provider category was created several years ago in response to a need for services in Eastern Kentucky. The initial provider that qualified no longer meets the criteria and a new provider emerged whose reimbursement has ended up not only exceeding costs but the federal upper payment limit. The Department for Medicaid Services (DMS) is ending the reimbursement to comply with the federal upper payment limit and ensure receipt of federal funds for the program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Medicaid program reimbursement provisions and requirements regarding a new version of the home and community based waiver services program and complying with federal requirements for the program.

(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 authorizing statutes by establishing the Medicaid program reimbursement provisions and requirements regarding a new version of the home and community based waiver services program and complying with federal requirements for the program.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation which establishes reimbursement for a new version (Version 2) of the home and community based waiver program.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation which establishes reimbursement for a new version (Version 2) of the home and community based waiver program.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation which establishes reimbursement for a new version (Version 2) of the home and community based waiver program.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation which establishes reimbursement for a new version (Version 2) of the home and community based waiver program.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Currently sixty-three (63) providers (home health departments and adult day health care centers) enrolled as HCB waiver program providers and over 9,500 individuals are receiving services through the program. There is one (1) entity that qualified in recent years as a safety net provider.

(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: Participants who receive goods and services will have to produce three (3) quotes (from providers) for goods and services in order for the department to reimburse for the goods and services. Additionally, documentation justifying the need for goods and services and for environmental or minor home adaptations must also be documented in the MWMA portal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Some costs could be experienced related to acquiring three (3) quotes for goods and services but the cost is indeterminable.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Home and community based waiver program participants will benefit by being able to receive home-delivered meals among other new services. ADHC centers will benefit from higher reimbursement for ADHC services and providers of home-delivered meals (a new service) will benefit by being reimbursed for such services.

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

(a) Initially: The Department for Medicaid Services (DMS) anticipates that the amendments to this administrative regulation will be budget neutral initially.

(b) On a continuing basis: DMS anticipates that the amendments to this administrative regulation will be budget neutral on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX and state matching funds from general fund and restricted fund appropriations are utilized to fund the 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. Neither an increase in fees nor funding is necessary to implement the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(19) and 42 C.F.R. 447.26.

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(19) requires Medicaid programs to provide care and services consistent with the best interests of Medicaid recipients.

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, additional or different requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment will affect the Department for Medicaid Services and the Department for Aging and Independent Living.

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), and 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 amendment will not generate any additional revenue for state or local governments during the first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) anticipates that implementing the administrative regulation will be budget neutral for the first year.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates that implementing the administrative regulation will be budget neutral for the 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: No additional expenditures are necessary to implement this amendment.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of October 13, 2015

Call to Order and Roll Call
The October 2015 meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 13, 2015, at 1 p.m. in Room 149 of the Capitol Annex. Senator Ernie Harris, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the September 2015 meeting were approved.

Present were:
Members: Senators Ernie Harris, Perry Clark, Julie Raque Adams and Representatives Denver Butler, Mary Lou Marzian and Tommy Turner.

LRC Staff: Donna Little, Sarah Amburgey, Carrie Klaber, Karen Howard, Emily Harkenrider, Emily Caudill, Ange Bertholf, and Betsy Cupp.

Guests: Marcie Lowe, Education Professional Standards Board; Steve Bullard, Jake McKinney, Department of Military Affairs; Dick Carroll, Board of Accountancy; Connie Calvert, Jonathan Shrewsbury, Board of Optometric Examiners; Marcus Jones, Greg Wells, Board of Licensure for Long term Care Administrators; Leanne Diakov, Board of Medical Licensure; Kristen Reese, Rhonda Richardson, Real Estate Commission; Johnathan Buckley, David Cox, State Board of Licensure for Professional Engineers and Land Surveyors; Marcus Jones, Marci Purtell, Board of Interpreters for the Deaf and Hard of Hearing; Ryan Halloran, Applied Behavior Analysis Licensing Board; Sheryl Abercrombie, Andrea Cornelle, Brian Judy, Elizabeth Morgan, Carol Scherbak, Board of Medical Imaging and Radiation Therapy; John Cummings, Parole Board; Gerald Ross, Law Enforcement Council; Noelle Bailey, Scott Jones, Department of Charitable Gaming; Christa Bell, Virginia Carrington, Sarah Cooper, Todd Trapp, Department for Community Based Services; Sandra Hackney, Bluegrass Community and Technical College, Pam Mooney, John Weikel, Sr., John Weikel, Jr., A-Pass-Weikel Institute; and Tim Arnold, DPA.

The Administrative Regulation Review Subcommittee met on Tuesday, October 13, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Teaching Certificates

16 KAR 2:100. Junior Reserve Officers Training Corps certification. Marcie Lowe, legislative liaison, represented the board.

In response to questions by Senator Clark, Ms. Lowe stated that this administrative regulation, which applied to military-related school programs, was being amended to allow the Kentucky Department of Education to create a new career pathway related to the Junior Reserve Officers Training Corps. The requirement for documentation of honorable military service applied to initial applicants as instructors for the programs.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clarify that this administrative regulation also applies to Junior Guard certification; (2) to amend the RELATES TO paragraph to add a citation; and (3) 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.

16 KAR 2:110. Endorsement for teachers for gifted education.

In response to a question by Senator Clark, Ms. Lowe stated that 16 KAR 2:110 through 2:200, 16 KAR 3:030 and 3:040, and 16 KAR 9:030 and 9:040 were amended to add character and fitness questions to the applications incorporated by reference. The character and fitness questions were an opportunity for the applicant to self-disclose matters such as allegations of misconduct, instances of licensure discipline, and relevant criminal convictions.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

16 KAR 2:140. Probationary certificate for teachers of children, birth to primary.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection and with agreement of the agency, the amendments were approved.

16 KAR 2:150. Probationary certificate for teachers of engineering and technology information.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

16 KAR 2:160. Probationary certificate for teachers of exceptional children.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

16 KAR 2:170. Probationary certificate for middle school teachers.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

16 KAR 2:200. Probationary certificate for teachers for English as a second language.

Administrative Certificates

16 KAR 3:030. Professional certificate for directors and assistant directors of pupil personnel.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 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.

16 KAR 3:040. Director of special education.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 5 to update the material incorporated by reference so that the form complies with the amendments to this administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Alternative Routes to Certification

16 KAR 9:030. Professional certificate for college faculty.

A motion was made and seconded to approve the following

amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend the 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.

16 KAR 9:040. Part-time adjunct instructor certificate.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 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 MILITARY AFFAIRS: National Guard Tuition Award Program

106 KAR 3:010. Kentucky National Guard Tuition Award Program. Brigadier General Steve Bullard, chief of staff, and Major Jake McKinney, State Education Officer, represented the department.

In response to a question by Co-Chair Harris, Brigadier General Bullard stated that funding for the Kentucky National Guard Tuition Award Program was being exhausted. The program eliminated funding for summer sessions and no longer funded master's degrees. The department was amending this administrative regulation to continue to be a good steward of the program's 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; and (3) to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Accountancy: Board

201 KAR 1:050. License application. Dick Carroll, executive director, represented the board.

In response to a question by Co-Chair Harris, Mr. Carroll stated that a photograph was no longer required to sit for an examination because fingerprints, which were a more secure means of identification, were now required to be scanned.

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; (2) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (3) to amend 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 1:063. Certificate of experience.

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; (2) to amend Section 3 to clarify requirements; (3) to amend the RELATES TO paragraph to correct a citation; and (4) 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 1:071. Repeal of 201 KAR 1:064.

201 KAR 1:081. Firm license, renewal, and reinstatement.

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; (2) to amend Section 3 to specify requirements; (3) to amend Sections 1, 2, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Sections 2, 6, and 7 to establish that fees shall be nonrefundable. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 1:140. Procedures for the reinstatement or reissuance of CPA license.

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; (2) to amend the RELATES TO paragraph to add a citation; (3) to amend Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 3(2)(d) to add that continuing professional education credits previously used to satisfy Kentucky reinstatement requirements shall not be used for subsequent reinstatement purposes. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 1:150. Procedures for the dissemination of information relative to hearings held before the Kentucky State Board of Accountancy.

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 1 to add a link the board's Web site. Without objection, and with agreement of the agency, the amendments were approved.

Board of Optometric Examiners: Board

201 KAR 5:030. Annual courses of study required. Connie Calvert, executive director, and Dr. Jonathan Shrewsbury, OD, board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 5:110. Expanded therapeutic procedures.

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 6 to comply with the drafting requirements of KRS Chapter 13A; and (4) to add a new section to establish who shall file the documents incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Licensure for Long-term Care Administrators: Board

201 KAR 6:070. Continuing education. Marcus Jones, assistant attorney general, and Greg Wells, chair, 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 Sections 2 through 6, 8, and 10 to comply with the drafting and formatting requirements of KRS

Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:305. Continued licensure of athletic trainers. Leanne Diakov, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend Section 2 to clarify that an athletic trainer shall still complete the required HIV/AIDS course referenced in KRS 311.901, but only once upon initial licensure or within the first three (3) year renewal cycle from initial licensure. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:310. Continuing medical education.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a citation; (2) to amend Section 4 to insert examples of what constitutes "sufficient cause" for granting an extension of time for completing the continuing medical education requirements; (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 5 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Commission: Commission

201 KAR 11:170 & E. Real estate school and pre-license course approval. Kristen Reese, director of education and licensing, and Rhonda Richardson, general counsel, represented the commission. Sandra Hackney, associate professor at Bluegrass Community and Technical College; Pam Mooney, instructor at the A-Pass-Weikel Institute; John Weikel, Jr., president of the A-Pass-Weikel Institute; and John Weikel, Sr., appeared in opposition to these administrative regulations.

Ms. Hackney stated that, as real estate option coordinator at Bluegrass Community and Technical College, she believed that the original intent of the authorizing legislation was to include hands-on courses for post-licensure training, which would support licensees in understanding licensee responsibilities to the public and requirements of the commission. Ms. Hackney stated that, while she fully supported that intent, there were some practical problems with the requirements. For colleges, courses were established in forty-eight (48) or thirty-two (32) hour divisions. If the administrative regulation required sixteen (16), rather than the current eighteen (18), hours of electives, this would be evenly divisible into the existing class time structure. Likewise, if the total class requirements were for thirty-two (32), rather than thirty (30), hours, the requirements would fit the existing class time structure. Also, the brokerage management class should qualify for credit toward the post-licensure education requirements.

In response to questions by Co-Chair Harris, Ms. Hackney stated that graduates of the program received the instruction necessary to sit for the real estate licensure examination; however, education programs did not actually approve or issue the licenses. The program also provided continuing education and post-licensure education.

Mr. Weikel, Jr. stated that he supported what he believed to be the legislative intent to raise the bar regarding education for licensees; however, he requested several amendments to these administrative regulations. KRS 324.085(2) was not intended to require a specific curriculum for post-licensure, which would place education providers at a disadvantage. 201 KAR 11:235, Section 2(8) should be amended so that any real estate course offered by an accredited institution would qualify for credit toward post-license education. Those courses had already been approved by the commission and should not require another level of scrutiny and documentation. A high level course, such as brokerage management, should substitute in lieu of a lower level course. The A-Pass-Weikel Institute, which was one of the largest pre-licensure and post-licensure education providers in Kentucky, was not given an opportunity to participate in the development of these administrative regulations. Sixteen (16), rather than the current eighteen (18), hours of electives should be required in order to evenly divide electives into the existing class time structure. Total class requirements should be for thirty-two (32), rather than thirty (30), hours, in order to fit the existing class time structure. All real estate education courses were designed to protect the public. Mr. Weikel, Jr. stated that he would not have supported the authorizing legislation had he known that it would be applied inflexibly in these administrative regulations.

In response to a question by Senator Raque Adams, Ms. Richardson stated that the commission met several times with Mr. Weikel, Jr. regarding the curriculum courses, and the commission did not agree to his proposed amendment. Licensees in the post-licensure education program would be sales associates, not brokers; therefore, a brokerage management class was not generally appropriate for credit. There were three (3) levels of education for sales associates: prelicensure, post-licensure, and continuing education. Each level of education required its own, topically based approval process. It was inappropriate for a brokerage management class to receive automatic approval for credit toward post-licensure education requirements. Brokerage management courses were generally directed toward career advancement, while the post-licensure intent was toward public protection. The workgroup, which consisted of geographically diverse providers throughout Kentucky, licensees, realtor association members, and public stakeholders, established the curriculum hour standards, including hour standards for specific topics. She stated that the commission would agree to revise 201 KAR 11:235, Section 4(2), to amend the total class requirements from thirty (30) to thirty-two (32) hours, to amend the elective class requirements from eighteen (18) to sixteen (16) hours, and to add a two (2) hour required class for Risk Management.

Ms. Mooney, a pre-license instructor at A-Pass-Weikel Institute, stated that she supported Mr. Weikel's proposed amendment to 201 KAR 11:235, Section 2(8).

In response to questions by Co-Chair Marzian, Mr. Weikel, Jr. stated that there were probably fewer than fifty (50) proprietary education providers in Kentucky. Ms. Richardson stated that there were fourteen (14) pre-licensure education providers and forty-five (45) continuing education providers. University and college providers had a separate process for approval.

In response to a question by Co-Chair Harris, Ms. Richardson stated that the commission preferred not to defer consideration of these administrative regulations to the November meeting of the Subcommittee because these requirements needed to be in place by January 1, 2016.

Mr. Weikel, Sr., stated that brokerage management was the best real estate education course available, and it should be approved for credit toward post-licensure requirements. Brokerage management skills translated to sales associates.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 3, 5, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Sections 1 and 9 to incorporate an application form by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:175 & E. Instructor approval procedures and guidelines.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:195. Informal settlement procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) 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 11:210. Licensing, education, and testing requirements.

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 and 2 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 11:230. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:232. Continuing education provider requirements.

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 and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:235 & E. Post-license education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY and Sections 2 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 4(2) to: (a) change total post-licensure education hour requirements from thirty (30) to thirty-two (32); (b) change elective post-licensure education hour requirements from eighteen (18) to sixteen (16); and (c) add a two (2) hour elective for a Risk Management course to the list of electives. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:240 & E. Distance education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 6 to incorporate the Distance Education Guidelines by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:460. Minimum rating requirements for instructors.

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 and 2 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 Professional Engineers and Land Surveyors: Board

201 KAR 18:104. Seals and signatures. Jonathan Buckley, general counsel, and David Cox, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4 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 18:142. Code of processional practice and conduct.

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 through 4, 6, 7, 8, 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Interpreters for the Deaf and Hard of Hearing: Board

201 KAR 39:030. Application; qualifications for licensure; and certification levels. Marcus Jones, assistant attorney general, and Marci Purtell, vice chair, represented the board.

In response to a question by Co-Chair Harris, Mr. Jones stated that the level required for successful completion of the performance assessment had changed from 3.5 to 4.0. Ms. Purtell stated that, because the required level had changed, the references to the 3.5 level in the administrative regulation and the form were obsolete.

201 KAR 39:070. Application qualifications for temporary license.

Applied Behavior Analysis Licensing Board: Board

201 KAR 43:010. Application procedures for licensure. Ryan Halloran, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to clarify the application review fee and licensure fee; and (2) to amend Section 4 to revise the application for licensure, which was incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 43:020. Application procedures for temporary licensure.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Sections 2 and 3 to clarify that there is an application review fee and a licensure fee that is required to be submitted with the application for licensure; and (3) to update the REGULATORY IMPACT ANALYSIS to correct a response to a question to indicate the changes made to the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 43:050. Requirements for supervision.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, 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.

201 KAR 43:080. Renewals.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to clarify that the expiration of a license shall not occur unless the license is not renewed before the last day of the calendar month following the calendar month during which the license was issued; and (2) to amend Section 4 to clarify that the fee mentioned is the reinstatement fee. Without objection, and with agreement of the agency, the amendments were approved.

Board of Medical Imaging and Radiation Therapy: Board

201 KAR 46:010. Definitions for 201 KAR Chapter 46. Sheryl Abercrombie, chair; Brian Judy, assistant attorney general; and Carol Scherbak, board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to: (a) include in the definition for “advanced imaging professional” the certification organization for credentialing; and (b) add a definition for “computed tomography” or “CT”. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:020. Fees.

In response to questions by Co-Chair Harris, Mr. Judy stated

that some of the fees in this administrative regulation were existing and some were new. The fees were initially established by the Cabinet for Health and Family Services, but the board was now an independent body. Fees needed to reflect current cost increases since the board had become independent. Ms. Abercrombie stated that most licensees were expecting and supportive of the fee changes.

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 Section 4 to clarify that the provisional training licensee fee is only for a radiation therapist and a nuclear medicine technologist; (4) to amend Section 10 to clarify that the home study course fee for an independent study course is only for a limited x-ray machine operator; (5) to amend Section 12 to clarify that the written verification of documents fee is the verification of qualifications fee required by KRS 311B.120(2); and (6) to amend Section 14 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:030. Education for medical imaging technologists, advanced imaging professionals and radiation therapists.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correction 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 the TITLE and Section 1 to comply with the drafting requirements of KRS Chapter 13A; (4) to amend Section 2 to clarify that a student shall not be employed for the purpose of medical imaging or radiation therapy in Kentucky, in accordance with KRS 311B.090(2); and (5) to delete Section 3 because the material incorporated by reference is already incorporated in 201 KAR 46:040. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:040. Medical imaging technologist, advanced imaging processional and radiation therapist licenses.

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 Section 1 to clarify what kind of supervision is required for an individual who performs medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the supervision of a licensed practitioner of the healing arts; (4) to amend Section 2 to clarify what the eligibility requirements are for a radiographer and a nuclear medicine technologist; (5) to amend Sections 11 and 14 to include in the incorporation by reference section: (a) all of the practice standards; and (b) the license application and license renewal forms in the incorporation by reference section; (6) to amend the TITLE and Sections 2, 3, 4, and 6 through 15 to comply with the drafting requirements of KRS Chapter 13A; and (7) to amend Section 3 to permit the board to waive the requirement of graduation from a program accredited by the Joint Review Committee on Education in Radiologic Technology or the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, if a student enters a program not under probation and the majority of the education program is completed under the accreditation required pursuant to 201 KAR 46:030, as long as the graduate passes the American Registry of Radiologic Technologists (ARRT) examination on the first attempt. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:045. Temporary license application for medical imaging technologists, advanced imaging professionals, and radiation therapists.

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 the TITLE and 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.

201 KAR 46:050. Provisional training license for medical imaging technologists and radiation therapists.

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 the TITLE and Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:060. Continuing education requirements.

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 and 2 to clarify what continuing education is required for a radiographer and for a nuclear medicine technologist; (4) to amend Section 2 to clarify what is the Recognized Continuing Education Mechanism (RCEEM); (5) to amend Section 3 to: (a) clarify who does the submitting for the board approval of a continuing education program; and (b) add criteria for the basis of the board's decision to approve a continuing education activity; and (6) to amend Sections 1, 2, 3, 5, and 7 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 46:070. Violations and enforcement.

In response to questions by Co-Chair Harris, Mr. Judy stated that late fees were tiered, with different penalties for different tiers. During the public comment period, there were no comments regarding the fees. The board had problems in the past with former licensees continuing to practice after licensure had lapsed.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO 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 Section 1 to clarify the kinds of board orders requiring licensee compliance; (4) to amend Section 3 to: (a) establish that failure to apply for renewal by an individual who would be eligible for renewal of a license, but who does not currently qualify due to insufficient continuing education, shall, upon a violation being discovered, be assessed a civil penalty of twenty-five (25) dollars per day until the application has been approved by the board; (b) clarify that the fee schedule assessed for failure to renew a license by the expiration date is a late fee; and (c) establish the civil penalty of $100 per day until an application is approved for an individual performing a procedure requiring a license who is not qualified for licensure upon the violation being discovered; and (5) 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 46:081. Limited x-ray machine operator.

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 Section 1 to clarify what kind of supervision shall be required for an individual who performs limited diagnostic radiography while under the supervision of a licensed practitioner of the healing arts, a licensed limited x-ray machine operator, or a licensed radiographer; (4) to amend Section 4 to add a reference to the home study course fee for an independent study course; (5) to amend Sections 6 and 7 to establish what constitutes appropriate supervision; and (6) to amend Sections 1, 3, 4, and 9 through 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Parole Board: Board

501 KAR 1:080. Parole Board policies and procedures. John Cummings, counsel, represented the board. Tim Arnold represented the Department for Public Advocacy.

Senator Clark asked that the Parole Board take note of an article in the most recent issue of Governing Magazine. The article examined parole boards across the nation, many of which seemed to be focused more on discipline than rehabilitation.

Mr. Arnold stated that the committee amendment addressed the Department for Public Advocacy's concerns.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 and KYPB 10-00, 10-01, 11-00, 12-00, 13-00, 13-01, 13-02, 20-00, 21-00, 22-00, 23-00, 23-01, 23-02, 30-00, 30-01, and 30-02 to remove the amendments filed by the board on February 13, 2015; and (2) to amend KYPB 21-00 to require offenders on mandatory reentry supervision to make reasonable efforts toward paying court ordered restitution and any sum payable to the Crime Victims Compensation Fund pursuant to KRS 439.3406(6). Without objection, and with agreement of the agency, the amendments were approved.

Law Enforcement Council: Council

503 KAR 1:140. Peace officer, telecommunicator, and court security officer professional standards. Gerald Ross, assistant general counsel, represented the council.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Section 4 to correct citations; (2) to amend Sections 2 through 5, 7, 9, 10, 11, and 15 to update form titles, edition dates, and required usage; and (3) to amend Sections 4, 10, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Charitable Gaming: Charitable Gaming

820 KAR 1:001. Definitions for 820 KAR Chapter 1. Noelle Bailey, general counsel and legislative liaison, and Scott Jones, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: 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.

820 KAR 1:032. Pulltab construction.

A motion was made and seconded to approve the following amendments: (1) to amend Section 12 to clarify that if a product cannot be replaced, or defect corrected, the distributor shall provide a refund to the organization; and (2) to amend Sections 6, 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:033. Electronic pulltab system, electronic pulltab device, and electronic pulltab construction.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify that: (a) the department has sixty (60) days after receiving the testing results from the independent testing facility to inform the manufacturer of its decision to approve or disapprove the electronic pulltab system and software; and (b) modifications to an electronic pulltab system or its software that require testing and certification do not include routine maintenance activities; (2) to amend Section 3 to require the department to be notified of any changes of information needed to access the system at least three (3) days prior to the change to be consistent with the department having real-time access; (3) to amend Section 4 to clarify that a point of sale station shall not display information relating to prizes already paid out in a particular game set; (4) to amend Section 9 to specify that the total amount of all monetary transactions includes those related to electronic pulltabs and electronic pulltab devices at each gaming occasion; and (6) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 6 and 9 through 13; and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:006. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP). Virginia Carrington, director, and Todd Trapp, branch manager, represented the division.

In response to questions by Senator Raque Adams, Ms. Carrington stated that the changes to these administrative regulations were for compliance with new technology and automation systems, including those used to determine eligibility for Medicaid, food stamps, and other cabinet programs. The division was correcting a backlog of hearings as part of a corrective action plan. Ninety (90) percent of the hearing backlog had been corrected, and current hearings were being handled in a timely fashion.

In response to questions by Co-Chair Harris, Ms. Carrington stated that these administrative regulations were being amended to include a Web-based system for tracking. The division previous used a COBALT system. The new Web-based system was more efficient and accurate. The new system was capable of interfacing with systems from other states and included a self-service portal for participants. Because of the system's interfacing and integrated capabilities, duplication and fraud were expected to be significantly reduced. The system was scheduled to begin operating December 28, 2015. Participants without a personal computer would be able to access library computers to use the self-service application portal.

921 KAR 2:016. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

921 KAR 2:017. Kentucky Works Program (KWP) supportive services.

921 KAR 2:046. Adverse action; conditions.

921 KAR 2:050. Time and manner of payments.

921 KAR 2:055. Hearings and appeals.

921 KAR 2:060. Delegation of power for oaths and affirmations.

921 KAR 2:370. Technical requirements for Kentucky Works Program (KWP).

921 KAR 2:500. Family Alternatives Diversion (FAD).

921 KAR 2:510. Relocation Assistance Program.

921 KAR 2:520. Work Incentive or "WIN".

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:035. Certification process.

921 KAR 3:042. Supplemental Nutrition Assistance Program Employment and Training Program.

921 KAR 3:050. Claims and additional administrative provisions.

921 KAR 3:090 & E. Simplified assistance for the elderly program or "SAFE".

Division of Protection and Permanency: Child Welfare

922 KAR 1:310. Standards for child-placing agencies. Christa Bell, assistant director; Sarah Cooper, policy analyst; and Teresa James, commissioner, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4, 6, 8, 10, and 22 to clarify the conditions for exceptions; and (2) to amend Sections 1, 2, 4, 5, 6, 8, 10, 12, 13, 14, and 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:340. Standards for independent living programs.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:350. Family preparation for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 through 5, 12, and 16 to clarify the conditions for exceptions; and (2) to amend the RELATES TO paragraph and Sections 1 through 4, 6, 9, 10, and 16 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:495. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to clarify a training deadline; and (2) to amend Sections 1 through 4, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the November 10, 2015, meeting of the Subcommittee:

CABINET FOR ECONOMIC DEVELOPMENT: Economic Development Finance Authority: Authority

307 KAR 1:005. Applications for Kentucky Incentive Programs.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: General Admission

702 KAR 1:170. School district data security and breach procedures.

PUBLIC PROTECTION CABINET: Department of Charitable Gaming: Charitable Gaming

820 KAR 1:005. Exempt Organizations.

820 KAR 1:015. Issuance of annual license for a charitable organization.

820 KAR 1:016. Distributor and manufacturer licensees.

820 KAR 1:017. Licensing inspections.

820 KAR 1:025. Financial reports of a licensed charitable organization.

820 KAR 1:029. Facility licensees.

820 KAR 1:034. Pulltab dispenser construction and use.

820 KAR 1:036. Pulltab rules of play.

820 KAR 1:046. Bingo rules of play.

820 KAR 1:050. Raffle standards.

820 KAR 1:055. Charity fundraising event standards.

820 KAR 1:056. Special limited charity fundraising event standards.

820 KAR 1:057. Accurate records.

820 KAR 1:058. Gaming occasion records.

820 KAR 1:120. Allowable expenses.

820 KAR 1:125. Gaming inspections.

820 KAR 1:130. Administrative actions.

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.

902 KAR 20:180. Psychiatric hospitals; operation and services.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:026. Dental services' coverage provisions and requirements.

Division of Community Alternatives: Medicaid Services

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services.

Division of Policy and Operations: Medicaid Services

907 KAR 1:046. Community mental health center primary care services.

Division of Community Alternatives: Medicaid Services

907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements.

907 KAR 1:626. Reimbursement of dental services.

Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:020. Coverage provisions and requirement regarding outpatient psychiatric hospital services.

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services.

The Subcommittee adjourned at 2:45 p.m. until November 10, 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.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE
Meeting of September 22, 2015

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Banking and Insurance for its meeting of September 22, 2015, having been referred to the Committee on August 11, 2015, pursuant to KRS 13A.290(6):

808 KAR 9:010
808 KAR 12:020
808 KAR 12:021
808 KAR 12:110

The following administrative regulations were found to be deficient pursuant to KRS 13A.290 (7) and 13A.030 (2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 22, 2015 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON EDUCATION
Meeting of October 12, 2015

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Education for its meeting of October 12, 2015, having been referred to the Committee on October 7, 2015, pursuant to KRS 13A.290(6):

11 KAR 15:090
11 KAR 15:100
11 KAR 16:060

The following administrative regulations were found to be deficient pursuant to KRS 13A.290 (7) and 13A.030 (2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the October 12, 2015, meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY
Meeting of October 15, 2015

The following administrative regulation was available for consideration and placed on the agenda of the Interim Joint Committee on Labor and Industry for its meeting of October 15, 2015, having been referred to the Committee on October 7, 2015, pursuant to KRS 13A.290(6):

787 KAR 2:040 & E

The following administrative regulation was found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulation was approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulation was deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the October 15, 2015 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE
Meeting of October 21, 2015

The following administrative regulation was available for consideration and placed on the agenda of the Interim Joint Committee on Health and Welfare for its meeting of October 21, 2015, having been referred to the Committee on October 7, 2015, pursuant to KRS 13A.290(6):

900 KAR 5:020

Committee activity in regard to review of the above-referenced administrative regulation is reflected in the minutes of the October 21, 2015 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates **E - 2**

The Locator Index lists all administrative regulations published in VOLUME 42 of the *Administrative Register of Kentucky* from July 2015 through June 2016. 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 41 are those administrative regulations that were originally published in VOLUME 41 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2015 Kentucky Administrative Regulations Service* was published.

KRS Index **E - 12**

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 42 of the *Administrative Register of Kentucky*.

Technical Amendment Index **E - 21**

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2015 *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 **E - 22**

The Subject Index is a general index of administrative regulations published in VOLUME 42 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

VOLUME 41

The administrative regulations listed under VOLUME 41 are those administrative regulations that were originally published in Volume 41 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2015 Kentucky Administrative Regulations Service* 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.

EMERGENCY ADMINISTRATIVE REGULATIONS:

(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

Regulation Number	41 Ky.R. Page No.	Effective Date
13 KAR 2:045E	2062	3-2-15
Replaced		See 42 Ky.R.
31 KAR 4:180E	2527	5-5-15
Replaced		See 42 Ky.R.
103 KAR 3:030E	1958	1-16-15
Replaced	2226	7-6-15
103 KAR 3:040E	1742	12-31-14
Replaced	2199	6-5-15
201 KAR 2:360E	2529	5-14-15
Replaced		See 42 Ky.R.
201 KAR 21:090E	1969	2-10-15
Replaced	2026	7-15-15
601 KAR 1:112E	1481	12-5-14
Withdrawn		7-8-15
900 KAR 7:030E	1755	12-31-14
Replaced	1891	6-5-15
907 KAR 1:045E	1759	12-31-14
Expired		8-1-15
907 KAR 3:017E	1764	12-31-14
Replaced	2224	6-5-15
908 KAR 2:220E	1766	1-7-15
Replaced	2560	6-17-15
908 KAR 2:230E	1770	1-7-15
Replaced	2562	6-17-15
908 KAR 2:260E	1773	1-7-15
Replaced	2565	6-17-15
921 KAR 2:015E	1776	12-30-14
Replaced	1932	6-5-15
921 KAR 3:060E	2530	4-30-15
921 KAR 3:070E	2533	4-30-15

ORDINARY ADMINISTRATIVE REGULATIONS:

Regulation Number	41 Ky.R. Page No.	Effective Date
11 KAR 4:080		
Amended	2099	7-6-15
11 KAR 5:145		
Amended	2100	7-6-15
11 KAR 15:010		
Amended	2102	
As Amended	2538	7-6-15
11 KAR 15:090		
Amended	2104	7-6-15
13 KAR 2:045		
Amended	2108	See 42 Ky.R.
31 KAR 3:040	2447	See 42 Ky.R.
31 KAR 4:120		
Amended	2285	See 42 Ky.R.
31 KAR 4:180	2689	See 42 Ky.R.
101 KAR 2:102		
Amended	2113	
As Amended	2538	7-6-15
101 KAR 2:105		
Amended	2118	
As Amended	2542	7-6-15
101 KAR 2:106		
Amended	2120	
As Amended	2543	7-6-15
101 KAR 2:160		
Amended	2121	7-6-15
101 KAR 2:180		
Amended	2123	
As Amended	2544	7-6-15
101 KAR 2:210		
Amended	845	
101 KAR 3:015		
Amended	2125	
As Amended	2546	7-6-15
103 KAR 3:010		
Amended	2287	See 42 Ky.R.
103 KAR 3:030		
Amended	2015	
AmComments	2226	7-6-15
103 KAR 3:040		
Amended	1841	
As Amended	2199	6-5-15
103 KAR 15:180		
Amended	85	
As Amended	439	10-3-14
200 KAR 14:011		
Amended	2604	9-4-15
200 KAR 14:081		
Amended	2607	9-4-15
201 KAR 2:015		
Amended	2609	See 42 Ky.R.
201 KAR 2:360	2691	See 42 Ky.R.
201 KAR 10:050		
Amended	2131	7-6-15
201 KAR 12:083		
Amended	2292	See 42 Ky.R.
201 KAR 12:110		
Amended	2294	
Withdrawn		6-17-15
201 KAR 20:063	2692	See 42 Ky.R.
201 KAR 21:090		
Amended	2026	7-15-15
201 KAR 44:010		
Amended	2132	
As Amended	2550	7-6-15
201 KAR 45:120		
Amended	2611	See 42 Ky.R.
201 KAR 45:170	211	
Amended	2612	9-4-15
201 KAR 46:010		
Amended	2295	See 42 Ky.R.
201 KAR 46:020		
Amended	2299	
201 KAR 46:030		
Amended	2301	See 42 Ky.R.
201 KAR 46:040		
Amended	2304	See 42 Ky.R.
201 KAR 46:045	2449	See 42 Ky.R.
201 KAR 46:050	2450	
201 KAR 46:060	2452	
201 KAR 46:070		

Regulation Number	41 Ky.R. Page No.	Effective Date
Amended	2308	
201 KAR 46:081		
Amended	2309	
202 KAR 7:701		
Amended	2313	See 42 Ky.R.
301 KAR 1:122		See 42 Ky.R.
Amended	2614	See 42 Ky.R.
301 KAR 2:049		See 42 Ky.R.
Amended	2615	See 42 Ky.R.
301 KAR 2:132		
Amended	1868	6-5-15
301 KAR 2:172		
Amended	1873	
AmComments	2092	6-5-15
301 KAR 2:178		
Amended	1878	
As Amended	2212	6-5-15
301 KAR 2:300		
Amended	2318	9-4-15
301 KAR 3:132		
As Amended	2208	
302 KAR 20:110		
Amended	2027	
As Amended	2217	6-5-15
302 KAR 20:120		
Amended	2030	
As Amended	2219	6-5-15
402 KAR 3:010		
Amended	2619	See 42 Ky.R.
402 KAR 3:030		
Amended	2621	9-3-15
402 KAR 3:050	2694	See 42 Ky.R.
500 KAR 13:020		
Amended	2623	See 42 Ky.R.
501 KAR 1:080		
Amended	2032	
501 KAR 6:020		
Amended	1887	See 42 Ky.R.
503 KAR 1:060		
Amended	326	
As Amended	747	10-31-14
503 KAR 1:080		
Amended	591	
As Amended	1056	12-5-15
503 KAR 1:100		
Amended	595	
As Amended	1057	12-5-15
503 KAR 1:110		
Amended	2626	See 42 Ky.R.
503 KAR 1:120		
Amended	327	
As Amended	747	10-31-14
601 KAR 1:112	1725	
AmComments	2095	
Withdrawn		7-8-2015
601 KAR 9:135		
Amended	2321	See 42 Ky.R.
601 KAR 14:020		See 42 Ky.R.
603 KAR 5:155	2453	See 42 Ky.R.
603 KAR 10:002	2456	See 42 Ky.R.
603 KAR 10:010		
Amended	2325	See 42 Ky.R.
603 KAR 10:021	2458	See 42 Ky.R.
702 KAR 3:320	1728	
AmComments	2012	
As Amended	2220	6-5-15
703 KAR 5:200		
Amended	2034	
AmComments	2236	See 42 Ky.R.
703 KAR 5:225		
Amended	2037	
AmComments	2240	See 42 Ky.R.
703 KAR 5:240		
Amended	2042	See 42 Ky.R.
704 KAR 3:370		
Amended	2342	See 42 Ky.R.
704 KAR 5:070		
Amended	2351	8-10-15
705 KAR 4:250		
Amended	1144	
AmComments	1672	
As Amended	2223	6-5-15
725 KAR 1:061		
Amended	2353	7-13-15
803 KAR 1:035		
Amended	2045	
As Amended	2550	7-6-15
804 KAR 1:060		
Repealed	2696	9-4-15
804 KAR 1:061*(r)*	2696	9-4-15
804 KAR 4:370		
Amended	2630	See 42 Ky.R.
804 KAR 7:010		
Repealed	2180	7-6-15
804 KAR 7:011*(r)*	2180	7-6-15
804 KAR 10:010		
Amended	2632	See 42 Ky.R.
804 KAR 10:020		
Amended	2633	See 42 Ky.R.
804 KAR 10:025	2697	See 42 Ky.R.
805 KAR 1:100		
Amended	2355	See 42 Ky.R.
805 KAR 1:130		
Amended	2361	See 42 Ky.R.
805 KAR 1:140		
Amended	2364	See 42 Ky.R.
805 KAR 1:170		
Amended	2366	See 42 Ky.R.
808 KAR 6:015	2462	See 42 Ky.R.
808 KAR 6:105		
Amended	2369	See 42 Ky.R.
808 KAR 9:010		
Amended	2634	See 42 Ky.R.
808 KAR 12:020		
Amended	2636	See 42 Ky.R.
808 KAR 12:021		
Amended	2638	See 42 Ky.R.
808 KAR 12:110	2698	See 42 Ky.R.
810 KAR 1:027		
Amended	612	
As Amended	1066	12-5-15
810 KAR 1:090		
Amended	2371	See 42 Ky.R.
810 KAR 1:300	2699	See 42 Ky.R.
811 KAR 1:300	2701	See 42 Ky.R.
811 KAR 2:300	2702	See 42 Ky.R.
815 KAR 6:010		
Amended	2641	See 42 Ky.R.
815 KAR 35:015		
Amended	2645	See 42 Ky.R.
900 KAR 2:050		
Amended	2133	
As Amended	2551	6-17-15
900 KAR 5:020		
Amended	2649	See 42 Ky.R.
900 KAR 7:030		
Amended	1891	6-5-15
900 KAR 10:010		
Amended	2651	See 42 Ky.R.
900 KAR 10:020		

Regulation Number	41 Ky.R. Page No.	Effective Date
Amended	2658	See 42 Ky.R.
900 KAR 10:040	2464	See 42 Ky.R.
900 KAR 10:050		
Amended	2664	See 42 Ky.R.
900 KAR 10:100		
Amended	2667	See 42 Ky.R.
900 KAR 10:110	2704	See 42 Ky.R.
900 KAR 4:040		
Repealed	2051	6-5-15
902 KAR 4:041(r)	2051	6-5-15
902 KAR 10:020		
Repealed	2468	9-4-15
902 KAR 10:021		
Repealed	2468	9-4-15
902 KAR 10:022*(r)*	2468	9-4-15
902 KAR 20:091		
Amended	1896	
AmComments	2245	
902 KAR 20:160		
Amended	2374	See 42 Ky.R.
902 KAR 20:180		
Amended	2383	
902 KAR 20:320		
Amended	2393	See 42 Ky.R.
902 KAR 20:400		
Amended	1905	
AmComments	2256	See 42 Ky.R.
902 KAR 45:010		
Repealed	2469	9-4-15
902 KAR 45:011*(r)*	2469	9-4-15
902 KAR 45:030		
Repealed	2469	9-4-15
902 KAR 45:040		
Repealed	2469	9-4-15
902 KAR 45:050		
Repealed	2469	9-4-15
902 KAR 45:060		
Repealed	2469	9-4-15
902 KAR 45:110		
Amended	2414	See 42 Ky.R.
902 KAR 45:120		
Amended	2672	See 42 Ky.R.
902 KAR 45:130		
Repealed	2469	9-4-15
902 KAR 45:160	2470	See 42 Ky.R.
907 KAR 1:044		
Amended	1910	
AmComments	2261	
As Amended	2553	7-6-15
907 KAR 1:045		
Amended	1915	
907 KAR 1:046	1940	
AmComments	2266	
907 KAR 1:055		
Amended	2674	See 42 Ky.R.
907 KAR 1:102		
Amended	1920	
AmComments	2268	
As Amended	2556	7-6-15
907 KAR 1:350		
Amended	2136	
As Amended	2559	7-6-15
907 KAR 3:017	1943	
As Amended	2224	6-5-15
907 KAR 9:005		
Amended	2417	See 42 Ky.R.
907 KAR 9:010		
Amended	2425	See 42 Ky.R.
907 KAR 9:015	2475	See 42 Ky.R.
907 KAR 9:020	2487	See 42 Ky.R.
907 KAR 10:014		
Amended	2428	See 42 Ky.R.
907 KAR 10:016		
Amended	2442	See 42 Ky.R.
907 KAR 10:020	2491	See 42 Ky.R.
907 KAR 10:025	2503	
907 KAR 10:825		
Repealed	2181	10-1-15
907 KAR 10:826*(r)*	2181	10-1-15
907 KAR 10:830	2182	See 42 Ky.R.
907 KAR 15:080	2507	See 42 Ky.R.
907 KAR 15:085	2515	10-2-15
908 KAR 2:220		
Amended	1925	
AmComments	2273	
As Amended	2560	6-17-15
908 KAR 2:230		
Amended	1929	
AmComments	2277	
As Amended	2562	6-17-15
908 KAR 2:260	1945	
AmComments	2280	
As Amended	2565	6-17-15
910 KAR 1:140		
Amended	2138	
As Amended	2568	6-17-15
910 KAR 1:170		
Amended	2143	
As Amended	2573	See 42 Ky.R.
910 KAR 1:210		
Amended	2150	
As Amended	2578	6-17-15
910 KAR 1:220		
Amended	2157	
As Amended	2583	6-17-15
921 KAR 2:015		
Amended	1932	6-5-15
921 KAR 3:045		
Amended	2177	7-15-15
921 KAR 3:060		
Amended	2682	See 42 Ky.R.
921 KAR 3:070		
Amended	2685	See 42 Ky.R.

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

VOLUME 42

EMERGENCY ADMINISTRATIVE REGULATIONS:
(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

Regulation Number	42 Ky.R. Page No.	Effective Date
13 KAR 2:045		See 41 Ky.R.
Replaced	9	7-13-15
31 KAR 4:180E		See 41 Ky.R.
Replaced	658	9-4-15
101 KAR 2:210E	1084	9-15-15
200 KAR 5:365E	231	6-16-15
201 KAR 2:360E		See 41 Ky.R.
Replaced	273	9-4-15
201 KAR 11:170E	233	6-29-15
201 KAR 11:175E	236	6-29-15
201 KAR 11:235E	238	6-29-15
201 KAR 11:240E	240	6-29-15
201 KAR 12:110E	244	6-17-15
201 KAR 35:010E	1086	8-25-15
201 KAR 35:015E	1088	8-25-15
201 KAR 35:020E	1089	8-25-15
201 KAR 35:030E	1092	8-25-15
201 KAR 35:040E	1095	8-25-15
201 KAR 35:050E	1098	8-25-15
201 KAR 35:055E	1100	8-25-15
201 KAR 35:060E	1102	8-25-15
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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.

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15.380	503 KAR 1:140
15.382	503 KAR 1:140
15.384	503 KAR 1:140
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15.396	503 KAR 1:140
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15.565	503 KAR 1:140
15.580	503 KAR 1:140
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16.577	105 KAR 1:200
16.645	105 KAR 1:200
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189A.440	601 KAR 2:030
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210.720	908 KAR 3:050
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215.520-215.600	902 KAR 20:200
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216.300	910 KAR 1:240
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238.525	820 KAR 1:015
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238.530	820 KAR 1:017
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238.535	820 KAR 1:005
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238.550	820 KAR 1:025
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238.555	820 KAR 1:016
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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.

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