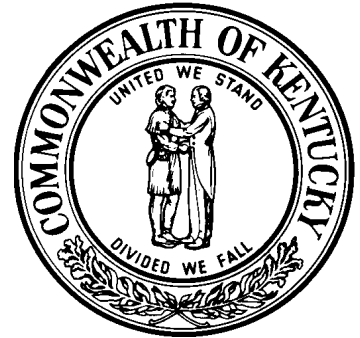


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 42, NUMBER 7
THURSDAY, JANUARY 1, 2016

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

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MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet January 11, 2015, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages 1993-1994 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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VOLUME 42, NUMBER 7 – JANUARY 1, 2016

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, JANUARY 11, 2016, at 1:00 p.m., Room 149 Capitol Annex**

**FINANCE AND ADMINISTRATION CABINET
Office of the Secretary**

Purchasing

200 KAR 5:021. Manual of policies and procedures.

**GENERAL GOVERNMENT CABINET
Board of Medical Licensure**

Board

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

201 KAR 9:470. Standardized medical order for scope of treatment form. (Not Amended After Comments)

Board of Licensure and Certification for Dietitians and Nutritionists

Board

201 KAR 33:015. Application; approved programs. (Not Amended After Comments)

201 KAR 33:020. Renewals. (Not Amended After Comments)

201 KAR 33:030. Continuing education requirements for licensees and certificate holders. (Not Amended After Comments)

Board of Licensure for Pastoral Counselors

Board

201 KAR 38:070. Renewal of licenses and continuing education.

Board of Licensed Diabetes Educators

Board

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

201 KAR 45:130. Continuing education.

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

Game

301 KAR 2:122. Seasons, methods, and limits for small game.

301 KAR 2:221 & E. Waterfowl seasons and limits. ("E" Expires 5/1/2016)

301 KAR 2:222 & E. Waterfowl hunting requirements on public lands. ("E" Expires 5/1/2016)

**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. (Not Amended After Comments)

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections**

Class D and Class C Felons

501 KAR 2:020. Definitions for 501 KAR Chapter 2.

501 KAR 2:060. Procedures for housing of Class D and Class C felons.

Jail Standards for Full-service Facilities

501 KAR 3:010. Definitions for 501 KAR Chapter 3.

501 KAR 3:020. Administration; management.

501 KAR 3:030. Fiscal management.

501 KAR 3:040. Personnel.

501 KAR 3:050. Physical Plant.

501 KAR 3:060. Security; control.

501 KAR 3:070. Safety; emergency procedures.

501 KAR 3:080. Sanitation; hygiene.

501 KAR 3:090. Medical services.

501 KAR 3:100. Food services.

501 KAR 3:140. Prisoner rights.

501 KAR 3:160. Training.

Jail Standards for Restricted Custody Center Facilities

501 KAR 7:010. Definitions for 501 KAR Chapter 7.

501 KAR 7:020. Administration; management.

501 KAR 7:030. Fiscal management.

501 KAR 7:050. Physical plant.

501 KAR 7:070. Safety; emergency procedures.

501 KAR 7:080. Sanitation; hygiene.

Jail Standards for Life Safety Facilities

501 KAR 13:010. Life safety issues.

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing**

Administration

601 KAR 2:030 & E. Ignition interlock. ("E" expires 3/31/2016) (Amended After Comments)

VOLUME 42, NUMBER 7 – JANUARY 1, 2016

CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Division of Maternal and Child Health

Maternal and Child Health

902 KAR 4:030. Newborn screening program. (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 20:200. Tuberculosis (TB) testing for residents in long-term care settings. (Deferred from November)

902 KAR 20:205. Tuberculosis (TB) testing for health care workers. (Amended After Comments)

Division of Audits and Investigations

Controlled Substances

902 KAR 55:015. Schedule I substances.

902 KAR 55:020 & E. Schedule II substances.

902 KAR 55:025. Schedule III substances.

902 KAR 55:030. Schedule IV substances.

902 KAR 55:035. Schedule V substances.

Department for Medicaid Services 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)

907 KAR 1:835. Michelle P. waiver services and reimbursements. (Amended After Comments)(Deferred from December)

Division of Community Alternatives

Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies. (Amended After Comments)(Deferred from December)

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services. (Not Amended After Comments)(Deferred from December)

REMOVED FROM JANUARY 2016 AGENDA

GENERAL GOVERNMENT CABINET Board of Nursing

Board

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. (Comments Received)

201 KAR 20:162. Procedures for disciplinary hearings pursuant to KRS 314.091. (Withdrawn by agency, 12/23/2015)

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Community Alternatives

Medicaid Services

907 KAR 1:160. Home and community based waiver services Version 1. (Comments Received, SOC ext.)

907 KAR 1:170. Reimbursement for home and community based waiver services Version 1. (Comments Received, SOC ext.)

Division of Policy and Operations

Certified Provider Requirements

907 KAR 7:010. Home and community based waiver services Version 2. (Comments Received, SOC ext.)

907 KAR 7:015. Reimbursement for home and community based waiver services Version 2. (Comments Received, SOC ext.)

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

Filing and Publication

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

Public Hearing and Public Comment Period

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

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

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

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

Review Procedure

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

EMERGENCY ADMINISTRATIVE REGULATIONS

STATEMENT OF EMERGENCY
103 KAR 3:030E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representative to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient, because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulation Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
THOMAS B. MILLER, Commissioner

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Emergency Amendment)

103 KAR 3:030E. Property and Severance Forms manual.

RELATES TO: KRS 42.470, 61.870-61.884, 131.020, 131.030, 131.041-131.081, 131.110, 131.130, 131.155, 131.181, 131.183, 131.190, 131.340, 131.500, 131.510(1), (2)(a), 131.540, 132.020, 132.130-132.180, 132.190, 132.200, 132.220-132.270, 132.290, 132.310, 132.320, 132.360, 132.450, 132.487, 132.510, 132.820, 132.825, 132.990, 133.045, 133.110, 133.120, 133.130, 133.240, 134.015, 134.119, 134.121, 134.122, 134.127, 134.128, 134.129, 134.420, 134.590, 134.800, 134.805, 134.810, 134.815, 134.820, 134.825, 134.830, 135.010, 135.020, 135.050, 136.020, 136.050, 136.115-136.180, 136.1802-136.1806, 136.1873, 136.188, 136.310, 136.320, 136.330, 136.335, 136.377, 136.545, 136.575, 136.600-136.660, 137.130, 137.160, 143.030(1), 143.037, 143.040, 143.050, 143.060(1), 143.085, 143.990, 143A.010, 143A.030, 143A.035, 143A.037, 143A.080, 143A.090, 143A.100(1), 143A.991, Ky. Const. Sec. 170

STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: December 7, 2015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of Property and Severance Taxes by the Department of Revenue.

Section 1. Property Tax - Required Forms. (1) Revenue Form 61A200(P), "Property Tax Forms and Instructions for Public Service Companies 2016[2045]", shall be the packet of files and instructions relating to Revenue Form 61A200 for use by public service companies reporting company name, location, and other pertinent filing information with the Department of Revenue.

(2) Revenue Form 61A200, "Public Service Company Property Tax Return for Year Ending December 31, 2015[2044]", shall be filed by public service companies reporting company name, location, and other pertinent filing information with the Department of Revenue.

(3) Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", shall be filed by public service companies with the Department of Revenue, reporting the System and Kentucky original cost, total depreciation and depreciated cost for all operating and non-operating property types as of the end of the taxable year.

(4) Revenue Form 61A200(B), "Report of Kentucky Vehicles,

Car Lines and Watercraft", shall be filed by public service companies with the Department of Revenue, reporting the assessed value of all Kentucky apportioned and regular licensed motor vehicles, railroad car lines and commercial watercraft as of the end of the year.

(5) Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (balance sheet) as of December 31 for the system operating unit including Kentucky.

(6) Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (income statement) for twelve (12) months ending December 31 for the system operating unit including Kentucky.

(7) Revenue Form 61A200(E), "Filing Extension Application", shall be used by public service companies to request an extension of time to file the public service company tax return.

(8) Revenue Form 61A200(G), "Report of Capital Stocks", shall be filed by public service companies with the Department of Revenue, reporting an analysis of their capital stocks as of the end of the taxable year.

(9) Revenue Form 61A200(H), "Report of Funded Debt", shall be filed by public service companies with the Department of Revenue reporting an analysis of their debt as of the end of the taxable year.

(10) Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue, reporting a summary of the business activity within each taxing district.

(11) Revenue Form 61A200(J), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", shall be filed by public service companies with the Department of Revenue reporting a summary of the amount of operating and nonoperating property owned or leased in this state, by each county, city and special district.

(12) Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue, reporting an inventory of the amount and kind of operating property, owned or leased, located in this state, for each county, city and special taxing district.

(13) Revenue Form 61A200(K2), "Nonoperating Property Listing by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue reporting an inventory of the amount and kind of nonoperating property owned or leased, located in this state, for each county, city and special taxing district.

(14) Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for All Interstate Companies", shall be filed by interstate, noncarrier, public service companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(15) Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies", shall be filed by interstate railroad and sleeping car companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(16) Revenue Form 61A200(N1), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", shall be filed by public service companies with the Department of Revenue, reporting all leased real property and the terms of the lease by taxing district.

(17) Revenue Form 61A200(N2), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", shall be filed by public service companies with the Department of Revenue, reporting all leased personal property and the terms of the lease by taxing district.

(18) Revenue Form 61A200(N3), "Summary Report of System and Kentucky Operating Lease Payments", shall be filed by public service companies with the Department of Revenue reporting the annual operating lease payments paid during the calendar year.

(19) Revenue Form 61A200(O), "Railroad Private Car Mileage

Report", shall be filed by railroad car line companies with the Department of Revenue reporting the name and address of the company and the mileage in Kentucky.

(20) Revenue Form 61A200(Q), "Supplemental Report of Operations for Contained and Residential Landfills", shall be filed by landfills with the Department of Revenue, reporting historic, current, and projected operational information.

(21) Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", shall be filed by public service companies with the Department of Revenue, reporting certified pollution control equipment, the original cost, and the net book value.

(22) Revenue Form 61A200(U), "Industrial Revenue Bond Property", shall be filed by a public service company to list real and tangible personal property purchased with an industrial revenue bond.

(23) Revenue Form 61A202, "2016[2045] Public Service Company Property Tax Return for Railroad Car Line", shall be filed by railroad car line companies with the Department of Revenue, classifying the railcars by type and reporting cost, age, and mileage for each railcar.

(24) Revenue Form 61A206(P), "Public Service Company Property Tax Forms and Instructions for Commercial Air Passenger and Air Freight Carriers 2016[2045]", shall be the packet of files and instructions relating to Revenue Form 61A206 for use by commercial air passenger and air freight carriers reporting company name, location and other pertinent information with the Department of Revenue.

(25) Revenue Form 61A206, "Public Service Company Property Tax Return For Commercial Air Passenger and Air Freight Carriers", shall be filed by all commercial air passenger and air freight carriers reporting taxpayer name, location and other pertinent information with the Department of Revenue.

(26) Revenue Form 61A206(A), "Filing Extension Application for Public Service Company Property Tax Return", shall be used by commercial air passenger and air freight carriers to request an extension of time to file the commercial air passenger and air freight carriers tax return.

(27) Revenue Form 61A206(B), "Report of Kentucky Registered and Licensed Motor Vehicles", shall be filed by commercial air passenger and air freight carriers to report vehicles, both owned and leased, registered within the state of Kentucky as of December 31.

(28) Revenue Form 61A206(C), "Report of Financial Operations for Commercial Air Passenger and Air Freight Carriers", shall inform all commercial, passenger or cargo airlines conducting business in Kentucky of the requirement to provide the Department of Revenue with year-end financial statements, a complete annual report, and a complete 10K report (FCC annual report) for the twelve (12) month period ending December 31.

(29) Revenue Form 61A206(D-1), "Report of System Aircraft Fleet", shall be filed by commercial air passenger and air freight carriers providing a complete listing of fleet aircraft owned and capital-leased as of December 31.

(30) Revenue Form 61A206(D-2), "Report of System Aircraft Fleet", shall be filed by commercial air passenger and air freight carriers providing a complete listing of operating leased fleet aircraft.

(31) Revenue Form 61A206(D-3), "Report of System Aircraft Fleet", shall be filed by all commercial air passenger and air freight carriers providing a complete listing of all fleet managed aircraft and aircraft held for resale or nonoperating.

(32) Revenue Form 61A206(E), "Report of Kentucky Flight Statistics By Airport", shall be filed by all commercial air passenger and air freight carriers providing a listing of all arrivals, departures, and ground time at all Kentucky airports and heliports.

(33) Revenue Form 61A206(F), "Report of System and Kentucky Allocation Factors", shall be filed by all commercial air passenger and air freight carriers listing property factors and business factors.

(34) Revenue Form 61A206(G), "Report of Funded Debt", shall be filed by all commercial air passenger and air freight carriers listing all debt obligations, both long term and short term, by class

and obligation.

(35) Revenue Form 61A206(H), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all real property in Kentucky leased on an operating lease basis.

(36) Revenue Form 61A206(I), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all personal property in Kentucky leased on an operating lease basis.

(37) Revenue Form 61A206(J), "Summary Report of System and Kentucky Operating Lease Payments", shall be filed by all commercial air passenger and air freight carriers listing all annual operating lease payments.

(38) Revenue Form 61A206(K), "Report of Owned Real Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all real property owned in Kentucky.

(39) Revenue Form 61A206(L), "Report of Owned Personal Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all personal property owned in Kentucky.

(40) Revenue Form 61A206(M), "Summary Report of Total System and Kentucky Operations", shall be filed by all commercial air passenger and air freight carriers listing all real and personal property owned and leased, providing the original cost, depreciation and depreciated cost values.

(41) Revenue Form 61A206(N), "Industrial Revenue Bond Property", shall be filed by all commercial air passenger and air freight carriers listing real and tangible property purchased with an industrial revenue bond.

(42) Revenue Form 61A206(O), "Public Service Company Sales", shall be filed by commercial air passenger and air freight carriers listing any assets bought or sold during the year.

(43) Revenue Form 61A207(P), "Commercial Watercraft Personal Property Tax Return 2016[2045]", shall be the packet of files and instructions relating to Revenue Form 61A207 for use by commercial watercraft owners both resident and nonresident, reporting the watercraft's book value, original cost and total and Kentucky route mileage with the Department of Revenue.

(44) Revenue Form 61A207, "2016[2045] Commercial Watercraft Personal Property Tax Return", shall be filed by all commercial watercraft owners, both resident and nonresident, reporting the watercraft's book value, original cost, and total and Kentucky route mileage with the Department of Revenue.

(45) Revenue Form 61A207(A), "Report of Owned Vessels in Your Possession", shall be filed with the Department of Revenue, reporting all owned vessels (both available and operating) in their fleet as of January 1, 2016[2045].

(46) Revenue Form 61A207(B), "Report of Owned Vessels - in Possession of Others", shall be filed with the Department of Revenue, reporting all owned vessels that are in possession of other persons, companies, corporations, operators, or charterers as of January 1, 2016[2045].

(47) Revenue Form 61A207(C), "Report of Nonowned Vessels in Your Possession", shall be filed with the Department of Revenue, reporting all nonowned vessels (both available and operating) in their fleet as of January 1, 2016[2045].

(48) Revenue Form 61A207(D), "Commercial Watercraft Valuation Worksheet", shall be filed with the Department of Revenue, reporting the original cost, cost of rebuilds and the cost of major improvements of all owned and nonowned vessels.

(49) Revenue Form 61A207(E), "Report of Kentucky Route Miles", shall be filed with the Department of Revenue reporting the system route miles traveled on Kentucky waterways.

(50) Revenue Form 61A207(F), "Report of System Route Miles", shall be filed with the Department of Revenue reporting the system route miles traveled on United States waterways.

(51) Revenue Form 61A209, "Public Service Company Sales", shall be filed by public service companies with the Department of Revenue, reporting any full or partial sale or purchase of assets of the public service company.

(52) Revenue Form 61A211, "Public Service Company

Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", shall be filed by public service companies with the Department of Revenue reporting all motor vehicles owned or leased within Kentucky.

(53) Revenue Form 61A211(I), "Instructions Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", shall provide instructions for completing Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs".

(54) Revenue Form 61A211(IP), "Instructions For Editing the Public Service Company Motor Vehicle Printout", shall provide instructions for editing the computer printout of previously reported licensed vehicles sent by the Department of Revenue to public service companies that have listed vehicles with the department in prior years.

(55) Revenue Form 61A230, "Notice of Assessment", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the final assessment of the public service company property.

(56) Revenue Form 61A240, "Notice of Assessment", shall be sent by the Department of Revenue to the taxpayer notifying him or her of a tentative assessment of the public service company property. This notice shall inform the taxpayer of the protest period.

(57) Revenue Form 61A250, "Notice of Assessment", shall be sent by the Department of Revenue to the taxpayer notifying the taxpayer of his or her claim of assessed value on public service company property.

(58) Revenue Form 61A255, "Public Service Company Property Tax Statement", shall be used by the counties, schools and special districts to bill public service companies for local property taxes.

(59) Revenue Form 61A255(I), "Instructions for 61A255, Public Service Company Property Tax Statement", shall provide instructions for completing Revenue Form 61A255, "Public Service Company Property Tax Statement".

(60) Revenue Form 61A500(P), "2016[2015] Personal Property Tax Forms and Instructions for Communications Service Providers and Multichannel Video Programming Service Providers", shall be the packet of files and instructions relating to Revenue Form 61A500 for use by telecommunication, satellite, and cable television companies, reporting all tangible personal property with the Department of Revenue.

(61) Revenue Form 61A500, "2016[2015] Tangible Personal Property Tax Return for Communications Service Providers and Multichannel Video Programming Service Providers", shall be filed by telecommunication, satellite, and cable television companies, reporting all tangible personal property with the Department of Revenue.

(62) Revenue Form 61A500(H), "Report of Total Personal Tangible Property in Kentucky", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky original cost, depreciation, and net book value of each class of tangible personal property.

(63) Revenue Form 61A500(I), "Summary of Gross Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky Original Cost by taxing jurisdiction.

(64) Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky reported value by taxing jurisdiction.

(65) Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite and cable television companies with the Department of Revenue and shall contain an inventory of the amount and kind of personal property owned and located in Kentucky by taxing jurisdiction.

(66) Revenue Form 61A508, "Annual Report of Distilled Spirits in Bonded Warehouse", shall be filed by distilleries with the Department of Revenue to report inventory as of January 1.

(67) Revenue Form 61A508-S1, "Schedule 1 Office of Property

Valuation Cost of Production Schedule", shall be filed by distilleries with the Department of Revenue, reporting the average cost per gallon of production.

(68) Revenue Form 61A508-S2, "Schedule 2 Office of Property Valuation Storage Cost Schedule", shall be filed by distilleries with the Department of Revenue, reporting average per barrel storage cost.

(69) Revenue Form 61A508-S3, "Schedule 3 Schedule of Bulk Sales and Purchases (Bourbon Only)", shall be filed by distilleries with the Department of Revenue, reporting the date of the sale or purchase, the number of barrels, age, and the price.

(70) Revenue Form 61A508-S4, "Schedule 4", shall be filed by distilleries with the Department of Revenue, reporting the fair cash value of bulk inventory summarized on Form 61A508.

(71) Revenue Form 61A508-S5, "Schedule 5", shall be filed by distilleries with the Department of Revenue, reporting the fair cash values of case goods summarized on Form 61A508.

(72) Revenue Form 61A508-S6, "Schedule 6 Industrial Revenue Bond Property", shall be filed with the Department of Revenue, reporting property purchased with an industrial revenue bond.

(73) Revenue Form 61A509, "Distilled Spirits or Telecoms Property Tax Statement", shall be used by county clerks and local tax jurisdictions to bill assessments of distilled spirits and telecom personal property.

(74) Revenue Form 61F007, "Notification Protesting Your Commercial Watercraft Assessment", shall inform taxpayers of the protest procedures on Commercial Watercraft assessments.

(75) Revenue Form 61F008, "Notification Protesting Your Assessment", shall inform taxpayers of the protest procedures on Railroad Car Line assessments.

(76) Revenue Form 61F009, "Notification Protesting Your Assessment", shall inform taxpayers of the protest procedures on Public Service Company Property Tax assessments.

(77) Revenue Form 61F010, "Property Value Assessments for Public Service and Centrally Assessed Companies - Assessment of Distilled Spirits in Bonded Warehouses", shall inform taxpayers of the protest procedures on Distilled Spirits assessments.

(78) Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice", shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities and registration renewal deadline.

(79) Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax Notice - Second Notice", shall be issued by the Department of Revenue to notify motor vehicle and boat owners of their delinquent ad valorem property tax liabilities.

(80) Revenue Form 62A008, "Motor Vehicle Tax Notice", shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities.

(81) Revenue Form 62A009, "Map Sales Invoice", shall be provided to the customer by the Department of Revenue as a receipt for payment of maps purchased.

(82) Revenue Form 62A010, "Notice for Boat Transfer", shall be issued to January 1 owners of boats transferred during the calendar year informing them of the ad valorem tax due on the transferred boat.

(83) Revenue Form 62A013, "Application for Assessment Moratorium Certificate", shall be filed by property owners seeking an assessment moratorium on qualifying existing property undergoing repair, rehabilitation or restoration. The form shall be filed with the proper administering agency of the county in which the property is located, thirty (30) days prior to restoration or repair.

(84) Revenue Form 62A015, "2016[2015] Motor Vehicle and Watercraft Property Tax Rate Certification", shall be submitted annually to the Department of Revenue by motor vehicle and watercraft taxing jurisdictions to certify the rates established by the taxing jurisdiction for motor vehicles and watercraft.

(85) Revenue Form 62A016, "Quietus", shall be issued by the Department of Revenue to certify that a county clerk is in good standing with regard to the conduct of ad valorem property tax collection duties.

(86) Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills", shall be completed by

the Department of Revenue and county clerk to certify the total number of motor vehicle and boat accounts for a given county and find the county clerk's compensation for making tax bills.

(87) Revenue Form 62A020, "Intercounty Property Tax Collections", shall be completed by the Department of Revenue to list distributions of ad valorem property tax made to individual taxing jurisdictions.

(88) Revenue Form 62A023, "Application for Exemption from Property Taxation", shall be filed by organizations seeking a property tax exemption under Ky. Const. Sec. 170. This form shall be filed with the property valuation administrator of the county in which the property is located.

(89) Revenue Form 62A030, "Request for Reproduction of PVA Public Records and Contract for Commercial Users", shall be submitted to request copies of documents required to be retained by the PVA.

(90) Revenue Form 62A044, "Affidavit for Correction/Exoneration of Motor Vehicle/Boat/Trailer Property Tax", shall be completed by the owner of a vehicle, boat, or trailer at the property valuation administrator's office in order to correct owner or vehicle, boat, or trailer information in the ad valorem tax computer system. The PVA shall present the form to the county clerk when a tax refund is authorized.

(91) Revenue Form 62A200(P), "2016[2015] Unmined Coal Property Tax Information Return", shall be the packet of files and instructions relating to Revenue Form 62A200 for use by owners or lessees of unmined minerals, reporting filer information with the Department of Revenue.

(92) Revenue Form 62A200, "2016[2015] Unmined Coal Property Tax Information Return", shall be filed by owners or lessees of unmined minerals, reporting filer information with the Department of Revenue.

(93) Revenue Form 62A200, "Schedule A Fee Property Ownership", shall be filed by owners or lessees of unmined minerals with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(94) Revenue Form 62A200, "Schedule B Leased Property", shall be filed by all lessees and sublessees with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(95) Revenue Form 62A200, "Schedule C Property or Stock Transfers", shall be filed by both purchasers and sellers of unmined mineral property, with the Department of Revenue, reporting details of the transaction.

(96) Revenue Form 62A200, "Schedule D Lease Terminations, Transfers or Assignments", shall be filed by lessors or lessees of unmined minerals, with the Department of Revenue, reporting the parcel number, the date the lease was terminated and the seams assigned.

(97) Revenue Form 62A200, "Schedule E Farm Exception to Unmined Minerals Tax", shall be filed by surface owners, who own the mineral rights in their entirety and are engaged primarily in farming, to be excepted from the unmined minerals tax.

(98) Revenue Form 62A200, "Schedule F Geological Information by County", shall be filed by owners or lessees of unmined minerals, with the Department of Revenue, reporting exploration and analytical information.

(99) Revenue Form 62A301-S, "Omitted Real Estate Property Tax Bill" shall be used by the sheriff to inform taxpayers of an omitted real estate property tax liability.

(100) Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", shall be filed by taxpayers with the property valuation administrator, if appealing their assessment on real property.

(101) Revenue Form 62A303, "Minutes of the Board of Assessment Appeals", shall be used by the county clerk to record the proceedings of the local board of assessment appeals, list taxpayer information, provide a description of the property, include the property valuation administrator's assessment and indicate the amount of increase or decrease in value.

(102) Revenue Form 62A303-A, "Certification", shall be used by the county clerk to affirm that the minutes of the local board of

assessment appeals are accurate.

(103) Revenue Form 62A303-B, "Summary of Appeals Filed With the County Board of Assessment Appeals", shall be used by the county clerk to list all appeals filed with the local board of assessment appeals, including the date and time the hearing has been scheduled.

(104) Revenue Form 62A303-C, "Justification for Decision of Local Board of Assessment Appeals", shall be used to list a justification of the decision of the local board of assessment appeals.

(105) Revenue Form 62A304, "Property Valuation Administrator's Recapitulation of Real Property Tax Roll", shall be filed by the property valuation administrator by the first Monday in April, showing a recapitulation of property assessments by type of property and by taxing district. This form shall also be known as "first recap".

(106) Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes (Since Recapitulation)", shall be filed by the property valuation administrator within six (6) days of the conclusion of the real property tax roll inspection period, showing all changes made since the submission of Revenue Form 62A304. This form shall also be known as "final recap" or "second recap".

(107) Revenue Form 62A307, "Property Owner Conference Record", shall be used by the property valuation administrator to document a property owner's appeal conference. The property owner or his or her representative shall be asked to sign the record and shall be given a copy of the record.

(108) Revenue Form 62A323, "Record of Additions and Deletions", shall be used by the PVA to report all real property additions and deletions for a particular assessment year.

(109) Revenue Form 62A329, "Annual Report of Domestic Life Insurance Companies", shall be filed by life insurance companies doing business in Kentucky, with the Department of Revenue, reporting the fair cash value of the company's intangible property, both taxable and exempt, and the aggregate amount.

(110) Revenue Form 62A350, "Application for Exemption Under the Homestead/Disability Amendment", shall be filed by property owners seeking an exemption from property taxes under Ky. Const. Sec. 170. This application shall be filed with the property valuation administrator of the county in which the residential unit is located.

(111) Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", shall be mailed to the property owner by the property valuation administrator notifying him or her of the assessment amount and of his or her appeal rights.

(112) Revenue Form 62A353, "Notice of Listing of Omitted Real Property", shall be mailed by the property valuation administrator to the property owner. This document shall notify the property owner that his or her omitted property has been listed and assessed and of his or her appeal rights.

(113) Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", shall be sent from the Board of Assessment Appeals to the property owner to inform him or her of its ruling.

(114) Revenue Form 62A358, "Receipt for Transferring Delinquent Property Tax Bills From the Sheriff to the County Clerk", shall be signed by both the sheriff and county clerk to affirm the number and total amount of delinquent tax bills transferred from the sheriff to the county clerk.

(115) Revenue Form 62A358-S, "Supplemental Receipt to Document Timely Postmarked Payments Received After the Delinquent Tax Bill Transfer Date", shall be signed by both the sheriff and the county clerk to affirm payments received by the sheriff via mail and postmarked timely after the transfer date.

(116) Revenue Form 62A359, "Sheriff's Report of Real Property Tax Bills Transferred to the County Clerk", shall be used by the sheriffs to report delinquent real estate tax bills that were transferred from the sheriff to the county clerk's office.

(117) Revenue Form 62A360, "Order Correcting Erroneous Assessment", shall be issued to the collection agency (county sheriff or clerk) and taxpayer correcting an erroneous mineral

property tax assessment.

(118) Revenue Form 62A362, "Sheriff's Report of Delinquent Personal Property Tax Bills Transferred to the County Clerk", shall be used by the sheriff to report delinquent personal property tax bills transferred from the sheriff to the county clerk's office.

(119) Revenue Form 62A362-A, "Certification", shall be used by the sheriff to affirm that the list of delinquent personal property tax bills transferred to the county clerk is correct.

(120) Revenue Form 62A363, "County Clerk's Claim for Preparing Tax Bills", shall be submitted by the county clerk in order to receive payment for each property tax bill prepared, with one-half (1/2) paid out of the county treasury and one-half (1/2) paid out of the State Treasury.

(121) Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", shall be submitted by the county clerk in order to receive payment of one (1) dollar for each omitted property tax bill prepared, with one-half (1/2) paid out of the county treasury and one-half (1/2) paid out of the State Treasury.

(122) Revenue Form 62A364, "County Clerk's Monthly Report of Omitted Assessments", shall be used by the county clerk to report omitted assessments made by the property valuation administrator.

(123) Revenue Form 62A365, "Nonresidency Affidavit", shall be filed as proof of nonresidency in Kentucky as of January 1, for ad valorem tax purposes.

(124) Revenue Form 62A366, "Order Correcting Erroneous Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in an assessment of property.

(125) Revenue Form 62A366-D, "Order Correcting Erroneous Delinquent Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in a delinquent assessment of property.

(126) Revenue Form 62A366R, "Exoneration Form for Property Tax Refund", shall be filed by a taxpayer for refunds of property tax.

(127) Revenue Form 62A367, "Authorization for Preparing Additional/Supplemental Property Tax Bills", shall be used by a property valuation administrator to prepare additional or supplemental tax bills.

(128) Revenue Form 62A367-A, "Instructions for Preparation of Additional/Supplemental Tax Bills and Official Receipt", shall be provided to assist the PVA with the preparation of additional or supplemental tax bills.

(129) Revenue Form 62A368-A, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for the 1997 tax year only.

(130) Revenue Form 62A368-B, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for tax years after 1997.

(131) Revenue Form 62A369, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for 1996 and earlier tax years.

(132) Revenue Form 62A369-A, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue state commission from delinquent property tax collections.

(133) Revenue Form 62A370, "Kentucky Department of Revenue Certificate of Registration", shall be issued by the Department of Revenue to individuals, corporations or partnerships proving eligibility to purchase certificates of delinquency. This certificate shall be presented to the county clerk at the time the third-party purchaser registers for the tax sale.

(134) Revenue Form 62A370A, "Kentucky Department of Revenue Application for Certificate of Registration to Purchase Certificates of Delinquency", shall be submitted to the Department of Revenue by individuals, corporations or partnerships seeking to purchase certificates of delinquency offered for sale by the county clerk.

(135) Revenue Form 62A371, "Attestation Form For Use When

Taxpayer Cannot Make Contact With A Third Party Purchaser", shall be used by the taxpayer to attest to the county clerk that the taxpayer attempted to contact the third party purchaser in the manner specified by KRS 134.127(3)(e) and was unsuccessful.

(136) Revenue Form 62A372, "Sheriff's List of Orders Correcting Erroneous Assessments", shall be used by the sheriff to report all exonerations made to the tax bills by the property valuation administrator.

(137) Revenue Form 62A372-A, "Certification", shall be used by the sheriff to affirm that the list of exonerations is accurate.

(138) Revenue Form 62A373, "Certificate of Transfer for Property Tax Payment", shall be issued by the sheriff to a person who has paid property taxes on behalf of another and wishes to be treated as a transferee under KRS 134.121.

(139) Revenue Form 62A374, "County Clerk Certificate of Delinquency Sale Registration", shall be used by the county clerk to register third parties interested in purchasing certificates of delinquency offered for sale by the county clerk.

(140) Revenue Form 62A375, "Release of Certificate of Delinquency Assigned to a Third Party", shall be used by the county clerk to release the lien of a certificate of delinquency that has been refunded to a third party purchaser.

(141) Revenue Form 62A377, "In House Release of Third Party Purchaser Lien When Lien is Paid to Clerk", shall be used by the county clerk to release a certificate of delinquency when the certificate of delinquency has been paid by the taxpayer and the third party purchaser cannot be located.

(142) Revenue Form 62A378, "Report of Mobile Homes and Recreational Vehicles Not Registered in this State", shall be filed by every person providing rental space for mobile homes and recreational vehicles not registered in Kentucky. This form shall be filed with the property valuation administrator of the county in which the park is located.

(143) Revenue Form 62A379, "Listing of Omitted Real Property", shall be used by a taxpayer to voluntarily list any property previously omitted from the tax roll or shall be used by a property valuation administrator to list any involuntarily omitted property.

(144) Revenue Form 62A380, "Notification of Updated Mailing Address from Sheriff to Property Valuation Administrator", shall be used by the sheriff to provide an updated address to the property valuation administrator in accordance with KRS 134.119(8).

(145) Revenue Form 62A384C, "Clay Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing clay property, reporting the owner's name and address, percent ownership, product tons, and royalty rate.

(146) Revenue Form 62A384C(I) "Instructions to Complete Clay Property Tax Return", shall be used by owners and lessees of land containing mineable clay minerals to file Revenue Form 62A384C.

(147) Revenue Form 62A384-G, "Natural Gas Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing developed natural gas properties, reporting the location of the property, total yearly gas production, number of producing wells, and the total dollar value of production.

(148) Revenue Form 62A384-G/O(I) "Gas/Oil," shall be used as a letter informing owners of natural gas and oil property of the responsibility to file, the filing deadline, and where to locate the forms.

(149) Revenue Form 62A384L, "Limestone and Sand and Gravel Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing limestone, sand or gravel properties reporting mineral location, type of mining and production in the last three (3) years.

(150) Revenue Form 62A384-O, "Oil Property Tax Return Lease Report", shall be filed with the Department of Revenue by all persons, corporations, businesses and partnerships owning, leasing or having knowledge of developed oil properties to report developed oil property in Kentucky.

(151) Revenue Form 62A385, "Sheriff's Official Receipt for Property Tax Bills", shall be used by sheriffs to acknowledge receipt of the county's property tax bills and to document the total tax amount to be collected for each taxing district.

(152) Revenue Form 62A385-A, "Sheriff's Receipt For Unpaid and Partially Paid Tax Bills", shall be used by incoming sheriffs to give receipt to the outgoing sheriff for the unpaid and partially paid tax bills outstanding when he or she assumes office.

(153) Revenue Form 62A386, "Sheriff's Official Receipt for Additional/Supplemental Property Tax Bill(s)", shall be used by the sheriff to acknowledge receipt of additional or supplemental property tax bills and to document the amount to be collected for each taxing district.

(154) Revenue Form 62A393, "Sheriff's Property Tax Account Statement", shall be used by the Department of Revenue to conduct the annual property tax settlement with the sheriff.

(155) Revenue Form 62A393-A, "Incoming Sheriff's Property Tax Account Statement", shall be used by the Department of Revenue to conduct the property tax settlement with the incoming sheriff.

(156) Revenue Form 62A393-B, "Outgoing Sheriff's Property Tax Account Statement", shall be used by the Department of Revenue to conduct the property tax settlement with the outgoing sheriff.

(157) Revenue Form 62A394, "Sheriff's Monthly Report of Property Tax Collections", shall be used by sheriffs to report to the Department of Revenue property tax collections for the month.

(158) Revenue Form 62A394-MV, "County Clerk's Monthly Report of Motor Vehicle Property Tax Collections", shall be submitted by the county clerk to the Department of Revenue and local taxing jurisdictions to report ad valorem property tax collections for the month.

(159) Revenue Form 62A398, "Property Valuation Administrator's Bond", shall be completed by property valuation administrators evidencing surety with the Commonwealth and a local school board and affirming a commitment to fulfill the duties of the office.

(160) Revenue Form 62A500(P), "~~2016~~[2015] Personal Property Tax Forms and Instructions", shall be the packet of files and instructions relating to Revenue Form 62A500 for use by owners or lessees of tangible personal property reporting taxpayer information, original cost of tangible property and reported value of tangible property with either the property valuation administrator of the county of taxable situs or with the Department of Revenue.

(161) Revenue Form 62A500, "~~2016~~[2015] Tangible Personal Property Tax Return", shall be filed by owners or lessees of tangible personal property reporting taxpayer information, original cost of tangible property and reported value of tangible property with either the property valuation administrator of the county of taxable situs or with the Department of Revenue.

(162) Revenue Form 62A500-A, "~~2016~~[2015] Tangible Personal Property Tax Return (Aircraft Assessments Only)", shall be filed by owners or lessees of aircraft not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the federal registration number, make and model, and taxpayer's value for each aircraft.

(163) Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", shall be filed by persons in possession of consigned inventory, that has not been reported on Revenue Form 62A500, with either the property valuation administrator of the county of taxable situs or the Department of Revenue, reporting consignor information and consigned inventory information.

(164) Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return", shall be filed by lessees of tangible personal property who did not list the property on Revenue Form 62A500, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting lessor information and equipment information.

(165) Revenue Form 62A500-M1, "Boat Dealer's Used Inventory Listing for Line 31 Tangible Personal Property Tax Return", shall be filed by boat dealers with the property valuation administrator of each county of taxable situs or with the Department of Revenue, containing a detailed listing of used boats held for sale by a licensed boat dealer.

(166) Revenue Form 62A500-S1, "Automobile Dealer's

Inventory Listing for Line 34 Tangible Personal Property Tax Return", shall be filed by automobile dealers, dealers with new boat and marine equipment held under a floor plan or dealers with new farm machinery held under a floor plan with the property valuation administrator of each county of taxable situs or with the Department of Revenue, containing a detailed listing of property reported on line 34 of the Tangible Personal Property Tax Return.

(167) Revenue Form 62A500-W, "~~2016~~[2015] Tangible Personal Property Tax Return (Documented Watercraft)", shall be filed by owners or lessees of documented vessels not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the coast guard number, make and model and taxpayer's value for each watercraft.

(168) Revenue Form 62A600, "Domestic Savings and Loan Tax Return", shall be filed with the Department of Revenue by savings and loans operating solely in Kentucky, reporting the balances in their capital accounts.

(169) Revenue Form 62A601, "Foreign Savings and Loan Tax Return", shall be filed with the Department of Revenue by foreign savings and loans authorized to do business in this state, reporting the balances in their capital accounts.

(170) Revenue Form 62A601-S2, "Schedule B, Computation of Exempt Securities", shall be filed with the Department of Revenue, by taxpayers filing Revenue Form 62A600 or 62A601, reporting the market value of U. S. government securities.

(171) Revenue Form 62A700, "Industrial Bond Worksheet for Valuation Purposes", shall be used by the taxpayer and property valuation administrator to determine the valuation of industrial revenue bonds.

(172) Revenue Form 62A850, "Bank Deposits Tax Return", shall be filed with the Department of Revenue by financial institutions, reporting the amount of its deposits as of the preceding January 1.

(173)[(472)] Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", shall be filed by the local taxing district with the Department of Revenue to notify the Department of Revenue of the rate set on bank deposits.

(174)[(473)] Revenue Form 62A863, "Financial Institutions Local Deposits Summary Report", shall be filed with the Department of Revenue, by financial institutions, reporting all deposits located within the state as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation.

(175)[(474)] Revenue Form 62A863-A, "Schedule A, Summary of Net Deposits", shall be filed with the Department of Revenue, by financial institutions filing Revenue Form 62A863, to summarize deposits.

(176)[(475)] Revenue Form 62A880, "Personal Property Assessment", shall be sent by the Department of Revenue to the owner of omitted personal property notifying him or her of the value assessed by the department as well as all applicable penalties and interest.

(177)[(476)] Revenue Form 62B003, "Unmined Coal Notice of Tax Assessment", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in unmined coal property.

(178)[(477)] Revenue Form 62B011, "Limestone, Sand, or Gravel Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in limestone, sand or gravel property.

(179)[(478)] Revenue Form 62B012, "Oil Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in oil property.

(180)[(479)] Revenue Form 62B013, "Clay Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in clay property.

(181)[(480)] Revenue Form 62B015, "Gas Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in gas property.

(182)[(484)] Revenue Form 62F003, "Appeals Process for Real

Property Assessments", shall be an informational brochure on the procedure to follow to appeal an assessment on real property.

(183)[(182)] Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", shall be used by the PVA to establish fees to be charged for the cost of reproduction, creation, or other acquisition of records.

(184)[(183)] Revenue Form 62F031, "Appeal to Local Board of Assessment Appeals", shall be filed with the county clerk by any taxpayer who wishes to appeal his or her assessment on real property.

(185) Revenue Form 62F100, "Understanding Kentucky Property Tax", shall be an informational booklet explaining the property tax assessment process in Kentucky.

(186) Revenue Form 62F102, "The Assessment of Tangible Personal Property Taxes", shall be an informational brochure explaining the assessment of tangible personal property in Kentucky.

(187)[(184)] Revenue Form 62F200, "Important Reminder" shall be a postcard mailed to previous filers of the Unmined Coal Property Tax Information Return as a reminder of the responsibility to file, the filing deadline, and where to locate the forms.

(188)[(185)] Revenue Form 62F384-G, "Important Reminder" shall be a postcard mailed to previous filers of the Natural Gas Property Tax Return as a reminder of the responsibility to file, the filing deadline, and where to locate the forms.

(189)[(186)] Revenue Form 62F500, "Important Reminder" shall be a postcard mailed to previous filers of the Tangible Personal Property Tax Return as a reminder of the responsibility to file, the filing deadline and where to locate the forms.

(190)[(187)] Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", shall inform taxpayers, subject to intangible property tax on the value of their capital stock, of those institutions which issue obligations that are exempt from state ad valorem taxation.

Section 2. Severance Taxes - Required Forms. (1) Revenue Form 10A100, "Kentucky Tax Registration Application", shall be filed by taxpayers with a coal severance and processing tax account listing taxpayer information including mine name and mining permit number.

(2) Revenue Form 10A104, "Update Or Cancellation Of Kentucky Tax Account(s)", shall be used by taxpayers with a coal severance and processing tax account to update business information or to cancel the account.

(3) Revenue Form 55A004, "Coal Severance Tax Seller/Purchaser Certificate", shall be filed by the taxpayer to verify purchase coal deductions.

(4) Revenue Form 55A100, "Coal Severance Tax Return", shall be filed monthly by the taxpayer to report production and tax due.

(5) Revenue Form 55A100, "Part IV - Schedule of Purchased Coal", shall be used by the taxpayer to report coal purchased for processing and resale. "Part V - Schedule for Thin Seam Coal Tax Credit", shall be used by the taxpayer to apply for tax credit for underground mining of thin coal seams.

(6) Revenue Form 55A101, "Coal Severance Tax Return Instructions", shall be included with the coal tax return mailed to the taxpayer to assist in the completion of his or her return.

(7) Revenue Form 55A131, "Credit Memorandum", shall be used by the department to issue a credit to the taxpayer for an overpayment rather than a refund.

(8) Revenue Form 55A209, "Severance Tax Refund Application", shall be used by the taxpayer for the purpose of requesting a refund of tax overpaid.

(9) Revenue Form 56A001, "Application for Certificate of Registration Minerals and Natural Gas Tax", shall be used by persons dealing in minerals, natural gas or natural gas liquids who wish to register with the Department of Revenue to acquire an account number.

(10) Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", shall be used by registered natural gas and natural gas liquids taxpayers monthly to report production and tax

due.

(11) Revenue Form 56A101, "Minerals Tax Return", shall be used by registered mineral taxpayers monthly to report production and tax due.

(12) Revenue Form 56A106, "Minerals Tax Certificate of Exemption", shall be used by mineral taxpayers to claim exemptions from minerals tax for minerals purchased for the maintenance of a privately maintained but publicly dedicated road.

(13) Revenue Form 56A107, "Schedule A, Allocation of Gross Value of Minerals Severed in Kentucky and Schedule B, Minerals Purchased from Others for Processing by Taxpayer", shall be used by mineral taxpayers to compute gross value of minerals to be allocated and to show the allocation by county of the gross value of minerals severed in Kentucky and also shall be used by a taxpayer for showing minerals that are purchased from others for processing by the taxpayer.

(14) Revenue Form 56A108, "Schedule A, Gross Value of Natural Gas Sold to Nonconsumers and Schedule B, Taxable Gross Value of Natural Gas and Natural Gas Liquids Extracted in Kentucky by Taxpayer - Allocation", shall be used by natural gas taxpayers to show details of all natural gas extracted in Kentucky and sold to nonconsumers and also shall be used by natural gas taxpayers to allocate the natural gas to the county or counties where the natural gas or natural gas liquids were located prior to extraction.

(15) Revenue Form 56A109, "Schedule C, Natural Gas First Purchased by Taxpayer From Kentucky Producers", shall be used by natural gas taxpayers who are first purchasers of natural gas to show gross value by county or counties from which the natural gas was extracted.

(16) Revenue Form 56A110, "Minerals Tax Return Attachment, Schedule C, Computation of Clay Severed and Processed in Kentucky and Allocation of Tax Attributable to Clay", shall be used by mineral taxpayers that sever clay to compute tax due.

(17) Revenue Form 56A112, "Crude Petroleum Transporter's Monthly Report, Kentucky Oil Production Tax", shall be used by registered crude petroleum transporter's for reporting gross value and tax due.

(18) Revenue Form 56A113, "Minerals Tax Credit for Limestone Sold in Interstate Commerce", shall be used by mineral taxpayers for the purpose of determining the eligibility for the minerals tax credit.

(19) Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", shall be used by crude petroleum transporters who wish to acquire an account number with the Kentucky Department of Revenue.

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

(a) Property tax - referenced material:

1. Revenue Form 61A200(P), "Property Tax Forms and Instructions for Public Service Companies 2016[2015]", September 2015[November 2014];

2. Revenue Form 61A200, "Public Service Company Property Tax Return for Year Ending December 31, 2015[2014]", September 2015[November 2014];

3. Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", September 2015[November 2014];

4. Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", September 2015[November 2014];

5. Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", September 2015[November 2014];

6. Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", September 2015[November 2014];

7. Revenue Form 61A200(E), "Filing Extension Application", September 2015[November 2014];

8. Revenue Form 61A200(G), "Report of Capital Stocks", September 2015[November 2014];

9. Revenue Form 61A200(H), "Report of Funded Debt", September 2015[November 2014];

10. Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", September 2015[November 2014];

11. Revenue Form 61A200(J), "Property Summary by Taxing

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Jurisdiction, Operating and Nonoperating Property", September 2015~~[November 2014]~~;

12. Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction", September 2015~~[November 2014]~~;

13. Revenue Form 61A200(K2), "Nonoperating Property Listing by Taxing Jurisdiction", September 2015~~[November 2014]~~;

14. Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for All Interstate Companies", September 2015~~[November 2014]~~;

15. Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies", September 2015~~[November 2014]~~;

16. Revenue Form 61A200(N1), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", September 2015~~[November 2014]~~;

17. Revenue Form 61A200(N2), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", September 2015~~[November 2014]~~;

18. Revenue Form 61A200(N3), "Summary Report of System and Kentucky Operating Lease Payments", September 2015~~[November 2014]~~;

19. Revenue Form 61A200(O), "Railroad Private Car Mileage Report", September 2015~~[November 2014]~~;

20. Revenue Form 61A200(Q), "Supplemental Report of Operations for Contained and Residential Landfills", September 2015~~[November 2014]~~;

21. Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", September 2015~~[November 2014]~~;

22. Revenue Form 61A200(U), "Industrial Revenue Bond Property", September 2015~~[November 2014]~~;

23. Revenue Form 61A202, "2016~~[2015]~~ Public Service Company Property Tax Return for Railroad Car Line", September 2015~~[November 2014]~~;

24. Revenue Form 61A206(P), "Public Service Company Property Tax Forms and Instructions for Commercial Air Passenger and Air Freight Carriers 2016~~[2015]~~", September 2015~~[November 2014]~~;

25. Revenue Form 61A206, "Public Service Company Property Tax Return For Commercial Air Passenger and Air Freight Carriers", September 2015~~[November 2014]~~;

26. Revenue Form 61A206(A), "Filing Extension Application for Public Service Company Property Tax Return", September 2015~~[November 2014]~~;

27. Revenue Form 61A206(B), "Report of Kentucky Registered and Licensed Motor Vehicles", September 2015~~[November 2014]~~;

28. Revenue Form 61A206(C), "Report of Financial Operations for Commercial Air Passenger and Air Freight Carriers", September 2015~~[November 2014]~~;

29. Revenue Form 61A206(D-1), "Report of System Aircraft Fleet", September 2015~~[November 2014]~~;

30. Revenue Form 61A206(D-2), "Report of System Aircraft Fleet", September 2015~~[November 2014]~~;

31. Revenue Form 61A206(D-3), "Report of System Aircraft Fleet", September 2015~~[November 2014]~~;

32. Revenue Form 61A206(E), "Report of Kentucky Flight Statistics By Airport", September 2015~~[November 2014]~~;

33. Revenue Form 61A206(F), "Report of System and Kentucky Allocation Factors", September 2015~~[November 2014]~~;

34. Revenue Form 61A206(G), "Report of Funded Debt", September 2015~~[November 2014]~~;

35. Revenue Form 61A206(H), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", September 2015~~[November 2014]~~;

36. Revenue Form 61A206(I), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", September 2015~~[November 2014]~~;

37. Revenue Form 61A206(J), "Summary Report of System and Kentucky Operating Lease Payments", September 2015~~[November 2014]~~;

38. Revenue Form 61A206(K), "Report of Owned Real Property Located in Kentucky By Taxing District", September 2015~~[November 2014]~~;

39. Revenue Form 61A206(L), "Report of Owned Personal Property Located In Kentucky By Taxing District", September 2015~~[November 2014]~~;

40. Revenue Form 61A206(M), "Summary Report of Total System and Kentucky Operations", September 2015~~[November 2014]~~;

41. Revenue Form 61A206(N), "Industrial Revenue Bond Property", September 2015~~[November 2014]~~;

42. Revenue Form 61A206(O), "Public Service Company Sales", September 2015~~[November 2014]~~;

43. Revenue Form 61A207(P), "Commercial Watercraft Personal Property Tax Return 2016~~[2015]~~", September 2015~~[November 2014]~~;

44. Revenue Form 61A207, "2016~~[2015]~~ Commercial Watercraft Personal Property Tax Return", September 2015~~[November 2014]~~;

45. Revenue Form 61A207(A), "Report of Owned Vessels in Your Possession", September 2015~~[November 2014]~~;

46. Revenue Form 61A207(B), "Report of Owned Vessels - in Possession of Others", September 2015~~[November 2014]~~;

47. Revenue Form 61A207(C), "Report of Nonowned Vessels in Your Possession", September 2015~~[November 2014]~~;

48. Revenue Form 61A207(D), "Commercial Watercraft Valuation Worksheet", September 2015~~[November 2014]~~;

49. Revenue Form 61A207(E), "Report of Kentucky Route Miles", September 2015~~[November 2014]~~;

50. Revenue Form 61A207(F), "Report of System Route Miles", September 2015~~[November 2014]~~;

51. Revenue Form 61A209, "Public Service Company Sales", September 2015~~[November 2014]~~;

52. Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", September 2015~~[November 2014]~~;

53. Revenue Form 61A211(I), "Instructions Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", September 2015~~[November 2014]~~;

54. Revenue Form 61A211(IP), "Instructions For Editing the Public Service Company Motor Vehicle Printout", September 2015~~[November 2014]~~;

55. Revenue Form 61A230, "Notice of Assessment", February 2010;

56. Revenue Form 61A240, "Notice of Assessment", July 2011;

57. Revenue Form 61A250, "Notice of Assessment", August 2008;

58. Revenue Form 61A255, "Public Service Company Property Tax Statement", January 2012;

59. Revenue Form 61A255(I), "Instructions for 61A255, Public Service Company Property Tax Statement", July 2008;

60. Revenue Form 61A500(P), "2016~~[2015]~~ Personal Property Tax Forms and Instructions for Communications Service Providers and Multichannel Video Programming Service Providers", September 2015~~[December 2014]~~;

61. Revenue Form 61A500, "2016~~[2015]~~ Tangible Personal Property Tax Return for Communications Service Providers and Multichannel Video Programming Service Providers", September 2015~~[December 2014]~~;

62. Revenue Form 61A500(H), "Report of Total Personal Tangible Property in Kentucky", September 2015~~[December 2014]~~;

63. Revenue Form 61A500(I), "Summary of Gross Personal Tangible Property Listing by Taxing District", September 2015~~[December 2014]~~;

64. Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", September 2015~~[December 2014]~~;

65. Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", September 2015~~[December 2014]~~;

66. Revenue Form 61A508, "Annual Report of Distilled Spirits in Bonded Warehouse", September 2015~~[December 2014]~~;

67. Revenue Form 61A508-S1, "Schedule 1 Office of Property Valuation Cost of Production Schedule", September 2015~~[December 2014]~~;

68. Revenue Form 61A508-S2, "Schedule 2 Office of Property

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Valuation Storage Cost Schedule", September 2015~~[December 2014]~~;

69. Revenue Form 61A508-S3, "Schedule 3 Schedule of Bulk Sales and Purchases (Bourbon Only)", September 2015~~[December 2014]~~;

70. Revenue Form 61A508-S4, "Schedule 4", September 2015~~[December 2014]~~;

71. Revenue Form 61A508-S5, "Schedule 5", September 2015~~[December 2014]~~;

72. Revenue Form 61A508-S6, "Schedule 6 Industrial Revenue Bond Property", September 2015~~[December 2014]~~;

73. Revenue Form 61A509, "Distilled Spirits or Telecoms Property Tax Statement", January 2012;

74. Revenue Form 61F007, "Notification Protesting Your Commercial Watercraft Assessment", July 2011;

75. Revenue Form 61F008, "Notification Protesting Your Assessment", July 2011;

76. Revenue Form 61F009, "Notification Protesting Your Assessment", July 2011;

77. Revenue Form 61F010, "Property Value Assessments for Public Service and Centrally Assessed Companies - Assessment of Distilled Spirits in Bonded Warehouses", March 2010;

78. Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice", 2006;

79. Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax Notice - Second Notice", 2006;

80. Revenue Form 62A008, "Motor Vehicle Tax Notice", 2006;

81. Revenue Form 62A009, "Map Sales Invoice", July, 2006;

82. Revenue Form 62A010, "Notice for Boat Transfer", 2009;

83. Revenue Form 62A013, "Application for Assessment Moratorium Certificate", December 2009;

84. Revenue Form 62A015, "2016~~[2015]~~ Motor Vehicle and Watercraft Property Tax Rate Certification", 2015~~[2014]~~;

85. Revenue Form 62A016, "Quietus", 2014;

86. Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills", 2009;

87. Revenue Form 62A020, "Intercounty Property Tax Collections", 2009;

88. Revenue Form 62A023, "Application for Exemption from Property Taxation", July 2013;

89. Revenue Form 62A030, "Request for Reproduction of PVA Public Records and Contract for Commercial Users", February 2008;

90. Revenue Form 62A044, "Affidavit for Correction/Exoneration of Motor Vehicle/Boat/Trailer Property Tax", February 2009;

91. Revenue Form 62A200(P), "2016~~[2015]~~ Unmined Coal Property Tax Information Return", October 2015~~[December 2014]~~;

92. Revenue Form 62A200, "2016~~[2015]~~ Unmined Coal Property Tax Information Return", October 2015~~[December 2014]~~;

93. Revenue Form 62A200, "Schedule A Fee Property Ownership", October 2015~~[December 2014]~~;

94. Revenue Form 62A200, "Schedule B Leased Property", October 2015~~[December 2014]~~;

95. Revenue Form 62A200, "Schedule C Property or Stock Transfers", October 2015~~[December 2014]~~;

96. Revenue Form 62A200, "Schedule D Lease Terminations, Transfers or Assignments", October 2015~~[December 2014]~~;

97. Revenue Form 62A200, "Schedule E Farm Exception to Unmined Minerals Tax", October 2015~~[December 2014]~~;

98. Revenue Form 62A200, "Schedule F Geological Information by County", October 2015~~[December 2014]~~;

99. Revenue Form 62A301-S, "Omitted Real Estate Property Tax Bill", January 2013;

100. Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", September 2005;

101. Revenue Form 62A303, "Minutes of the Board of Assessment Appeals", July 2014;

102. Revenue Form 62A303-A, "Certification", July 2014;

103. Revenue Form 62A303-B, "Summary of Appeals Filed With the County Board of Assessment Appeals", July 2014;

104. Revenue Form 62A303-C, "Justification For Decision of Local Board of Assessment Appeals", July 2014;

105. Revenue Form 62A304, "Property Valuation Administrator's Recapitulation of Real Property Tax Roll", July 2014;

106. Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes (Since Recapitulation)", July 2014;

107. Revenue Form 62A307, "Property Owner Conference Record", September 2005;

108. Revenue Form 62A323, "Record of Additions and Deletions", July 2014;

109. Revenue Form 62A329, "Annual Report of Domestic Life Insurance Companies", June 2014;

110. Revenue Form 62A350, "Application for Exemption Under the Homestead/Disability Amendment", December 2011;

111. Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", April 2005;

112. Revenue Form 62A353, "Notice of Listing of Omitted Real Property", September 2005;

113. Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", July 2014;

114. Revenue Form 62A358, "Receipt for Transferring Delinquent Property Tax Bills From the Sheriff to the County Clerk", December 2009;

115. Revenue Form 62A358-S, "Supplemental Receipt to Document Timely Postmarked Payments Received After the Delinquent Tax Bill Transfer Date", March 2010;

116. Revenue Form 62A359, "Sheriff's Report of Real Property Tax Bills Transferred to the County Clerk", December 2009;

117. Revenue Form 62A360, "Order Correcting Erroneous Assessment", 2015~~[2014]~~;

118. Revenue Form 62A362, "Sheriff's Report of Delinquent Personal Property Tax Bills Transferred to the County Clerk", July 2014;

119. Revenue Form 62A362-A, "Certification", July 2014;

120. Revenue Form 62A363, "County Clerk's Claim for Preparing Tax Bills", July 2014;

121. Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", July 2014;

122. Revenue Form 62A364, "County Clerk's Monthly Report of Omitted Assessments", July 2014;

123. Revenue Form 62A365, "Nonresidency Affidavit", January 2012;

124. Revenue Form 62A366, "Order Correcting Erroneous Assessment", December 2013;

125. Revenue Form 62A366-D, "Order Correcting Erroneous Delinquent Assessment", July 2014;

126. Revenue Form 62A366R, "Exoneration Form for Property Tax Refund", December 2013;

127. Revenue Form 62A367, "Authorization for Preparing Additional/Supplemental Property Tax Bills", July 2014;

128. Revenue Form 62A367-A, "Instructions for Preparation of Additional/Supplemental Tax Bills and Official Receipt", July 2014;

129. Revenue Form 62A368-A, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

130. Revenue Form 62A368-B, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

131. Revenue Form 62A369, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

132. Revenue Form 62A369-A, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

133. Revenue Form 62A370, "Kentucky Department of Revenue Certificate of Registration", November 2009;

134. Revenue Form 62A370A, "Kentucky Department of Revenue Application for Certificate of Registration to Purchase Certificates of Delinquency", October 2013;

135. Revenue Form 62A371, "Attestation Form For Use When Taxpayer Cannot Make Contact With A Third Party Purchaser", January 2013;

136. Revenue Form 62A372, "Sheriff's List of Orders Correcting Erroneous Assessments", February 2006;

137. Revenue Form 62A372-A, "Certification", February 2006;

138. Revenue Form 62A373, "Certificate of Transfer for Property Tax Payment", January 2010;

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139. Revenue Form 62A374, "County Clerk Certificate of Delinquency Sale Registration", November 2010;

140. Revenue Form 62A375, "Release of Certificate of Delinquency Assigned to a Third Party", February 2011;

141. Revenue Form 62A377, "In House Release Of Third Party Purchaser Lien When Lien Is Paid To Clerk", January 2013;

142. Revenue Form 62A378, "Report of Mobile Homes and Recreational Vehicles Not Registered in this State", August 2013;

143. Revenue Form 62A379, "Listing of Omitted Real Property", December 2015[2014];

144. Revenue Form 62A380, "Notification of Updated Mailing Address from Sheriff to Property Valuation Administrator", September 2010;

145. Revenue Form 62A384C, "Clay Property Tax Return", January 2013;

146. Revenue Form 62A384C(I), "Instructions to Complete Clay Property Tax Return", January 2014;

147. Revenue Form 62A384-G, "Natural Gas Property Tax Return", January 2013;

148. Revenue Form 62A384-G/O(I), "Gas/Oil", January 2016[2015];

149. Revenue Form 62A384L, "Limestone and Sand and Gravel Property Tax Return", January 2016[2015];

150. Revenue Form 62A384-O, "Oil Property Tax Return Lease Report", January 2013;

151. Revenue Form 62A385, "Sheriff's Official Receipt for Property Tax Bills", July, 2014;

152. Revenue Form 62A385-A, "Sheriff's Receipt for Unpaid and Partially Paid Tax Bills", July 2014;

153. Revenue Form 62A386, "Sheriff's Official Receipt For Additional/Supplemental Property Tax Bill(s)", July 2014;

154. Revenue Form 62A393, "Sheriff's Property Tax Account Statement", February 2006;

155. Revenue Form 62A393-A, "Incoming Sheriff's Property Tax Account Statement", February 2006;

156. Revenue Form 62A393-B, "Outgoing Sheriff's Property Tax Account Statement", February 2006;

157. Revenue Form 62A394, "Sheriff's Monthly Report of Property Tax Collections", January 2010;

158. Revenue Form 62A394-MV, "County Clerk's Monthly Report of Motor Vehicle Property Tax Collections", August 2011;

159. Revenue Form 62A398, "Property Valuation Administrator's Bond", September 2014;

160. Revenue Form 62A500(P), "2016[2015] Personal Property Tax Forms and Instructions", November 2015[2014];

161. Revenue Form 62A500, "2016[2015] Tangible Personal Property Tax Return", November 2015[2014];

162. Revenue Form 62A500-A, "2016[2015] Tangible Personal Property Tax Return (Aircraft Assessments Only)", November 2015[2014];

163. Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", November 2015[2014];

164. Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return", November 2015[2014];

165. Revenue Form 62A500-M1, "Boat Dealer's Used Inventory Listing for Line 31 Tangible Personal Property Tax Return", November 2015[2014];

166. Revenue Form 62A500-S1, "Automobile Dealer's Inventory Listing for Line 34 Tangible Personal Property Tax Return", November 2015[2014];

167. Revenue Form 62A500-W, "2016[2015] Tangible Personal Property Tax Return (Documented Watercraft)", November 2015[2014];

168. Revenue Form 62A600, "Domestic Savings and Loan Tax Return", August 2013;

169. Revenue Form 62A601, "Foreign Savings and Loan Tax Return", August 2013;

170. Revenue Form 62A601-S2, "Schedule B, Computation of Exempt Securities", August 2013;

171. Revenue Form 62A700, "Industrial Bond Worksheet for Valuation Purposes", October 2015;

172. Revenue Form 62A850, "Bank Deposits Tax Return", August 2013;

173.[472-] Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", August 2011;

174.[473-] Revenue Form 62A863, "Financial Institutions Local Deposits Summary Report", November 2014;

175.[474-] Revenue Form 62A863-A, "Schedule A, Summary of Net Deposits", August 2013;

176.[475-] Revenue Form 62A880, "Personal Property Assessment", October 2004;

177.[476-] Revenue Form 62B003, "Unmined Coal Notice of Tax Assessment", November 2008;

178.[477-] Revenue Form 62B011, "Limestone, Sand, or Gravel Assessment Notice", July 2006;

179.[478-] Revenue Form 62B012, "Oil Assessment Notice", July 2006;

180.[479-] Revenue Form 62B013, "Clay Assessment Notice", July 2006;

181.[480-] Revenue Form 62B015, "Gas Assessment Notice", July 2006;

182.[481-] Revenue Form 62F003, "Appeals Process for Real Property Assessments", September 2014;

183.[482-] Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", August 2012;

184.[483-] Revenue Form 62F031, "Appeal to Local Board of Assessment Appeals", January 2010;

185. Revenue Form 62F100, "Understanding Kentucky Property Tax", April 2015;

186. Revenue Form 62F102, "The Assessment of Tangible Personal Property Taxes", September 2015;

187.[484-] Revenue Form 62F200, "Important Reminder", January 2016[2015];

188.[485-] Revenue Form 62F384-G, "Important Reminder", January 2016[2015];

189.[486-] Revenue Form 62F500, "Important Reminder", January 2016[2015]; and

190.[487-] Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", August 2011; and

(b) Severance taxes - referenced material:

1. Revenue Form 10A100, "Kentucky Tax Registration Application", October 2015[July 2013];

2. Revenue Form 10A104, "Update or Cancellation of Kentucky Account(s)", October 2015[June 2014];

3. Revenue Form 55A004, "Coal Severance Tax Seller/Purchaser Certificate", October 2010;

4. Revenue Form 55A100, "Coal Severance Tax Return", October 2010;

5. Revenue Form 55A100, "Part IV - Schedule of Purchased Coal" and "Part V - Schedule for Thin Seam Coal Tax Credit", October 2010;

6. Revenue Form 55A101, "Coal Severance Tax Return Instructions", October 2010;

7. Revenue Form 55A131, "Credit Memorandum", December 2006;

8. Revenue Form 55A209, "Severance Tax Refund Application", August 2009;

9. Revenue Form 56A001, "Application for Certificate of Registration Minerals and Natural Gas Tax", January 2015[October 1984];

10. Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", July 2004;

11. Revenue Form 56A101, "Minerals Tax Return", January 2015[July 2004];

12. Revenue Form 56A106, "Minerals Tax Certificate of Exemption", December 2006;

13. Revenue Form 56A107, "Schedule A, Allocation of Gross Value of Minerals Severed in Kentucky and Schedule B, Minerals Purchased from Others for Processing by Taxpayer", January 2005;

14. Revenue Form 56A108, "Schedule A, Gross Value of Natural Gas Sold to Nonconsumers and Schedule B, Taxable Gross Value of Natural Gas and Natural Gas Liquids Extracted in Kentucky by Taxpayer - Allocation", March 2005;

15. Revenue Form 56A109, "Schedule C, Natural Gas First

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Purchased by Taxpayer from Kentucky Producers", January 2005;

16. Revenue Form 56A110, "Minerals Tax Return Attachment, Schedule C, Computation of Clay Severed and Processed in Kentucky and Allocation of Tax Attributable to Clay", March 2005;

17. Revenue Form 56A112, "Crude Petroleum Transporter's Monthly Report, Kentucky Oil Production Tax", July 2004;

18. Revenue Form 56A113, "Minerals Tax Credit for Limestone Sold in Interstate Commerce", November 1997; and

19. Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", ~~January 2015~~~~December 2006~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, Monday through Friday, 8 a.m. to 5 p.m.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: December 4, 2015

FILED WITH LRC: December 7, 2015 at 3 p.m.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9826, fax (502) 564-2541.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required forms used in the administration of Property and Severance Taxes by the Department of Revenue.

(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 contains tax forms to be used for tax year 2016.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms for the 2016 tax year.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay personal tangible and public service property taxes for tax years beginning in 2016.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered

by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.

(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: As forms are changed, the manuals and the Department of Revenue Website in which copies of all forms listed in this regulation are maintained will be updated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred by complying with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All taxpayers and the administering agencies will benefit by having access to a centralized listing of the most current forms in use.

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

(a) Initially: The Department of Revenue will not incur additional cost as the result of this regulation.

(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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 administrative regulation does not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

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 Finance and Administration Cabinet, Department of Revenue, Office of Property Valuation, Division of Local Support, Division of State Valuation and Division of Minerals Taxation and GIS Services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(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? None.

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

(c) How much will it cost to administer this program for the first year? The administrative cost will be absorbed in the normal operating cost of the Department.

(d) How much will it cost to administer this program for subsequent years? The administrative cost will be absorbed in the normal operating budget of the Department.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
103 KAR 3:040E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representative to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient, because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
THOMAS B. MILLER, Commissioner

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Emergency Amendment)

103 KAR 3:040E. Income Tax Forms Manual.

RELATES TO: KRS 131.041, 131.051, 131.061, 131.081, 131.110, 131.130, 131.155, 131.170, 131.180, 131.190, 131.250, 131.340, 131.500, 131.510(1), (2)(a), 131.540, 141.010, 141.0101, 141.011, 141.016, 141.020, 141.0202, 141.030, 141.040, 141.0401, 141.0405, 141.041, 141.042, 141.044, 141.062, 141.065, 141.066, 141.067, 141.068, 141.069, 141.070, 141.071, 141.120, 141.121, 141.160, 141.170, 141.180, 141.200, 141.205, 141.206, 141.207, 141.208, 141.300, 141.310, 141.325, 141.330, 141.335, 141.347, 141.370, 141.381, 141.382, 141.383, 141.384, 141.385, 141.386, 141.389, 141.390, 141.392, 141.395, 141.400, 141.401, 141.402, 141.403, 141.405, 141.407, 141.412, 141.415, 141.418, 141.420, 141.421, 141.423, 141.424, 141.4242, 141.4244, 141.428, 141.430, 141.433, 141.434, 141.436, 141.437, 141.438, 141.985, 141.990, 154.12-2086, 154.20-050, 154.22-060, 154.23-035, 154.24-110, 154.25-030, 154.26-090, 154.28-090, 154.32-010, 154.34-080, 154.48-025, 155.170, 164.0062

STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: December 7, 2015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue forms used in the administration of income taxes by the Department of Revenue.

Section 1. Corporation Income Taxes. (1) Revenue Form 41A720, "Form 720, 2015[2014] Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to determine its corporation income tax due in accordance with KRS 141.040 and its limited liability entity tax due in accordance with KRS 141.0401 for tax years beginning in 2015[2014].

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a

pass-through entity taxable both within and without Kentucky to apportion and allocate its net income to Kentucky in accordance with KRS 141.120 or 141.206.

(3) Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both within and without Kentucky that is also a partner or member of a pass-through entity to determine the sales, property and payroll amounts to be entered on Revenue Form 41A720A.

(4) Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", shall be used by a corporation filing a mandatory nexus consolidated return to show the Kentucky and total sales, property, and payroll of the corporation and each subsidiary included in the apportionment factor.

(5) Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", shall be used by a taxpayer who is a biodiesel producer, biodiesel blender, or renewable diesel producer to report the biodiesel gallons produced or used by the blender and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.423.

(6) Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", shall be used by a corporation to compute the tax credit allowed by KRS 141.041 for coal used or substituted for other fuels in an eligible heating facility as described by KRS 141.041(1).

(7) Revenue Form 41A720CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", shall be used by a taxpayer to request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.428 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(8) Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", shall be used by a taxpayer who is a producer of cellulosic ethanol to report the number of cellulosic ethanol gallons and request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.4244.

(9) Revenue Form 41A720CI, "Schedule CI, Application for Coal Incentive Tax Credit", shall be used by a taxpayer to request approval for the amount of tax credit allowed by KRS 141.0405 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(10) Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", shall be used by a taxpayer to compute its Kentucky cost of goods sold and its total costs of goods sold from all sources for purposes of computing its limited liability entity tax based on gross profits.

(11) Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", shall be used by a C corporation filing a consolidated return to show its federal pro forma consolidated return.

(12) Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a consolidated return as a continuation of Revenue Form 41A720CR.

(13) Revenue Form 41A720DS, "Schedule DS, Distilled Spirits Tax Credit", shall be used by a taxpayer to report the capital improvements for which the credit is claimed, up to the amount of distilled spirits ad valorem tax paid during the period the capital improvements were made.

(14) Revenue Form 41A720DS-R, "Schedule DS-R, Distilled Spirits Tax Credit Recapture", shall be used by a taxpayer to determine any distilled spirits tax credit to be recaptured as required by KRS 141.389.

(15) Revenue Form 41A720ES, "Form 720-ES Kentucky, 2016[2015] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

~~(16)~~~~(44)~~ Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

~~(17)~~~~(45)~~ Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", shall be used by a taxpayer who is a producer of ethanol to report ethanol gallons produced and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.4242.

~~(18)~~~~(46)~~ Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", shall be used by a taxpayer who provides edible agricultural products to a nonprofit food program operating in Kentucky to determine the credit allowed by KRS 141.392.

~~(19)~~~~(47)~~ Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", shall be used by an individual, corporation, fiduciary, or pass-through entity to determine the deduction allowed by KRS 141.0202.

~~(20)~~~~(48)~~ Revenue Form 41A720(I), "Instructions, 2015~~2014~~ Kentucky Corporation Income Tax and LLET Return", shall be used by a corporation to file its 2015~~2014~~ Kentucky Corporation Income Tax and LLET Return and related schedules.

~~(21)~~~~(49)~~ Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", shall be used by a C corporation filing a nexus consolidated return showing the income or loss of each entity included in the nexus consolidated tax return.

~~(22)~~~~(20)~~ Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", shall be used by a C corporation filing a nexus consolidated return as a continuation of Revenue Form 41A720KCR.

~~(23)~~~~(21)~~ Revenue Form 41A720KESA, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of a Corporation)", shall be used by a corporation which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

~~(24)~~~~(22)~~ Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

~~(25)~~~~(23)~~ Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", shall be used by a company which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to maintain a record of the approved costs and tax credits for the duration of the agreement.

~~(26)~~~~(24)~~ Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", shall be used by a corporation or a limited liability pass-through entity to determine the limited liability entity tax in accordance with KRS 141.0401.

~~(27)~~~~(25)~~ Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by a corporation or a limited liability pass-through entity that is a partner in a general partnership organized or formed as a general partnership after January 1, 2006, or a partner or member in a limited liability pass-through entity to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET.

~~(28)~~~~(26)~~ Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by limited liability pass-through entities with economic development projects to determine the limited liability entity tax in accordance with KRS 141.0401.

~~(29)~~~~(27)~~ Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a

Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by a limited liability pass-through entity with an economic development project that is a partner or member of a limited liability pass-through entity or a general partnership organized or formed as a general partnership after January 1, 2006, to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET(K).

~~(30)~~~~(28)~~ Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", shall be used by a C corporation with a current year net operating loss or net operating loss carry-forward.

~~(31)~~~~(29)~~ Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", shall be used by a corporation filing a nexus consolidated income tax return as provided by KRS 141.200, in addition to Revenue Form 41A720NOL, to show the Kentucky net operating loss (KNOL) carry forward balance for each new member of the affiliated group.

~~(32)~~~~(30)~~ Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", shall be used by a corporation filing Kentucky Form 720 to show other additions to and subtractions from federal taxable income on Revenue Form 41A720, Part III, Lines 9 and 16, respectively.

~~(33)~~~~(31)~~ Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.395.

~~(34)~~~~(32)~~ Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.390 for the purchase and installation of recycling or composting equipment or a major recycling project. This form shall also be used by an individual, corporation, fiduciary, or pass-through entity to substantiate and keep a record of the amount of approved credit claimed on their tax return.

~~(35)~~~~(33)~~ Revenue Form 41A720RC-C, "Schedule RC-C, Schedule RC - Part I Continuation", shall be used by an individual, corporation, fiduciary, or pass-through entity, in addition to Revenue Form 41A720RC, to list additional equipment for which approval of the credit allowed by KRS 141.390 is being requested.

~~(36)~~~~(34)~~ Revenue Form 41A720RC(I), "Instructions for Schedule RC", shall be used by taxpayers filing Revenue Form 41A720RC and Revenue Form 41A720RC-C requesting approval of a tax credit for recycling equipment, composting equipment, or a major recycling project.

~~(37)~~~~(35)~~ Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", shall be used by a taxpayer disposing of recycling or composting equipment before the end of the recapture period to compute the tax credit recaptured to be reported on the applicable tax return.

~~(38)~~~~(36)~~ Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement", shall be used by an entity to report related party expenses and the exceptions to the required disallowance of related party expenses as provided by KRS 141.205.

~~(39)~~~~(37)~~ Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", shall be used by a corporation or pass-through entity requesting approval of a railroad expansion tax credit allowed by KRS 141.386.

~~(40)~~~~(38)~~ Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.385.

~~(41)~~~~(39)~~ Revenue Form 41A720S, "Form 720S, 2015~~2014~~ Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to determine the amount of tax due in accordance with KRS 141.040 and 141.0401 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2015~~2014~~.

~~(42)~~~~(40)~~ Revenue Form 41A720S(I), "Instructions, 2015~~2014~~ Kentucky S Corporation Income Tax and LLET Return", shall be

used by an S corporation to file its 2015[2014] Kentucky S Corporation Income Tax and LLET Return and related schedules.

(43)[(41)] Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", shall be used for tax years beginning in 2015[2014] by S Corporations with economic development projects to determine the shareholders' shares of income, credit, deductions, etc., excluding the economic development projects.

(44)[(42)] Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2015[2014] Shareholder's Share of Income, Credits, Deductions, Etc.", shall be used by an S corporation to report to each of its shareholders the amount of income, credit, deduction, etc., that the shareholder shall report for Kentucky income tax purposes.

(45)[(43)] Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", shall be used by a pass-through entity filing Revenue Form 41A720S, Form 41A765, or Form 42A765-GP to show other additions to and subtractions from federal ordinary income on Revenue Form 41A720S, Part III, Lines 5 and 9, or 41A765, or 42A765-GP Part I, Lines 5 and 9, respectively.

(46)[(44)] Revenue Form 41A720SL, "Extension of Time to File Kentucky Corporation/LLET Return", shall be used by a corporation or a limited liability pass-through entity to request a six (6) month extension of time to file a tax return or an LLET return or to submit payment of unpaid tax.

(47)[(45)] Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", shall be used by a corporation or a limited liability pass-through entity to summarize tax credits claimed and shall be attached to the tax return.

(48)[(46)] Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", shall be used by an entity claiming a tax credit provided by KRS 141.418.

(49)[(47)] Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income and License Tax Return for tax periods beginning prior to January 1, 2005, as previously filed.

(50)[(48)] Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax Return for periods beginning on or after January 1, 2005 and before January 1, 2007, as previously filed.

(51)[(49)] Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax and LLET Return for periods beginning on or after January 1, 2007 and before January 1, 2009, as previously filed.

(52)[(50)] Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", shall be used by a corporation filing a consolidated Kentucky income tax return on Revenue Form 41A720 to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax paid.

(53)[(51)] Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", shall be used by a corporation or limited liability pass-through entity required by KRS 141.042 and 141.044 to file a declaration of estimated tax, to compute the underpayment penalty as provided by KRS 131.180(3) and 141.990, and to compute the interest on any late payment or underpayment of an estimated tax installment as provided by KRS 141.985.

(54)[(52)] Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", shall be used by a taxpayer to claim a tax credit for installation of energy efficiency products for residential and commercial property as provided by KRS 141.436.

(55)[(53)] Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", shall be used by a taxpayer as a declaration document and signature authorization for an electronic filing of a Kentucky income or LLET return.

(56)[(54)] Revenue Form 41A720-S9, "Form 8903-K, Kentucky Domestic Production Activities Deduction", shall be used by a corporation to determine the Domestic Production Activities Deduction amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return.

(57)[(55)] Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", shall be used by a taxpayer to claim a tax credit for the construction of an ENERGY STAR home or the sale of an ENERGY STAR manufactured home as provided by KRS 141.437.

(58)[(56)] Revenue Form 41A720-S12, "Form 720-V, Electronic Filing Payment Voucher, 2015[2014]", shall be used by an entity filing an electronic Kentucky tax return to pay the balance of tax due.

(59)[(57)] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

(60)[(58)] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", shall be used by a company which has a Kentucky Rural Economic Development Act (KREDA) project to maintain a record of the debt service payments, wage assessment fees and tax credits for the duration of the project.

(61)[(59)] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

(62)[(60)] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

(63)[(61)] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", shall be used by a company which has a Kentucky Industrial Development Act (KIDA) project to maintain a record of the debt service payments and tax credits for the duration of the project.

(64)[(62)] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

(65)[(63)] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

(66)[(64)] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", shall be used by a company which has a Kentucky Industrial Revitalization Act (KIRA) project to maintain a record of the approved costs, wage assessment fees and tax credits for the duration of the project.

(67)[(65)] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

(68)[(66)] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky corporation income tax liability and

limited liability entity tax liability in accordance with KRS 141.407.

(69) [(67)] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", shall be used by a company which has a Kentucky Jobs Development Act (KJDA) project to maintain a record of the approved costs, wage assessment fees, in-lieu-of credits and tax credits for the duration of the project.

(70) [(68)] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)" shall be used by a pass-through entity which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

(71) [(69)] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Reinvestment Act (KRA) project to compute the allowable KRA credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(72) [(70)] Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Reinvestment Act (KRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(73) [(71)] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule For a KRA Project", shall be used by a company which has entered into a Kentucky Reinvestment Act (KRA) project to maintain a record of the balance of approved costs and tax credits for the duration of the agreement.

(74) [(72)] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to compute the allowable KEOZ credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

(75) [(73)] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

(76) [(74)] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", shall be used by a company which has entered into an agreement for a Kentucky Economic Opportunity Zone (KEOZ) Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and tax credits for the duration of the agreement.

(77) [(75)] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", shall be used by a company which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

(78) [(76)] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule For a KJRA Project", shall be used by a company which has entered into an agreement for a Kentucky Jobs Retention Act (KJRA) project to maintain a record of the debt service payments, wage assessment fees, approved costs, and tax credits for the duration of the agreement.

(79) [(77)] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

(80) [(78)] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to

determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

(81) [(79)] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to maintain a record of the balance of approved costs, wage assessments, and tax credits for the duration of the agreement.

(82) [(80)] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

(83) [(81)] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Business Investment (KBI) project to compute the allowable KBI credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(84) [(82)] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Business Investment (KBI) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(85) [(83)] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", shall be used by a company which has entered into an agreement for a Kentucky Business Investment (KBI) project to maintain a record of approved costs, wage assessments, and tax credits for the duration of the agreement.

(86) [(84)] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", shall be used by a corporation which has a Farm Operation Networking Project (FON) to compute the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(87) [(85)] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Farm Operation Networking Project (FON) to determine the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(88) [(86)] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", shall be used by a company with a Farm Operation Networking Project (FON) to maintain a record of approved costs and the tax credits taken for the duration of the project.

(89) [(87)] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", shall be used by a qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment eligible for the tax credit provided by KRS 141.434.

(90) [(88)] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", shall be used by a qualified community development entity to provide proof to the Kentucky Department of Revenue of the receipt of cash for a taxpayer's qualified equity investment.

(91) [(89)] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", shall be used by the Kentucky Department of Revenue to notify a taxpayer of a recapture of the New Markets Development Program tax credit.

(92) [(90)] Revenue Form 41A720-S83, "Form 8874(K)-C,

Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", shall be used by a qualified community development entity to request a refund of the performance fee provided by KRS 141.433.

(93)[(94)] Revenue Form 41A725, "Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", shall be used by a single member individually-owned LLC to file an LLET return in accordance with KRS 141.0401 for tax years beginning in 2015 [2014].

(94)[(92)] Revenue Form 41A725CP, "Schedule CP, Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Composite Return Schedule", shall be used by a single member individual with multiple LLC entities to file LLET returns in accordance with KRS 141.0401 for tax years beginning in 2015[2014].

(95)[(93)] Revenue Form 41A725(I), "Instructions, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", shall be used by a single member LLC individually owned to file its 2015[2014] Kentucky Income and LLET return and related schedules.

(96)[(94)] Revenue Form 41A750, "Form 750, 2015[2014] Business Development Corporation Tax Return", shall be used by a corporation organized under the provisions of KRS Chapter 155 to determine its excise tax due in accordance with KRS 155.170 for tax years beginning in 2015[2014].

(97)[(95)] Revenue Form 41A765, "Form 765, 2015[2014] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP or LP to file its Kentucky income and LLET return in accordance with KRS 141.0401 and 141.206 for tax years beginning in 2015[2014].

(98)[(96)] Revenue Form 41A765(I), "Instructions, 2015[2014] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to file its 2015[2014] Kentucky income and LLET return and related schedules.

(99)[(97)] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", shall be used for tax years beginning in 2015[2014] by partnerships with economic development projects to determine the partners' share of income, credits, deductions, etc., excluding the economic development projects.

(100)[(98)] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2015[2014] Partner's Share of Income, Credits, Deductions, Etc.", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to report to its partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes.

(101)[(99)] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nexus with the Commonwealth of Kentucky.

(102)[(100)] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nondeductible related party expense.

Section 2. Individual Income and Withholding Taxes. (1) Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", shall be submitted to the Department of Revenue to request an installment agreement to pay tax due.

(2) Revenue Form 40A100, "Application for Refund of Income Taxes", shall be presented to the Department of Revenue to request a refund of income taxes paid.

(3) Revenue Form 40A102, "2015[2014] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", shall be submitted to the Department of Revenue by individuals, partnerships, and fiduciaries prior to the date prescribed by law for filing a return to request a six (6) month extension to file the return or to remit payment of tax prior to the date the return is due.

(4) Revenue Form 40A103, "Application for New Home Tax Credit", shall be submitted to the Department of Revenue by

individuals to request approval for the new home tax credit.

(5) Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", shall be used by a pass-through entity doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual or corporate partner doing business in Kentucky only through its ownership interest in the pass-through entity.

(6) Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", shall be used by a pass-through entity doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual and corporate partners.

(7) Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2016[2015] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", shall be used by every pass-through entity for the declaration and payment of estimated tax if required.

(8) Revenue Form 40A201NP-WH-SL, "Extension of Time to File Kentucky Form 740NP-WH", shall be used by a pass-through entity to request a six (6)-month extension to file Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(9) Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", shall be used by a pass-through entity to compute the interest and penalty on the underpayment and late payment of estimated tax on Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(10) Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", shall be used by a taxpayer or tax preparer to order individual income tax forms.

(11) Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", shall provide instructions for employers and shall contain forms used for withholding and reporting Kentucky income tax withholding.

(12) Revenue Form 42A003(T), "2016[2015] Withholding Tax Tables Computer Formula", shall be used by an employer for computing employees' Kentucky income tax withholding each pay period.

(13) Revenue Form 42A740, "Form 740, 2015[2014] Kentucky Individual Income Tax Return, Full-Year Residents Only", shall be completed by a resident individual to report taxable income and income tax liability for taxable years beginning in 2015[2014], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(14) Revenue Form 42A740-A, "Schedule A, Form 740, 2015[2014] Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2015[2014].

(15) Revenue Form 42A740-EPAY, "Form 740-EPAY, 2015 Kentucky Electronic Payment Request Form", shall be completed, signed by the individual taxpayer or taxpayers, and maintained by the preparer or taxpayer in support of an electronic payment made.

(16) Revenue Form 42A740ES, "Form 740-ES, 2016[2015] Individual Income Tax Kentucky Estimated Tax Voucher", shall be submitted to the Department of Revenue by individuals with payment of quarterly estimated tax.

(17)[(16)] Revenue Form 42A740-EZ, "Form 740-EZ, 2015[2014] Kentucky Individual Income Tax Return for Single Persons with No Dependents", shall be completed by resident individuals to report taxable income and income tax liability for taxable years beginning in 2015[2014], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(18)[(17)] Revenue Form 42A740(I), "2015[2014] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", shall be used by resident individuals to file the 2015[2014] Kentucky Individual Tax Return and related schedules.

(19)[(18)] Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", shall be completed by individuals and

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attached to Form 740 to compute tax liability by averaging farm income for taxable years beginning after December 31, 1997.

(20)[(19)] Revenue Form 42A740-KNOL, "Schedule KNOL, 2015[2014] Kentucky Net Operating Loss Schedule", shall be used by individuals to compute and carry forward a net operating loss to subsequent years.

(21)[(20)] Revenue Form 42A740-M, "Schedule M, 2015[2014] Kentucky Federal Adjusted Gross Income Modifications", shall be completed by individuals and attached to Form 740 in support of additions to and subtractions from federal adjusted gross income.

(22)[(21)] Revenue Form 42A740-NP, "Form 740-NP, 2015[2014] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", shall be completed by part-year or full-year nonresident individuals to report taxable income and income tax liability for taxable years beginning in 2015[2014], and shall be filed within three and one-half (3 1/2) months after the close of the taxable year.

(23)[(22)] Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2015[2014] Kentucky Schedule A Itemized Deductions", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support the itemized deductions claimed for 2015[2014].

(24)[(23)] Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2015[2014] Moving Expense and Reimbursement", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support moving expenses and reimbursement by employers for moving expenses for 2015[2014].

(25)[(24)] Revenue Form 42A740-NP(I), "Instructions for 2015[2014] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be used by nonresident or part-year resident individuals to file the 2015[2014] Kentucky Form 740-NP and related schedules.

(26)[(25)] Revenue Form 42A740-NP-R, "Form 740-NP-R, 2015[2014] Kentucky Income Tax Return Nonresident - Reciprocal State", shall be completed by resident individuals of reciprocal states to request a refund of Kentucky withholding for 2015[2014].

(27)[(26)] Revenue Form 42A740-NP(P), "2015[2014] Kentucky Income Tax Return Nonresident or Part-Year Resident", shall be a packet containing forms and instructions and shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2015[2014].

(28)[(27)] Revenue Form 42A740(PKT), "2015[2014] Kentucky Individual Income Tax Forms", shall be a packet containing forms and instructions and shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2015[2014].

(29)[(28)] Revenue Form 42A740-P, "Schedule P, 2015[2014] Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2015[2014].

(30)[(29)] Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", shall be completed by individuals and attached to Form 740 or Form 740-NP to provide the Office of Employment and Training Certificate Numbers in support of credit claimed for hiring an unemployed person.

(31)[(30)] Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2005 or future years.

(32)[(31)] Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2004 or prior years.

(33)[(32)] Revenue Form 42A740-S1, "Form 2210-K, 2015[2014] Underpayment of Estimated Tax by Individuals", shall be filed by individuals to request a waiver of estimated tax penalty or to compute and self assess an estimated tax penalty for a tax year beginning in 2015[2014].

(34)[(33)] Revenue Form 42A740-S4, "2016[2015] Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2016[2015].

(35)[(34)] Revenue Form 42A740-S18, "Form 8582-K, 2015[2014] Kentucky Passive Activity Loss Limitations", shall be

completed by an individual taxpayer and attached to the individual tax return in support of an allowable passive loss deduction and carryover of a passive activity loss.

(36)[(35)] Revenue Form 42A740-S21, "Form 4972-K, 2015[2014] Kentucky Tax on Lump-Sum Distributions", shall be completed by an individual taxpayer to compute tax liability on a lump sum distribution and attached to the taxpayer's individual income tax return.

(37)[(36)] Revenue Form 42A740-S22, "Form 8879-K, 2015[2014] Kentucky Individual Income Tax Declaration for Electronic Filing", shall be completed, signed by the individual taxpayer or taxpayers and maintained by the preparer or taxpayer in support of an electronically filed return.

(38)[(37)] Revenue Form 42A740-S23, "Form 740-V, 2015[2014] Kentucky Electronic Payment Voucher", shall be used by the individual taxpayer or taxpayers for the payment of additional tax due on an electronically filed return and submitted to the Department of Revenue.

(39)[(38)] Revenue Form 42A740-S24, "Form 8863-K, 2015[2014] Kentucky Education Tuition Tax Credit", shall be used by an individual taxpayer or taxpayers to claim a tuition tax credit on the taxpayer's individual Kentucky income tax return.

(40)[(39)] Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", shall be used by the preparer to indicate the reason the return is not being filed electronically.

(41)[(40)] Revenue Form 42A741, "Form 741, 2015[2014] Kentucky Fiduciary Income Tax Return", shall be used by a fiduciary of an estate or trust to report income and tax liability of an estate or trust and be filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year.

(42)[(41)] Revenue Form 42A741-D, "Schedule D, Form 741, 2015[2014] Kentucky Capital Gains and Losses", shall be completed and attached to Form 741 by a fiduciary to report income from capital gains and losses.

(43)[(42)] Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", shall be the instruction guide provided by the Department of Revenue for completing the 2015[2014] Form 741.

(44)[(43)] Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2015[2014] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", shall be filed by the fiduciary with Form 741 to report each beneficiary's share of income, deductions, and credits.

(45)[(44)] Revenue Form 42A765-GP, "Form 765-GP, 2015[2014] Kentucky General Partnership Income Return", shall be completed and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year by a general partnership to report income, deductions, and credits of a general partnership for 2015[2014].

(46)[(45)] Revenue Form 42A765-GP(I), "Instructions, 2015[2014] Kentucky General Partnership Income Return", shall be provided to assist the general partnership in completing a general partnership income return.

(47)[(46)] Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2015[2014] Partner's Share of Income, Credits, Deductions, etc.", shall be filed by the general partnership with Form 765-GP to report each general partner's share of income, deductions, and credits.

(48)[(47)] Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", shall be used by a general partnership which has one (1) or more economic development projects to determine the total general partners' share of income, credits, deductions, etc., excluding the amount of each item of income, credit, deduction, etc., attributable to the projects.

(49)[(48)] Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and taxes withheld for the filing period.

(50)[(49)] Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", shall be used by employers to correct wages and taxes reported for the filing period.

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(51)~~(50)~~ Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers who remit taxes withheld electronically to report wages and tax withheld for the filing period.

(52)~~(51)~~ "Form W-2, 2015~~2014~~ Wage and Tax Statement", shall be used by an employer to report each of its employees' wages and Kentucky tax withheld for the calendar year 2015~~2014~~.

(53)~~(52)~~ Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and tax withheld for the filing period and annually reconcile wages and taxes reported.

(54)~~(53)~~ Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", shall be used by employers to amend wages and taxes reported for the filing period and the annual reconciled wages and taxes reported.

(55)~~(54)~~ Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers to report wages and tax withheld for the filing period and to annually reconcile wages and taxes reported.

(56)~~(55)~~ Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", shall be used by an employee to inform the employer of the number of exemptions claimed in order to determine the amount of Kentucky tax to withhold from wages each pay period.

(57)~~(56)~~ Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", shall be used by an employee to determine additional withholding exemptions.

(58)~~(57)~~ Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", shall be used by employees to inform employers of special tax exempt status.

(59)~~(58)~~ Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", shall be used by employees to inform employers of special tax exempt status as a nonresident military spouse.

(60)~~(59)~~ Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", shall be used by employers annually to submit Form W-2 Wage and Tax Statements.

(61)~~(60)~~ Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", shall be completed by nonresident employees working at Fort Campbell, Kentucky, to inform employers of special tax exempt status.

(62)~~(61)~~ Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", shall be used by employers to request authorization to annually submit wage and tax statements via the Kentucky Department of Revenue Web site.

(63)~~(62)~~ Revenue Form 42A809, "Certificate of Nonresidence", shall be used by employees to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(64)~~(63)~~ Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", shall be used by individuals to submit a sworn statement concerning residency status.

(65)~~(64)~~ Revenue Form 42A811, "KREDA Annual Report", shall be completed by employers to report KREDA employee wage assessment fee information to the Department of Revenue.

(66)~~(65)~~ Revenue Form 42A812, "KIDA Annual Report", shall be completed by employers to report KIDA employee wage assessment fee information to the Department of Revenue.

(67)~~(66)~~ Revenue Form 42A813, "KJDA Annual Report", shall be completed by employers to report KJDA employee wage assessment fee information to the Department of Revenue.

(68)~~(67)~~ Revenue Form 42A814, "KIRA Annual Report", shall be completed by employers to report KIRA employee wage assessment fee information to the Department of Revenue.

(69)~~(68)~~ Revenue Form 42A815, "Withholding Tax Refund Application", shall be completed by employers to request a refund of withholding tax paid.

(70)~~(69)~~ Revenue Form 42A816, "KEOZ Annual Report",

shall be completed by employers to report KEOZ employee wage assessment fee information to the Department of Revenue.

(71)~~(70)~~ Revenue Form 42A817, "KJRA Annual Report", shall be completed by employers to report KJRA employee wage assessment fee information to the Department of Revenue.

(72)~~(71)~~ Revenue Form 42A818, "KBI Annual Report", shall be completed by employers to report KBI employee wage assessment fee information to the Department of Revenue.

(73)~~(72)~~ Revenue Form 42D003, "2015~~2014~~ Kentucky Wage and Tax Statements (W-2/K-2) Order Form", shall be used by employers to order wage and tax statements.

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

(a) Corporation income taxes - referenced material:

1. Revenue Form 41A720, "Form 720, 2015~~2014~~ Kentucky Corporation Income Tax and LLET Return", 2015~~2014~~;

2. Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", October 2015~~2014~~;

3. Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", October 2015~~2014~~;

4. Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", October 2015~~2014~~;

5. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", October 2015~~2014~~;

6. Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", October 2015~~2014~~;

7. Revenue Form 41A720-CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", October 2015~~2014~~;

8. Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", October 2015~~2014~~;

9. Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", October 2015~~2014~~;

10. Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", October 2015~~2014~~;

11. Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", October 2015~~2014~~;

12. Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", October 2015~~2014~~;

13. Revenue Form 41A720DS, "Schedule DS, Distilled Spirits Tax Credit", October 2015;

14. Revenue Form 41A720DS-R, "Schedule DS-R, Distilled Spirits Tax Credit Recapture", October 2015;

15. Revenue Form 41A720ES, "Form 720-ES Kentucky, 2016~~2015~~ Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2015~~2014~~;

16.~~14.~~ Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2015~~2014~~;

17.~~15.~~ Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", October 2015~~2014~~;

18.~~16.~~ Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", June 2015~~2014~~;

19.~~17.~~ Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October 2015~~2014~~;

20.~~18.~~ Revenue Form 41A720(I), "Instructions, 2015~~2014~~ Kentucky Corporation Income Tax and LLET Return", November 2015~~2014~~;

21.~~19.~~ Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", October 2015~~2014~~;

22.~~20.~~ Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", October 2015~~2014~~;

23.~~21.~~ Revenue Form 41A720KESA, "Schedule KESA, Tax

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Credit Computation Schedule (For a KESA Project of a Corporation)", October 2015[2014];

24.[22-] Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", October 2015[2014];

25.[23-] Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", October 2015[2014];

26.[24-] Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", October 2015[2014];

27.[25-] Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", October 2015[2014];

28.[26-] Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2015[2014];

29.[27-] Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2015[2014];

30.[28-] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", October 2015[2014];

31.[29-] Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", October 2015[2014];

32.[30-] Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", December 2015[2014];

33.[31-] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October 2015[2014];

34.[32-] Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", October 2015[2014];

35.[33-] Revenue Form 41A720RC-C, "Schedule RC-C, Schedule RC - Part I Continuation", October 2015[2014];

36.[34-] Revenue Form 41A720RC(I), "Instructions For Schedule RC", October 2015[2014];

37.[35-] Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", October 2015[2014];

38.[36-] Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement", June 2015[2014];

39.[37-] Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", October 2015[2014];

40.[38-] Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", October 2015[2014];

41.[39-] Revenue Form 41A720S, "Form 720S, 2015[2014] Kentucky S Corporation Income Tax and LLET Return", 2015[2014];

42.[40-] Revenue Form 41A720S(I), "Instructions, 2015[2014] Kentucky S Corporation Income Tax and LLET Return", November 2015[2014];

43.[41-] Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", October 2015[2014];

44.[42-] Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2015[2014] Shareholder's Share of Income, Credits, Deductions, Etc.", 2015[2014];

45.[43-] Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", November 2015[2014];

46.[44-] Revenue Form 41A720SL, "Extension of Time to File Kentucky Corporation/LLET Return", June 2015[2014];

47.[45-] Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", October 2015[2014];

48.[46-] Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", October 2015[2014];

49.[47-] Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", October 2011;

50.[48-] Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", October

2011;

51.[49-] Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", October 2011;

52.[50-] Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", October 2015[2014];

53.[51-] Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", October 2015[2014];

54.[52-] Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", October 2015[2014];

55.[53-] Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", October 2015[2014];

56.[54-] Revenue Form 41A720-S9, "Schedule 8903-K, Kentucky Domestic Production Activities Deduction", October 2015[2014];

57.[55-] Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", October 2015[2014];

58.[56-] Revenue Form 41A720-S12, "720-V, Electronic Filing Payment Voucher, 2015[2014]", October 2015[2014];

59.[57-] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", October 2015[2014];

60.[58-] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October 2015[2014];

61.[59-] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", October 2015[2014];

62.[60-] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", October 2015[2014];

63.[61-] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project" October 2015[2014];

64.[62-] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", October 2015[2014];

65.[63-] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", October 2015[2014];

66.[64-] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", October 2015[2014];

67.[65-] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", October 2015[2014];

68.[66-] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", October 2015[2014];

69.[67-] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", October 2015[2014];

70.[68-] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)", October 2015[2014];

71.[69-] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", October 2015[2014];

72.[70-] Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", October 2015[2014];

73.[71-] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for a KRA Project", October 2015[2014];

74.[72-] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", October 2015[2014];

75.[73-] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", October 2015[2014];

76.[74-] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", October 2015[2014];

77.[75-] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", October 2015[2014];

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78.[76-] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule for a KJRA Project", October 2015[2014];

79.[77-] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", October 2015[2014];

80.[78-] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", October 2015[2014];

81.[79-] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", October 2015[2014];

82.[80-] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", October 2015[2014];

83.[81-] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", October 2015[2014];

84.[82-] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", October 2015[2014];

85.[83-] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", October 2015[2014];

86.[84-] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", October 2015[2014];

87.[85-] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", October 2015[2014];

88.[86-] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", October 2015[2014];

89.[87-] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", May 2015[2014];

90.[88-] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", May 2015[2014];

91.[89-] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", May 2015[2014];

92.[90-] Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", May 2015[2014];

93.[91-] Revenue Form 41A725, "Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", 2015[2014];

94.[92-] Revenue Form 41A725CP, "Schedule CP, Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Composite Return Schedule", 2015[2014];

95.[93-] Revenue Form 41A725(I), "Instructions, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", October 2015[2014];

96.[94-] Revenue Form 41A750, "Form 750, 2015[2014] Business Development Corporation Tax Return", September 2015[2014];

97.[95-] Revenue Form 41A765, "Form 765, 2015[2014] Kentucky Partnership Income and LLET Return", 2015[2014];

98.[96-] Revenue Form 41A765(I), "Instructions, 2015[2014] Kentucky Partnership Income and LLET Return", November 2015[2014];

99.[97-] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", October 2015[2014];

100.[98-] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2015[2014] Partner's Share of Income, Credits, Deductions, Etc.", 2015[2014];

101.[99-] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", December 2015[2014];[and]

102.[100-] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", June 2015[2014]; and

(b) Individual income and withholding taxes - referenced material:

1. Revenue Form 12A200, "Kentucky Individual Income Tax

Installment Agreement Request", November 2015[2014];

2. Revenue Form 40A100, "Application for Refund of Income Taxes", October 2015[2014];
3. Revenue Form 40A102, "2015[2014] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", September 2015[2014];
4. Revenue Form 40A103, "Application for New Home Tax Credit", June 2010;
5. Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", October 2015[2014];
6. Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", October 2015[2014];
7. Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2016[2015] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", October 2015[2014];
8. Revenue Form 40A201NP-WH-SL, "Extension of Time to File Kentucky Form 740NP-WH", October 2015[2014];
9. Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", October 2015[2014];
10. Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", October 2015[2014];
11. Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", May 2015[August-2014];
12. Revenue Form 42A003(T), "2016[2015] Withholding Tax Tables Computer Formula", November 2015[October-2014];
13. Revenue Form 42A740, "Form 740, 2015[2014] Kentucky Individual Income Tax Return, Full-Year Residents Only", 2015[2014];
14. Revenue Form 42A740-A, "Schedule A, Form 740, 2015[2014] Kentucky Itemized Deductions", 2015[2014];
15. Revenue Form 42A740-EPAY, "Form 740-EPAY, Kentucky Electronic Payment Request Form", 2015;
16. Revenue Form 42A740ES, "Form 740-ES, 2016[2015] Individual Income Tax Kentucky Estimated Tax Voucher", September 2015[2014];
- 17.[16-] Revenue Form 42A740-EZ, "Form 740-EZ, 2015[2014] Kentucky Individual Income Tax Return for Single Persons with No Dependents", 2015[2014];
- 18.[17-] Revenue Form 42A740(I), "2015[2014] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", October 2015[2014];
- 19.[18-] Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", October 2015[2014];
- 20.[19-] Revenue Form 42A740-KNOL, "Schedule KNOL, 2015[2014] Kentucky Net Operating Loss Schedule", 2015[2014];
- 21.[20-] Revenue Form 42A740-M, "Schedule M, 2015[2014] Kentucky Federal Adjusted Gross Income Modifications", 2015[2014];
- 22.[21-] Revenue Form 42A740-NP, "Form 740-NP, 2015[2014] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", 2015[2014];
- 23.[22-] Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2015[2014] Kentucky Schedule A Itemized Deductions", 2015[2014];
- 24.[23-] Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2015[2014] Moving Expense and Reimbursement", 2015[2014];
- 25.[24-] Revenue Form 42A740-NP(I), "Instructions for 2015[2014] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", October 2015[2014];
- 26.[25-] Revenue Form 42A740-NP-R, "Form 740-NP-R, 2015[2014] Kentucky Income Tax Return Nonresident - Reciprocal State", 2015[2014];
- 27.[26-] Revenue Form 42A740-NP(P), "2015[2014] Kentucky Income Tax Return Nonresident or Part-Year Resident", October 2015[2014];
- 28.[27-] Revenue Form 42A740(PKT), "2015[2014] Kentucky Individual Income Tax Forms", October 2015[2014];

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29.[28-] Revenue Form 42A740-P, "Schedule P, 2015[2014] Kentucky Pension Income Exclusion", 2015[2014];

30.[29-] Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", October 2015[2014];

31.[30-] Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", November 2015[2014];

32.[31-] Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", November 2008;

33.[32-] Revenue Form 42A740-S1, "Form 2210-K, 2015[2014] Underpayment of Estimated Tax by Individuals", 2015[2014];

34.[33-] Revenue Form 42A740-S4, "2016[2015] Instructions for Filing Estimated Tax Vouchers", October 2015[2014];

35.[34-] Revenue Form 42A740-S18, "Form 8582-K, 2015[2014] Kentucky Passive Activity Loss Limitations", 2015[2014];

36.[35-] Revenue Form 42A740-S21, "Form 4972-K, 2015[2014] Kentucky Tax on Lump-Sum Distributions", 2015[2014];

37.[36-] Revenue Form 42A740-S22, "Form 8879-K, 2015[2014] Kentucky Individual Income Tax Declaration for Electronic Filing", 2015[2014];

38.[37-] Revenue Form 42A740-S23, "Form 740-V, 2015[2014] Kentucky Electronic Payment Voucher", September 2015[2014];

39.[38-] Revenue Form 42A740-S24, "Form 8863-K, 2015[2014] Kentucky Education Tuition Tax Credit", 2015[2014];

40.[39-] Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", October 2015[2014];

41.[40-] Revenue Form 42A741, "Form 741, 2015[2014] Kentucky Fiduciary Income Tax Return", 2015[2014];

42.[41-] Revenue Form 42A741-D, "Schedule D, Form 741, 2015[2014] Kentucky Capital Gains and Losses", 2015[2014];

43.[42-] Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October 2015[2014];

44.[43-] Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2015[2014] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2015[2014];

45.[44-] Revenue Form 42A765-GP, "Form 765-GP, 2015[2014] Kentucky General Partnership Income Return", 2015[2014];

46.[45-] Revenue Form 42A765-GP(I), "Instructions, 2015[2014] Kentucky General Partnership Income Return", November 2015[2014];

47.[46-] Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2015[2014] Partner's Share of Income, Credits, Deductions, etc.", 2015[2014];

48.[47-] Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October 2015[2014];

49.[48-] Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", November 2014;

50.[49-] Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", April 2008;

51.[50-] Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014;

52.[51-] "Form W-2, 2015[2014] Wage and Tax Statement", 2015[2014];

53.[52-] Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", November 2014;

54.[53-] Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", April 2008;

55.[54-] Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014;

56.[55-] Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", November 2013;

57.[56-] Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", April 2008;

58.[57-] Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", May 2015[April 2014];

59.[58-] Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", November 2010;

60.[59-] Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", August 2014;

61.[60-] Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", August 2006;

62.[61-] Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", March 2006;

63.[62-] Revenue Form 42A809, "Certificate of Nonresidence", March 2007;

64.[63-] Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April 1989;

65.[64-] Revenue Form 42A811, "KREDA Annual Report", December 2007;

66.[65-] Revenue Form 42A812, "KIDA Annual Report", December 2007;

67.[66-] Revenue Form 42A813, "KJDA Annual Report", December 2007;

68.[67-] Revenue Form 42A814, "KIRA Annual Report", December 2007;

69.[68-] Revenue Form 42A815, "Withholding Tax Refund Application", August 2006;

70.[69-] Revenue Form 42A816, "KEOZ Annual Report", December 2007;

71.[70-] Revenue Form 42A817, "KJRA Annual Report", October 2010;

72.[71-] Revenue Form 42A818, "KBI Annual Report", October 2015[2010]; and

73.[72-] Revenue Form 42D003, "2015[2014] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", July 2015[2014].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: December 4, 2015

FILED WITH LRC: December 7, 2015 at 3 p.m.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9826, fax (502) 564-2541.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting and paying corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2015; withholding taxes for calendar year 2015; and installments of estimated tax for tax years beginning in 2016.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to provide taxpayers necessary tax forms for reporting and paying their corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2015; withholding taxes for calendar year 2015; and installments of estimated tax for tax years beginning in 2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating forms by reference.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes forms to be used by taxpayers to report and pay corporation taxes, limited liability entity taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

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(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 contains income and limited liability entity tax forms to be used for tax years beginning in 2015, and estimated tax forms to be used for tax years beginning in 2016.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms to the current tax laws in effect for years beginning in 2015.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay income taxes, limited liability entity taxes, and individual withholding taxes for tax years beginning in 2015.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individual, pass-through entity and corporate tax filers are 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: Individual, pass-through entity, and corporate tax filers will use the forms contained in this administrative regulation to report, pay, and withhold taxes due pursuant to KRS Chapter 141 for tax years beginning in 2015.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of filing tax returns contained in this administrative regulation with the Commonwealth of Kentucky should be comparable to filing tax returns with surrounding states.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The forms contained in this administrative regulation should simplify and expedite the reporting and paying of taxes required by KRS Chapter 141.

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

(a) Initially: The cost of printing and designing the forms.

(b) On a continuing basis: Forms are updated each year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds will be provided by the Department of Revenue.

(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 additional funding will be required 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 or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as the forms included in this administrative regulation apply to all taxpayers taxed pursuant to KRS Chapter 141.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 131.130(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. This administrative regulation will not increase revenues or expenses for the Commonwealth, but will expedite the collection of taxes provided by KRS Chapter 141.

(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 additional revenue will be collected as a result of 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? None.

(c) How much will it cost to administer this program for the first year? A very small increase in expenditures will occur in the administrative regulation process that will be absorbed by the department operating budget.

(d) How much will it cost to administer this program for subsequent years? No costs 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:

STATEMENT OF EMERGENCY 105 KAR 1:145E

Pursuant to KRS 13A.190, the proposed new administrative regulation is an emergency. This emergency administrative regulation establishes the process and procedures to implement the provisions of 2015 Ky. Acts ch. 28, (House Bill 62). An emergency administrative regulation is necessary to provide the processes and procedures to implement 2015 Ky. Acts ch. 28, so that employers will be able to apply to voluntarily cease participation in the County Employees Retirement System or the Kentucky Employees Retirement System on the first available cessation date. An employer seeking to voluntarily cease participation in the County Employees Retirement System or the Kentucky Employees Retirement System on the first available cessation date shall file the application by December 31, 2015 to allow sufficient time for the employer and Kentucky Retirement Systems to execute the processes and procedures necessary for an employer to be able to cease participation by the first available cessation date. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor

WILLIAM A THIELEN, Executive Director

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems (New Emergency Administrative Regulation)

105 KAR 1:145E. Voluntary cessation of participation by employers.

RELATES TO: KRS 61.510, 61.522, 61.546, 61.552, 61.565, 61.598, 61.675, 78.510 – 78.852

STATUTORY AUTHORITY: 61.522, 61.645(9)(g)

EFFECTIVE: December 3, 2015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) authorizes the Board of Trustees of Kentucky Retirement Systems to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, and 78.510 to 78.852. KRS 61.522 authorizes certain participating employers in the Kentucky Employees Retirement System and the County Employees Retirement System to voluntarily cease participation if they pay the full actuarial cost.

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This administrative regulation establishes the procedures and requirements for voluntary cessation of participation in the Kentucky Employees Retirement System and the County Employees Retirement System by qualifying employers.

Section 1. Definitions. (1) "Ceased employer" means an employer whose Form 7730, Application for Voluntary Cessation from CERS or KERS, has been approved by the systems and the employer has paid the full actuarial cost by lump sum or is paying the full actuarial cost by installments for a period of time determined by the board pursuant to KRS 61.552(3)(a).

(2) "Cessation date" means the last day of the Kentucky Employees Retirement Systems' or the County Employees Retirement Systems' plan year.

(3) "Plan year" means the period beginning July 1 and ending June 30.

Section 2. (1) An employer may request an estimate of the actuarial cost of ceasing participation from Kentucky Employees Retirement System or County Employees Retirement System. The request shall be made by completing the Form 7725, Request for Estimated Actuarial Cost of Voluntary Cessation.

(2) Kentucky Retirement Systems shall provide the estimate of the cost as of the next available cessation date.

(3) Kentucky Retirement Systems shall provide the estimate of the cost based on the information currently in its database and projecting the service and salary of all active employees as if they remain employed and continue to earn the same creditable compensation through the next available cessation date.

(4) The estimated actuarial cost of ceasing participation shall not be binding on Kentucky Retirement Systems.

(5) The employer shall not rely on the estimated actuarial cost of ceasing participation.

(6) The employer shall pay the administrative cost of \$5,000 with submission of the Form 7725, Request for Estimated Actuarial Cost of Voluntary Cessation.

Section 3. (1) The governing body of an employer seeking to cease participation in Kentucky Employees Retirement System or County Employees Retirement System shall pass a resolution to voluntarily cease participation in Kentucky Employees Retirement System or County Employees Retirement System.

(2) The resolution shall contain the following statements:

(a) That the employer has decided to voluntarily cease participation in Kentucky Employees Retirement System or County Employees Retirement System;

(b) That the employer acknowledges that the employer is subject to the requirements and restrictions of KRS 61.522 and this administrative regulation;

(c) That the employer acknowledges that in order to voluntarily cease participation in Kentucky Employees Retirement System or County Employees Retirement System the employer shall pay the full actuarial cost of withdrawal and all administrative costs;

(d) That the employer acknowledges that the employer's employees will no longer earn service credit in Kentucky Employees Retirement System or County Employees Retirement System for employment with the employer after the employer's approved cessation date from Kentucky Employees Retirement System or County Employees Retirement System under KRS 61.522 and this administrative regulation;

(e) That the employer agrees to cooperate with Kentucky Retirement Systems to educate the employer's employees about the effect of the employer's cessation on their retirement accounts and their options regarding their retirement accounts; and

(f) That the employer shall not mandate, force, or require its employees to take a refund of their accumulated account balance as defined by KRS 61.510(41) or 78.510(38) or retaliate against its employees who chose not to take refunds of their accumulated account balance as defined in KRS 61.510(41) or 78.510(38).

Section 4. (1) An employer seeking to cease participation in Kentucky Employees Retirement System or County Employees Retirement System shall file a completed Form 7730, Application

for Voluntary Cessation from CERS or KERS, with the executive director of Kentucky Retirement Systems by December 31 during the plan year containing the employer's selected cessation date.

(2) The employer shall submit the following documents with its Form 7730, Application for Voluntary Cessation from CERS or KERS:

(a) The Resolution of the Board of the employer resolving to voluntarily cease its participation in Kentucky Employees Retirement System or County Employees Retirement System;

(b) A notarized copy of the official minutes of the meeting in which the Resolution was adopted, if applicable;

(c) The employer's Articles of Incorporation, if applicable;

(d) The employer's current by-laws, if applicable;

(e) The employer's Certificate of Existence/Authorization from the Kentucky Secretary of State, if applicable;

(f) Documentation of the alternative retirement program created by or being created by the employer for its employees, such as a written description of the alternative retirement program;

(g) The employer's most recent five (5) audited financial statements and independent auditor's reports;

(h) The employer's most recent five (5) Consolidated Annual Financial Reports, if applicable;

(j) For employers intending to pay the full actuarial cost by lump sum, documentation of the source of the funds the employer intends to use to pay the full actuarial cost; and

(k) For employers intending to pay the full actuarial costs by installment payment plan, documentation of:

1. Source of funds to pay the installment payments;

2. List of real property owned by the employer, including deeds of conveyance, title, all liens or encumbrances on the real property, and any current written contractual lease or rental agreement of the real property identified;

3. List of liabilities of the employer;

4. Inventory of all other chattel and personal property owned by the employer or in which the employer has an interest that may be used as collateral by the employer, including a description of the property, the location of the property, and an estimated value; and

5. A Proposed Detailed Financing Statement.

(3) The employer shall submit with its Form 7730, Application for Voluntary Cessation from CERS or KERS, a list of each current and former full time employee as defined by KRS 61.510(21) and 78.510(21) who were employed during any time period the employer participated in Kentucky Employees Retirement System or County Employees Retirement System, containing:

(a) Full name;

(b) Last known address;

(c) Date of birth;

(d) Social security number or Kentucky Retirement Systems member id;

(e) Beginning date of employment;

(f) Date employment ended, if applicable; and

(g) Sick leave balance.

(4) The employer shall submit with its Form 7730, Application for Voluntary Cessation from CERS or KERS, a list of pending lawsuits, legal actions, arbitrations, mediations, and other litigation, except for cases in which the employer is seeking to collect a debt owed to it by one (1) of its members, to which the employer is a party including:

(a) Name of the case;

(b) The case number;

(c) The name and address of the court, arbitrator, mediator, or administrative agency in which the case is pending; and

(d) A copy of the complaint or a description of the allegations made in the complaint as well as the type and amount of relief sought by the plaintiff or plaintiffs.

(5) Kentucky Retirement Systems shall not accept or continue processing an employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, that:

(a) Has not paid or otherwise resolved all its outstanding invoices with Kentucky Retirement Systems;

(b) Has reporting that is not correct in accordance with KRS 61.675, 78.625, and 105 KAR 1:140; or

(c) That is a party to pending legal action in which Kentucky

Retirement Systems is an adverse party the result of which may affect the accounts of the employer's employees or the amount of employer contributions owed by the employer.

(6) The Board of Trustees of Kentucky Retirement Systems shall accept or reject the Form 7730, Application for Voluntary Cessation from CERS or KERS, for processing.

Section 5. (1) The employer shall pay the administrative costs incurred by Kentucky Retirement Systems for processing the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

(2) The employer shall pay \$10,000 as a deposit with the Form 7730, Application for Voluntary Cessation from CERS or KERS,

(3) Kentucky Retirement Systems shall place the deposit in a designated account and shall utilize the funds to pay the administrative costs of processing the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

(4) Kentucky Retirement Systems shall maintain records of all costs associated with the processing of employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, including:

(a) The cost of compensation and benefits of Kentucky Retirement Systems' employees computed on an hourly basis;

(b) Fees incurred by Kentucky Retirement Systems for use of external professional services; and

(c) The costs of postage, printing, and other expenses incurred by Kentucky Retirement Systems.

(5) Kentucky Retirement Systems shall calculate its total administrative costs and send an invoice to the employer either after the employer gives notice to Kentucky Retirement Systems pursuant to Section 10(3) of this administrative regulation or following withdrawal of the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

(a) Kentucky Retirement Systems shall apply the deposit received pursuant to subsection (2) of this section to any administrative costs incurred by Kentucky Retirement Systems as a result of the employer seeking to utilize the provisions of KRS 61.522.

(b) Following the application of the deposit to the outstanding administrative costs, Kentucky Retirement Systems shall submit an invoice to the employer for the additional administrative costs and the employer shall pay the invoice for the remaining administrative costs within thirty (30) days of the date of the invoice.

(6)(a) If the total administrative costs is less than the deposit paid by the employer, Kentucky Retirement Systems shall apply the remaining balance of the deposit to the:

1. Full actuarial cost if the employer gives notice of its intention to proceed with the voluntary withdrawal pursuant to Section 9(3) of this administrative regulation; or

2. Amount owed by the employer to Kentucky Retirement Systems for continued participation if the employer gives notice of its intention not to proceed with the voluntary withdrawal pursuant to Section 9(3) of this administrative regulation.

(b) Kentucky Retirement Systems shall refund any remaining balance to the employer after the amounts due pursuant to paragraph (a) of this subsection have been satisfied.

(7) The Board of Trustees of Kentucky Retirement Systems shall not consider the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, until the employer has paid all the administrative costs incurred by Kentucky Retirement Systems.

(8) The costs paid pursuant to this section shall not be refunded to the employer if the employer withdraws its application.

Section 6. (1) Kentucky Retirement Systems shall take reasonable efforts to notify each employee identified on the list provided by the employer that the employer has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, to voluntarily cease participating in County Employees Retirement System or Kentucky Employees Retirement System.

(2) Kentucky Retirement Systems shall provide a notice informing the employee of the employee's right to request a refund of their accumulated account balance as defined in KRS

61.510(41) or 78.510(38) within sixty (60) days of the employer's cessation date. The notice shall be sent at least ten (10) days prior to the employer's cessation date.

(3) The employer shall not mandate, force, or require its employees to take a refund of their accumulated account balance as defined in KRS 61.510(41) or 78.510(38) or retaliate against any employee who does not take refund of their accumulated account balance as defined by KRS 61.510(41) or 78.510(38).

(4) Former employees of the employer who are currently participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System, due to employment with a participating agency, shall not be eligible to take a refund of their accumulated account balance.

(5) Current employees of the employer who are also employed by another employer participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System shall not be eligible to take a refund of their accumulated account balance.

(6) Current or former employees of the employer who began participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System, on or after January 1, 2014, shall not be eligible to take a refund of their accumulated account balance.

Section 7. (1) The employer shall continue to file reports in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 after the employer's cessation date until the Form 7730, Application for Voluntary Cessation from CERS or KERS, is approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer.

(2) The employer shall continue to remit employer contributions in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 after the cessation date until the Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer.

(a) 1. Kentucky Retirement Systems shall hold the employer contributions until the Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer.

2. Kentucky Retirement Systems shall credit the entire sum of the employer contributions remitted pursuant to this section to the employer's full actuarial cost if the employer is paying by lump sum as established in Section 10(1)(a) of this administrative regulation or to the employer's initial payment under the installment payment plan established pursuant to Section 10(1)(b) of this administrative regulation.

(b) If the employer does not become a ceased employer because it withdraws its Form 7730, Application for Voluntary Cessation from CERS or KERS, or if its Form 7730, Application for Voluntary Cessation from CERS or KERS, is rejected by the Board of Trustees of Kentucky Retirement Systems, the employer contributions remitted pursuant to this subsection shall be credited towards any outstanding contributions owed for its continued participation in Kentucky Employees Retirement System or County Employees Retirement System while the Form 7730, Application for Voluntary Cessation from CERS or KERS, was pending.

(c) Kentucky Retirement Systems shall refund any remaining balance to the employer after the amounts due pursuant to paragraphs (a) and (b) of this subsection have been satisfied.

(3)(a) If the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of Kentucky Retirement Systems, the employer shall resume withholding employee contributions effective the month after the month in which the Form 7730, Application for Voluntary Cessation from CERS or KERS, was withdrawn or rejected.

(b) Pursuant to KRS 61.552(23), if the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of Kentucky Retirement Systems, Kentucky Retirement Systems

shall send each employee the amount of employee contributions due for the time period between the employer's proposed cessation date and the date the Form 7730 was withdrawn or rejected.

(c) The employee shall not receive service credit for the period between the employer's proposed cessation date and the date the Form 7730, Application for Voluntary Cessation from CERS or KERS, was withdrawn or rejected if the employee does not pay the employee contributions.

(4)(a) If a member who is an employee of the employer that has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, files for disability retirement benefits while the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is pending, Kentucky Retirement Systems shall use the employer's proposed cessation date as the member's last day of paid employment if the member has not established a last day of paid employment prior to the employer's cessation date.

(b) If the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or rejected by the Board of Trustees of Kentucky Retirement Systems, Kentucky Retirement Systems shall determine the member's last day of paid employment pursuant to KRS 61.510(32) if the member has paid the employee contributions due.

(c) If an employee does not pay the employee contributions due, the first day of the month the employer resumes withholding employee contributions shall be a reemployment date for purposes of determining eligibility for disability retirement benefits.

(5) The employer shall continue to pick-up payments for installment purchase of service for any employee who is purchasing service pursuant to KRS 61.552(16) and 105 KAR 1:150.

(a) The employee shall have sixty (60) days from the date the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer to pay in full any outstanding balance on the installment purchase agreement pursuant to KRS 61.552(16) and 105 KAR 1:150.

(b) If the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of Kentucky Retirement Systems, the employee's installment purchase of service agreement shall remain in effect.

(6) Employees of the ceased employer who began participating on or after January 1, 2014 shall be vested in the four (4) percent employer pay credit that had been accrued as of the ceased employer's cessation date.

(7) If an employee seeks a refund of his or her account balance and wants to rollover or transfer the contributions, 105 KAR 1:345 shall apply.

Section 8. The employee shall receive service credit for sick leave accrued pursuant to KRS 61.546 or 78.616 as of the employer's cessation date.

(1) The employer shall report the number of hours of each employee's accumulated sick leave as of the cessation date if the employer is under one (1) of the sick leave programs established in KRS 61.546 or 78.616(1) through (4).

(2) The employer shall report the number of days of each employee's accumulated sick leave as of the cessation date if the employer elected the sick leave program established in KRS 78.616(5).

(3) Kentucky Retirement Systems shall calculate the liability created by the reported sick leave balances and incorporate that liability into the employer's full actuarial cost.

Section 9. (1) The employer shall pay or otherwise resolve all its invoices and correct all reporting in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 by August 31 after the cessation date.

(2) Kentucky Retirement Systems shall provide the employer with the amount of the full actuarial cost by sending a notice of actuarial cost and the report of the actuary to the employer.

(3) The employer shall notify Kentucky Retirement Systems in writing of its decision to cease participation or withdraw the Form 7730, Application for Voluntary Cessation from CERS or KERS, within sixty (60) days of the date of the notice of actuarial cost. If the employer intends to cease participation, it shall also provide notice of how it intends to pay the full actuarial cost.

(a) If an employer intends to pay the full actuarial cost by installment payment plan, the employer shall provide Kentucky Retirement Systems a list of collateral to use as security for the installment payment plan.

(b) The employer shall take all actions necessary to perfect the security interest in the collateral for Kentucky Retirement Systems.

(4) The employer shall submit the final plan documents for its alternative retirement program with its notification if it intends to cease participation.

(5) The Board of Trustees of Kentucky Retirement Systems shall not consider the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, until the employer has paid all the administrative costs incurred by Kentucky Retirement Systems, pursuant to Section 5 of this administrative regulation.

(6) After the employer has paid all the administrative costs, the Board of Trustees of Kentucky Retirement Systems shall approve or reject the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

Section 10. (1) The ceased employer shall pay the full actuarial cost by:

(a) Lump sum payment paid within thirty (30) days of the date the Board of Trustees of Kentucky Retirement Systems approves its application; or

(b) Installment payment plan pursuant to KRS 61.522(3).

(2) Kentucky Retirement Systems shall use the assumed rate of return adopted by the Board of Trustees of Kentucky Retirement Systems as of the employer's cessation date as the interest rate for the ceased employer's installment payment plan.

(3)(a) A ceased employer whose full actuarial cost is greater than \$10,000,000.00 and less than \$40,000,000.00 shall have up to sixty (60) months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(b) A ceased employer whose full actuarial cost is greater than or equal to \$40,000,000.00 and less than \$70,000,000.00 shall have up to 120 months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(c) A ceased employer whose full actuarial cost is greater than or equal to \$70,000,000.00 and less than \$100,000,000.00 shall have up to 180 months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(d) A ceased employer whose full actuarial cost is greater than or equal to \$100,000,000.00 shall have up to 240 months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(4) The ceased employer shall pay the initial installment payment for the fiscal year after the employer's cessation date within thirty (30) days of the final decision of the Board of Trustees approving the ceased employer's application for voluntary withdrawal.

(5) The ceased employer shall pay installment payments annually for the ensuing fiscal year on July 1 of each year.

(6) If the ceased employer defaults on the installment payment plan agreement, the employer shall be responsible for all administrative and legal fees incurred by Kentucky Retirement Systems to enforce the agreement.

Section 11. A person shall not purchase service pursuant to KRS 61.552(23) if the service was with a ceased employer.

Section 12. If the ceased employer was the last participating employer for the employee prior to the employee's retirement, the additional actuarial costs resulting from annual increases over ten (10) percent as established in KRS 61.598 shall not be invoiced to

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the ceased employer, but shall be collected pursuant to KRS 61.565.

Section 13. (1) If an employer files legal action against Kentucky Retirement Systems regarding the provisions of KRS 61.522 or this administrative regulation, the employer shall pay all administrative costs and legal fees incurred by Kentucky Retirement Systems if the employer's legal action against Kentucky Retirement Systems is unsuccessful or is dismissed for any reason other than by the agreement of the parties.

(2) The Board of Trustees of Kentucky Retirement Systems shall not approve or deny the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, until the legal action is resolved.

Section 14. If the employer's Form 7730 has not received final approval by Kentucky Retirement Systems' Board of Trustees or the withdrawing employer has not paid either the full actuarial cost by lump sum or the initial payment pursuant to the installment plan on or before June 30 of the year following the requested withdrawal date, the employer's Form 7730 shall be void.

Section 15. If any due date or time period deadline provided in KRS 61.522 or this administrative regulation falls on a Saturday, Sunday, or day that Kentucky Retirement Systems is closed due to state holiday, the due date or time period deadline shall extend to the close of business of the next business day.

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

(a) Form 7725, "Request for Estimated Actuarial Cost of Voluntary Cessation", October 2015; and

(b) Form 7730, "Application for Voluntary Cessation from CERS or KERS", October 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM A. THIELEN, Executive Director

APPROVED BY AGENCY: November 25, 2015

FILED WITH LRC: December 3, 2015 at 4 p.m.

CONTACT PERSON: Jennifer A. Jones, Assistant General Counsel, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 5501, fax (502) 696-8801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer A. Jones

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statute by establishing the processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(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 processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(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:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky Retirement Systems and employers wishing to cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System of which three (3) are known by Kentucky Retirement Systems but an unknown number are eligible.

(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 employer must complete the application and provide the requested documents and information. Kentucky Retirement Systems must audit the member accounts and employer file, counsel and provide notice to the current and former employees of the employer about their option to take a refund of their account, calculate the cost of the employer's unfunded liability, and administer the installment payment plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The employer would have its internal cost of voluntary ceasing participating, which would vary by employer. As required by the statute, KRS 61.522, the employer must also pay all the administrative costs incurred by Kentucky Retirement Systems. This cost will also vary by employer.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The employer will be allowed to voluntarily cease participating in the Kentucky Employees Retirement System and the County Employees Retirement System.

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

(a) Initially: The cost of filing the application and completing the process of voluntary withdrawal.

(b) On a continuing basis: There will be no continuing cost to the employer.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The retirement allowance accounts of the trust funds administered by Kentucky Retirement Systems.

(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:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees. The employer must pay the administrative costs incurred by Kentucky Retirement Systems pursuant to KRS 61.522.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers seeking to voluntarily cease participation are subject to the same processes and procedures.

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 Retirement Systems and employers eligible to seek to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.522.

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 employer will have to pay its internal administrative costs and Kentucky Retirement Systems' administrative costs. The administrative regulation generates no revenue, but will allow employers to cease participation, which will eliminate the requirement for them to pay continuing employer contributions after cessation. The employer is required by statute to pay the full actuarial cost of withdrawal.

(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? Ultimately, the cost to Kentucky Retirement Systems should be negligible as KRS 61.522 requires the employer seeking to cease its participation to pay its internal administrative costs and Kentucky Retirement Systems' administrative costs. For each employer that seeks to cease participation, Kentucky Retirement Systems projects the cost to slightly exceed the respective application deposit. The application deposit for the estimated withdrawal liability is \$5,000 and \$10,000.00 for the calculation of the actual withdrawal liability.

(d) How much will it cost to administer this program for subsequent years? KRS 61.522 requires the employer seeking to cease its participation to pay its internal administrative costs and Kentucky Retirement Systems' administrative costs so the cost to Kentucky Retirement Systems should be negligible. For each employer that seeks to cease participation, Kentucky Retirement Systems projects the cost to slightly exceed the respective costs of filing the application. Kentucky Retirement Systems cannot predict how many participating entities may seek to utilize the withdrawal process.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY

906 KAR 1:190E

42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. KRS 216.789, KRS 216.787, and KRS 216.712 authorizes the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities. Under this emergency amendment, long-term care facilities and other providers will be required to obtain fingerprint-supported State and FBI criminal background checks on new employees pursuant to 42 U.S.C. 5119a(a)(1). This emergency action will help prevent

individuals from hiding any criminal or abusive actions that occurred in other states when seeking employment in Kentucky's long-term care facilities or with other Kentucky providers. This action must be implemented on an emergency basis in accordance with KRS 13A.190(1)(a) to help protect the elderly and other vulnerable adults from possible abuse, neglect, and exploitation, thereby enhancing the public health, safety, and welfare of many of the State's most vulnerable citizens. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor

AUDREY TAYSE HAYNES, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

(Emergency Amendment)

906 KAR 1:190E. Kentucky National Background Check[Applicant Registry and Employment Screening] Program.

RELATES TO: 42 U.S.C. 1320 a-7I, 42 U.S.C. 5119a(a)(1), 42 U.S.C. 5119c

STATUTORY AUTHORITY: KRS 194A.050(1), 216.712, 216.787, 216.789, 42 U.S.C. 1320a-7I, 42 U.S.C. 5119a(a)(1)

EFFECTIVE: November 20, 2015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 42 U.S.C. 1320a-7I directs the secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. 42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. KRS 216.789, KRS 216.787 and KRS 216.712 authorize the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities that provide direct services to the elderly or individuals with disabilities. This administrative regulation establishes requirements for implementation of the Kentucky National Background Check Program (NBCP). A key component of the Kentucky NBCP is a secure, web-based system, called the KARES system, used to facilitate registry and fingerprint-supported state and national criminal background checks[On May 20, 2011, the Commonwealth of Kentucky was the twelfth state to receive a National Background Check Program (NBCP) grant awarded by the Centers for Medicare and Medicaid Services under 42 U.S.C. 1320a-7I. On the date this amended after comments administrative regulation was filed with the Legislative Research Commission, twenty-four states and territories had received an NBCP grant. The Cabinet for Health and Family Services, Office of Inspector General is charged with responsibility to oversee and coordinate Kentucky's fingerprint-supported NBCP grant initiative, called the KARES "Kentucky Applicant Registry and Employment Screening" Program. This administrative regulation establishes procedures for the implementation of KARES as a voluntary program. The Cabinet for Health and Family Services encourages long-term care facilities and providers to participate in KARES as the grant program provides employers with an enhanced pre-employment screening

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mechanism intended to help protect elderly and vulnerable adults from potential abuse, neglect, and exploitation. The conditions set forth in this administrative regulation for voluntary KARES program participants are in addition to the name-based, state-only background check requirements of KRS 216.533, 216.712(2), 216.787, and 216.789].

Section 1. Definitions. (1) "Applicant" means an individual who:

(a) Applies for employment with a care provider[an employer] identified in subsection (3)[(6)] of this section; or

(b) Is subject to background screening by a professional licensing board enrolled in the Kentucky NBCP.

(2) "Cabinet" means the Cabinet for Health and Family Services.

(3) "Care provider" means:

(a) A long-term-care facility as defined in KRS 216.510, excluding:

1. Family care homes; and

2. Acute-care facilities performing long-term-care services or hospice services at the same location as the acute-care facilities;

(b) A nursing pool, as defined in KRS 216.785(4), providing staff to a long-term-care facility or other care provider as defined in this subsection;

(c) An adult day health care program as defined in KRS 216B.0441;

(d) An assisted-living community as defined in KRS 194A.700;

(e) A home health agency as defined in KRS 216.935;

(f) A provider of hospice care as defined in 42 U.S.C. 1395x(dd)(1) and licensed pursuant to KRS Chapter 216B;

(g) A personal services agency as defined in KRS 216.710;

(h) A provider of home and community-based services authorized under KRS Chapter 205;

(i) A staffing agency with a contracted relationship to provide one (1) or more employers as listed in this subsection with staff whose duties are equivalent to duties performed by an employee defined by subsection (6) of this section; or

(j) Any other provider licensed by the cabinet in which a state and national background check is required as a condition of employment.

(4) "Criminal background check" means a state and national fingerprint-supported criminal history background check performed by the Department of Kentucky State Police and the Federal Bureau of Investigation.

(5)[(4)] "Disqualifying offense" means:

(a) An arrest, a conviction of, [or] a plea of guilty, an Alford plea, or a plea of nolo contendere to:

1. A misdemeanor offense related to:

a. Abuse, neglect, or exploitation of an adult as defined by KRS 209.020(4);

b. Abuse, neglect, or exploitation of a [or] child[or];

c. A sexual offense;

d. Assault occurring less than seven (7) years from the date of the criminal background check;

e. Domestic violence occurring less than seven (7) years from the date of the criminal background check;

f. Theft occurring less than seven (7) years from the date of the criminal background check;

g. Fraud occurring less than seven (7) years from the date of the criminal background check; or

h. Possessing or trafficking in a controlled substance occurring less than seven (7) years from the date of the criminal background check;

2. A criminal offense against a victim who is a minor, as defined in KRS 17.500;

3. A felony offense involving a child victim;

4. A felony offense under:

a. KRS Chapter 209, protection of adults;

b. KRS Chapter 218A, controlled substances;

c. KRS Chapter 507, criminal homicide[507.020];

d. KRS Chapter 507A, fetal homicide[507.030];

e.[KRS-507.040; f.] KRS Chapter 508, assault and related offenses;

f.[g.] KRS Chapter 509, kidnapping and related offenses;

g.[h.] KRS Chapter 510, sexual offenses;

h.[i.] KRS Chapter 511, burglary and related offenses;

i.[j.] KRS Chapter 512, criminal damage to property;

j. KRS Chapter 513, arson and related offenses;

k. KRS Chapter 514, theft and related offenses[514.030];

l. KRS Chapter 515, robbery;

m. KRS Chapter 516, forgery and related offenses;

n. KRS Chapter 517, business and commercial frauds;

o. KRS Chapter 525, riot, disorderly conduct, and related offenses;

p. KRS Chapter 527, offenses relating to firearms and weapons;

q. KRS Chapter 529, prostitution offenses;

r. KRS Chapter 530, family offenses;

s. KRS Chapter 531, pornography; or

t. Any other felony offense relating to abuse, neglect, exploitation, drugs, theft, or fraud not listed in this subsection[529.100;

n. KRS 529.110;

o. KRS Chapter 530; and

p. KRS Chapter 531];

5. An offense under a criminal statute of the United States or of another state similar to an offense specified in this paragraph; or

6. A crime described in 42 U.S.C. 1320a-7;

(b) A substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency pursuant to an investigation conducted in accordance with 42 U.S.C. 1395i-3 or 1396f;

(c) Registration as a sex offender under federal law or under the law of any state; or

(d) Being listed on a registry as defined in subsection (8)[(9)] of this section.

(6)[(5)] "Employee" means an individual who:

(a)1. Is hired directly or through contract by a care provider[an employer] defined in subsection (3)[(6)] of this section, and has duties that involve[or may involve] one-on-one contact with a patient, resident, or client; or

2. Unless excluded pursuant to Section 2(3)(c) through (d) of this administrative regulation, is a volunteer who has duties that are equivalent to the duties of an employee providing direct services and the duties involve, or may involve, one-on-one contact with a patient, resident, or client; and

(b) Has access to the personal belongings or funds of a patient, resident, or client.

(7) "Kentucky National Background Check Program" or "NBCP" means a background screening program administered by the cabinet to facilitate registry and fingerprint-supported state and national criminal history background checks conducted by the Department of Kentucky State Police and the Federal Bureau of Investigation for:

(a) Prospective employees of any care provider as identified in subsection (3) of this section; and

(b) Any other individuals required by state law or administrative regulation to submit to a state and national background check as a condition of:

1. Employment; or

2. Licensure, certification, or registration by a professional licensing board[(6)] "Employer" means:

(a) A long-term-care facility as defined in KRS 216.510;

(b) A nursing pool as defined in subsection (7) of this section providing staff to a long-term-care facility or provider;

(c) An adult-day health care program as defined in KRS 216B.0441;

(d) An assisted-living community as defined in KRS 194A.700;

(e) A home health agency as defined in KRS 216.935;

(f) A provider of hospice care as defined in 42 U.S.C. 1395x(dd)(1) and licensed pursuant to KRS Chapter 216B;

(g) A personal services agency as defined in KRS 216.710;

(h) A long-term care hospital as defined in 42 U.S.C. 1395ww(d)(1)(B)(iv);

(i) A provider of home and community-based services authorized under KRS Chapter 205;

(j) A staffing agency with a contracted relationship to provide

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~~one (1) or more employers as listed in this subsection with staff whose duties are equivalent to duties performed by an employee pursuant to subsection (5) of this section; or~~

~~____(k) Any other health facility or service licensed pursuant to KRS Chapter 216B that applies to participate voluntarily in the KARES program.~~

~~____(7) "Nursing pool" means a person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in or with a long-term care facility or provider for medical personnel, including nurses, nursing assistants, nursing aides, and orderlies].~~

(8) "Registry" means the:

(a) Nurse aide abuse registry maintained pursuant to 906 KAR 1:100 and 42 C.F.R. 483.156;

(b) Child abuse and neglect registry maintained pursuant to 922 KAR 1:470 and required by 42 U.S.C. 671(a)(20);

(c) List of Excluded Individuals and Entities maintained by the United States Department of Health and Human Services, Office of Inspector General pursuant to 42 U.S.C. 1320a-7; [and]

(d) Caregiver misconduct registry required by KRS 209.032; and

(e) Any available abuse registry, including the abuse and neglect registries of another state if an applicant resided or worked in that state.

(9) "State" is defined by KRS 446.010(40).

(10) "Violent crime" means a conviction of, or a plea of guilty, an Alford plea, or a plea of nolo contendere to a capital offense, Class A felony, or Class B felony involving the death of the victim, rape in the first degree or sodomy in the first degree of the victim, sexual abuse in the first degree, or serious physical injury to a victim.

Section 2. Applicability and Exceptions. (1) As a condition of employment, the following individuals shall submit to a check of the registries identified in Section 1(8) of this administrative regulation and a fingerprint-supported state and national criminal background check[This administrative regulation shall apply to]:

(a) Prospective cabinet staff[hired on or after the effective date of this administrative regulation] whose duties include conducting inspections of care providers[:

~~1. Health facilities and services licensed pursuant to KRS Chapter 216B; or~~

~~2. Services regulated pursuant to KRS 194A.700 through 194A.729, or KRS 216.710 through 216.714];~~

(b) Prospective employees[hired on or after the effective date of this administrative regulation] of state-owned or operated health facilities licensed pursuant to KRS Chapter 216B;

(c) Prospective cabinet staff[hired on or after the effective date of this administrative regulation] who have or may have one-on-one contact with a patient or resident of a care provider[an employer defined by Section 1(6) of this administrative regulation]; and

(d) Prospective employees seeking employment with a care provider[private employer that participates voluntarily in the KARES Program hired on or after the effective date of this administrative regulation].

(2) Nothing in this administrative regulation shall be construed to limit a care provider from requiring a fingerprint-supported state and national criminal background check on the provider's current employees if the provider elects to screen existing employees[not apply to current cabinet staff or current employees of any employer that participates voluntarily in the KARES program that are employed before the effective date of this administrative regulation].

(3) A prospective employee shall not include:

(a) An individual who independently contracts with a care provider[KARES-participating employer] to provide utility, construction, communications, or other services if the contracted services are not directly related to the provision of services to a resident, patient, or client of the provider[employer];[or]

(b) A board certified physician, surgeon, or dentist under contract with a care provider;

(c) A member of a community-based or faith-based

organization that provides volunteer services that do not involve unsupervised interaction with a patient or resident;

(d) A student participating in an internship program; or

(e) A family member or friend visiting a patient or resident.

(4) Effective January 1, 2016, a care provider not currently participating in Kentucky's NBCP:

(a) Shall enroll in the Kentucky NBCP:

1. As a condition of the provider's initial licensure, certification, or registration renewal; or

2. Prior to the effective date of renewal of the provider's licensure, certification, or registration; and

(b) May contract with one (1) or more vendors approved by the cabinet and Department of Kentucky State Police in accordance with subsection (6) of this section to perform all or part of the electronic fingerprinting. The care provider's contract shall ensure that the owners and personnel of the vendor performing the electronic fingerprinting are qualified and will ensure the integrity and security of all personal information pursuant to subsection (6) of this section.

(5) Nothing in this administrative regulation shall be construed to limit a care provider from enrolling in the Kentucky NBCP at any time prior to annual licensure, certification, or registration renewal.

(6) To be approved as a vendor that submits fingerprints on behalf of care providers, the vendor shall comply with the following minimum requirements:

(a) Enter into an agreement with the cabinet and the Department of Kentucky State Police that obligates the vendor to comply with specified standards established by the Department of Kentucky State Police and the Federal Bureau of Investigation (FBI) to ensure that all individuals having direct or indirect responsibility for verifying identification, taking fingerprints, and electronically submitting fingerprints are qualified to do so and the integrity and security of all personal information gathered from the individuals whose fingerprints are submitted;

(b) Meet the Department of Kentucky State Police and the FBI's technical standards for the electronic submission of fingerprints; and

(c) Have the ability to communicate electronically with the cabinet[KARES-participating employer].

Section 3. Continuous Assessment. (1) To ensure that the information remains current in the KARES system, the Department of Kentucky State Police shall:

(a) Retain the fingerprints of an individual screened under the Kentucky NBCP:

1. For a minimum period of five (5) years from the date of fingerprint submission; and

2. On a five (5) year renewal basis thereafter; and

(b) Facilitate the retention of the fingerprints by the FBI upon approval to participate in the FBI's Next Generation Identification (NGI) rap back service.

(2) The Department of Kentucky State Police and the FBI shall provide notification to the cabinet of triggering events for individuals after the initial processing of the criminal background checks when the service becomes available and subject to any applicable regulations of the Department of Kentucky State Police and the FBI.

Section 4. Enrolling in the Kentucky NBCP. To enroll in the Kentucky NBCP, a care provider, other employer required by law to conduct background screening of employees, or a professional licensing board required by law to conduct background screening of licensees shall:

(1) Log on to the KARES portal; and

(2) Confirm acceptance of the terms and conditions for using the KARES system[Agreement to Participate. An employer that elects to participate in KARES voluntarily shall complete and submit an Agreement to Participate in the KARES Program].

Section 5. Required Notice to Applicant. (1) Prior to initiating a background check facilitated by the KARES system, a care provider shall provide the applicant with an application form that conspicuously states the following: "FOR THIS TYPE OF

EMPLOYMENT STATE AND FEDERAL LAW REQUIRE A STATE AND NATIONAL CRIMINAL BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(2) An entity participating in the Kentucky NBCP shall provide notice to the applicant that the applicant's responsibilities include the following:

- (a) The applicant shall provide a set of fingerprints; and
- (b) The applicant shall provide his or her name, social security number, address, and date of birth as they appear on a document commonly accepted for the purpose of identification.

Section 6.[4.] Registry and Criminal Background Checks: Procedures and Payment. (1) To initiate the process for obtaining a background check on a prospective employee or licensee, the care provider, other employer enrolled in the Kentucky NBCP, or professional licensing board shall:

- (a) Request that the applicant provide a copy of his or her driver's license or government-issued photo identification and verify that the photograph clearly matches the applicant;
- (b) Request that the applicant sign a form entitled Disclosures to be Provided to and Signed by Applicant for Employment or Licensure;
- (c) Request that the applicant complete a Waiver Agreement and Statement[; 1. Disclosure Form; and 2. Consent and Release Form]; and
- (d)[(e)] Log on to the KARES portal, which shall be a secure web-based system maintained by the cabinet, and enter the applicant's demographic information for a check of:
 - 1. Each registry as defined by Section 1(8) of this administrative regulation; and
 - 2. Databases maintained separately by the Kentucky Board of Medical Licensure, Kentucky Board of Nursing,[and] Kentucky Board of Physical Therapy, and any other available professional licensing board with oversight of a health care profession, including behavioral health profession, to validate the applicant's professional licensure status, if applicable.

(2)[An applicant who is found on the child abuse and neglect central registry maintained pursuant to 922 KAR 1:470 may request a rehabilitation review pursuant to Section 9 of this administrative regulation.

(3)(a) If an applicant is cleared for hire after a check of the registries and databases identified in subsection (1)(c) of this section, the participating entity[employer] shall submit payment via credit or debit card for the criminal background check.

(3)(a)[(b)1. Effective until May 19, 2014, or] Until NBCP grant funds are depleted, care providers identified in Section 1(3)(a) through (i) of this administrative regulation shall pay a fee of twenty (20) dollars for a fingerprint-supported state and national criminal background check, which includes the cost of the Kentucky NBCP and the fees of the Department of Kentucky State Police and the FBI.

(b) A participating entity enrolled in the Kentucky NBCP and not identified in Section 1(3)(a) through (i) of this administrative regulation shall pay a fee of twenty (20) dollars in addition to any fees charged by the Department of Kentucky State Police and the FBI for the actual cost of processing a fingerprint-supported state and national criminal background check.

(c) If an applicant's continuous assessment period identified under Section 3 of this administrative regulation has not expired, a fee of twenty (20) dollars shall be charged to view the applicant's current fitness determination and process a new application, in which case a new fingerprint check is not needed.

(d)1. After NBCP grant funds are depleted, the total cost of a fingerprint-supported state and national criminal background check charged to a care provider shall not exceed actual costs of the Kentucky NBCP and the fees charged by the Department of Kentucky State Police and the FBI.

2. If an applicant has not been previously fingerprinted under the Kentucky NBCP or if the applicant's continuous assessment period has expired, a fee not to exceed twenty (20) dollars in addition to any fees charged by the Department of Kentucky State Police and the FBI for a fingerprint-supported state and national criminal background check shall be charged to the care provider

for the cost of a criminal background check[whichever date is later, employers shall pay the twenty (20) dollar fee charged by the Justice and Public Safety Cabinet pursuant to paragraph (d)1. of this subsection.

2. Effective until May 19, 2014, or until NBCP grant funds are depleted, whichever date is later, grant monies shall be used to subsidize:

a. The cost of the national criminal background check charged by the Federal Bureau of Investigation pursuant to paragraph (d)2. of this subsection; and

b. The administrative cost charged by the cabinet pursuant to paragraph (d)3. of this subsection.

(c) Effective until May 19, 2014, or until NBCP grant funds are depleted, whichever date is later, the cabinet shall pay all costs identified in paragraph (d) of this subsection if a criminal background check is conducted on behalf of a prospective provider of home and community-based services authorized under KRS Chapter 205. This exemption for providers of home and community-based services is a condition of the NBCP grant.

(d) After May 19, 2014, or after NBCP grant funds are depleted, whichever date is later, the total cost of a criminal background check charged to employers shall be sixty-three (63) dollars, divided into the following components:

1. A fee of twenty (20) dollars charged by the Justice and Public Safety Cabinet;

2. A fee of sixteen (16) dollars and fifty (50) cents charged by the Federal Bureau of Investigation; and

3. A fee of twenty-six (26) dollars and fifty (50) cents charged by the cabinet to cover the cost of facilitating the criminal background check[.

(4)(a) Upon submission of payment pursuant to subsection (3) of this section, the care provider or other participating entity[employer] shall print a copy of the Live Scan Fingerprinting Form from the KARES portal and provide the form to the applicant.

(b) The applicant shall:

1. Have thirty (30) calendar days from the date of payment pursuant to subsection (3) of this section to submit his or her fingerprints at an authorized collection site; and

2. Present the Live Scan Fingerprinting Form and driver's license or government-issued photo identification to the designated agent at an[the] authorized collection site prior to fingerprint submission.

(5) Upon completion of a criminal background check, the cabinet shall[;-(a)] provide notice to the care provider or other employer enrolled in the Kentucky NBCP that the applicant is:

(a) Clear to hire[;] or

(b) Not clear to hire if the applicant is found by the cabinet to have a disqualifying offense as identified in Section 1(5) of this administrative regulation[; and (b) Not disclose the applicant's criminal history to the employer].

(6) A care provider is not obligated to employ or offer employment to an individual who has been found by the cabinet to be clear for hire pursuant to subsection (5)(a) of this section.

Section 7.[5.] Provisional Employment. (1) If an applicant is not found on a registry and the individual's license has been validated, if applicable, a care provider[an employer] may hire the applicant for a period of provisional employment pending completion of the criminal background check.

(2) The period of provisional employment shall:

(a) Not commence prior to the date the applicant submitted his or her fingerprints; and

(b) Not exceed sixty (60) days from the date of fingerprint collection.

(3) During the period of provisional employment, the individual shall not have supervisory or disciplinary power or routine contact with patients, residents, or clients without supervision on-site and immediately available to the individual.

Section 8.[6.] Individuals Ineligible to be Hired. A care provider[An employer participating in the KARES program], an agency within the cabinet responsible for conducting inspections of any care provider[employer], or a state-owned or operated health

facility shall not employ, contract with, or permit to work as an employee any applicant that submits to a background check if one (1) or more of the following are met:

- (1) The applicant refuses to provide photo identification or complete the Disclosures~~[Disclosure]~~ Form or Waiver Agreement and Statement~~[Consent and Release Form]~~ required by Section 6~~4~~(1)(a) and (b) of this administrative regulation;
- (2) The applicant is found on a registry as defined by Section 1(8) of this administrative regulation;
- (3) The applicant's professional license is not in good standing, if applicable;
- (4) The applicant fails to submit his or her fingerprints at an authorized collection site within thirty (30) calendar days of payment submitted pursuant to Section 5~~4~~(3) of this administrative regulation; or
- (5) Upon completion of the initial criminal background check for an applicant or subsequent to the initial fingerprint check on a current employee, the care provider~~[employer]~~, cabinet agency, or state-owned or operated health facility receives notice from the cabinet that the applicant is ineligible~~[not clear]~~ for hire based on a cabinet determination that the individual has been found to have a disqualifying offense~~[-or~~
- (6) Final disposition of a criminal charge related to a disqualifying offense is not provided to the cabinet within sixty (60) days of fingerprint submission].

Section 9~~7~~ Notice of a Disqualifying Offense and Appeals.

- (1) The cabinet shall notify each applicant or, if applicable, current employee determined to have a disqualifying offense.
- (2) In addition to the cabinet's notification required by subsection (1) of this section, a care provider~~[an employer]~~ that receives notice from the cabinet that an individual has been determined to have a disqualifying offense shall notify the individual of the cabinet's determination within three (3) business days of receipt of the notice.
- (3) An applicant who receives notice of a disqualifying offense may:
 - (a) Request a rehabilitation review pursuant to Section 10~~9~~ of this administrative regulation; or
 - (b) Challenge the accuracy of the cabinet's determination regarding a disqualifying offense by submitting a written request to the cabinet for an informal review of the cabinet's determination, or file an appeal under KRS Chapter 13B within ten (10) days of the date of the notice of the disqualifying offense. An applicant or if applicable, current employee may appeal the results of an informal review by submitting a written request to the cabinet for appeal under KRS Chapter 13B within five (5) days of notice of the decision from an informal review.
 - (4) A current employee who has submitted to a criminal background check under the Kentucky NBCP and whose fingerprints are retained pursuant to Section 3 of this administrative regulation may challenge the accuracy of the cabinet's determination of a disqualifying offense pursuant to subsection (3)(b) of this section.
 - (5) If an applicant or, if applicable, current employee wishes to obtain information concerning the disqualifying offense or challenge the accuracy of a criminal background check, the cabinet shall refer the individual to the appropriate state or federal law enforcement agency.
 - (6)~~(5)~~ If an applicant or, if applicable, current employee challenges the finding that he or she is the true subject of the results from a registry check, the cabinet shall refer the individual to the agency responsible for maintaining the registry.

Section 10~~8~~ Termination of an~~a Provisional~~ Employee Upon Receipt of Notice of a Disqualifying Offense. (1) If a provisional employee or, if applicable, current employee has not requested an informal review or an appeal pursuant to Section 8~~7~~(3)(b) of this administrative regulation, the care provider~~[employer]~~ shall:

- (a) Terminate the employee no later than fourteen (14)~~six (6)~~ business days after receipt of notice of the disqualifying offense; and

(b) Use the KARES system to provide electronic notification~~[Submit a written attestation statement]~~ to the cabinet affirming the employee's dismissal within three (3) business days of termination.

(2) If a provisional employee or, if applicable, current employee requests an informal review or an appeal pursuant to Section 8~~7~~(3)(b) of this administrative regulation, the care provider~~[employer]~~ may retain the employee pending resolution of the employee's informal review or appeal under the following conditions:

- (a) The employee shall be subject to direct, on-site supervision, or reassigned to duties that do not involve one-on-one contact with a resident, patient, or client of the employer;
- (b) The care provider~~[employer]~~ shall inform the employee that termination shall be immediate if the informal review upholds the cabinet's determination regarding a disqualifying offense, or the employee does not prevail in an appeal requested pursuant to Section 8~~7~~(3)(b) of this administrative regulation;
- (c) The care provider~~[employer]~~ shall immediately terminate an employee if the informal review upholds the accuracy of the cabinet's determination regarding a disqualifying offense or the employee does not prevail in an appeal requested pursuant to Section 8~~7~~(3)(b) of this administrative regulation upon completion of the appeal; and
- (d) Using the KARES system, the care provider~~[employer]~~ shall provide electronic notification~~[submit a written attestation statement]~~ to the cabinet affirming the individual's dismissal within three (3) business days of termination.

Section 11~~9~~ Rehabilitation Review. (1)(a) An applicant found~~[on the child abuse and neglect central registry maintained pursuant to 922 KAR 1:470, or found]~~ to have a disqualifying offense upon completion of the criminal background check shall be eligible for consideration of rehabilitation under an independent review process.

(b) Consideration of a disqualifying offense under the rehabilitation review process described in this section shall not apply to:

1. A disqualifying felony offense that occurred less than ten (10)~~seven (7)~~ years prior to the date of the criminal background check;
2. A disqualifying misdemeanor offense related to assault, domestic violence, theft, fraud, or possessing or trafficking in a controlled substance that occurred less than seven (7) years prior to the date of the criminal background check;
3. Any disqualifying felony or misdemeanor offense~~[A criminal conviction]~~ related to abuse, neglect, or exploitation of an adult or child, or a sexual offense;
- 4.~~3.~~ Registration as a sex offender under federal law or under the law of any state; or
- 5.~~4.~~ A conviction for a violent crime.

(2) An applicant may submit a written request for a rehabilitation review to the cabinet no later than fourteen (14) calendar days from the date of the notice of the cabinet's determination issued pursuant to Section 8~~7~~(1) of this administrative regulation regarding a~~[finding on the child abuse and neglect central registry or]~~ determination of a disqualifying offense.

(3) The request for a rehabilitation review shall include the following information:

- (a) A written explanation of each~~[finding on the child abuse and neglect central registry or each]~~ disqualifying offense, including:
 1. A description of the events related to the~~[registry finding or]~~ disqualifying offense;
 2. The number of years since the occurrence of the~~[registry finding or]~~ disqualifying offense;
 - 3.~~The identification of any other individuals involved in the offense;~~
 - 4.~~The age of the offender at the time of the~~~~[registry finding or]~~ disqualifying offense; and
 - 5.~~Any other circumstances surrounding the~~~~[registry finding or]~~ offense;
- (b) Official documentation showing that all fines, including court-imposed fines or restitution, have been paid or

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documentation showing adherence to a payment schedule, if applicable;

(c) The date probation or parole was satisfactorily completed, if applicable; and

(d) Employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently.

(4) A rehabilitation review shall be conducted by a committee of three (3) employees of the cabinet, none of whom:

(a) Is an employee of the Office of Inspector General; or

(b) Was responsible for determining each of whom was not responsible for determining:

(a) The finding of child abuse or neglect that placed the individual on the central registry; or

(b)] that the individual has a disqualifying offense.

(5) The committee shall consider the information required under subsection (3) of this section, and shall also consider mitigating circumstances including:

(a) The amount of time that has elapsed since the [child abuse and neglect central registry finding or] disqualifying offense[, which shall not be less than seven (7) years in the case of a disqualifying offense];

(b) The lack of a relationship between the [registry finding or] disqualifying offense and the position for which the individual has applied; and

(c) Evidence that the applicant has pursued or achieved rehabilitation with regard to the [registry finding or] disqualifying offense. The committee shall make a recommendation to the secretary or designee, who shall be responsible for making the final decision.

(6) The secretary or designee may grant a waiver from the prohibition against employment of an applicant with a [child abuse and neglect finding or a] disqualifying offense upon consideration of the information required under subsection (3) of this section and the committee's recommendation of subsection (5) of this section.

(7) No later than thirty (30) calendar days from receipt of the written request for the rehabilitation review, the secretary or designee shall send a written determination on the rehabilitation waiver to the applicant.

(8) The decision of the secretary or designee pursuant to subsection (7) of this section shall be subject to appeal under KRS Chapter 13B.

(9) An individual with a [finding on the child abuse and neglect central registry or a] disqualifying offense shall not be employed by an employer until the employer receives notification from the cabinet that the individual has been granted a waiver.

(10) A care provider [An employer] is not obligated to employ or offer employment to an individual who is granted a waiver pursuant to this section.

Section 12.[40-] Pardons and Expungement. An applicant who has received a pardon for a disqualifying offense or has had the record expunged may be employed.

Section 13.[44-] Status of Employment. Each care provider [An employer participating in KARES] shall maintain the employment status of each employee who has submitted to a fingerprint-supported criminal background check by reporting the status using the KARES web-based system.

Section 14.[42-] Kentucky National Background Check [Applicant Registry and Employment Screening] Fund. (1)(a) The Cabinet shall establish a trust and agency fund called the Kentucky National Background Check [Applicant Registry and Employment Screening] fund to be administered by the Finance and Administration Cabinet.

(b) The fund shall be funded with moneys collected under Section 5(2)[4(3)] of this administrative regulation.

(2) Moneys in the fund shall be used solely to operate the Kentucky National Background Check [KARES] program.

Section 15. Adverse Action. In accordance with KRS 216B.105 or KRS 194A.707(1), the cabinet shall take action to deny or

revoke a care provider's license, certification, or registration for failure to demonstrate compliance with Sections 2 through 12 of this administrative regulation.

Section 16.[43-] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) OIG 1:190-1, "Disclosures to be Provided to and Signed by Applicant for Employment or Licensure", November 2015;

(b) OIG 1:190-2, "Waiver Agreement and Statement", November 2015; [OIG 1:190-A, "Agreement to Participate in the KARES Program", May 2013;

(b) OIG 1:190-B, "Disclosure Form", May 2013;

(c) OIG 1:190-C, "Consent and Release Form", May 2013;] and

(c) [d] OIG 1:190-D, "Live Scan Fingerprinting Form", May 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 17, 2015

FILED WITH LRC: November 20, 2015 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures and requirements for implementation of the Kentucky National Background Check Program (NBCP). Under the Kentucky NBCP, a secure, web-based application called the KARES system is used to facilitate registry and fingerprint-supported state and FBI criminal background checks for prospective employees in long-term care and other settings required by law to conduct background screening of employees, as well as professional licensing boards required by law to conduct background check screening on licensees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures and requirements for implementation of the Kentucky NBCP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: As stated in the Necessity, Function, and Conformity paragraph of this administrative regulation, 42 U.S.C. 1320a-7I directs the secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. 42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether an individual has been convicted of a crime that bears upon that individual's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. KRS 216.789, KRS 216.787 and KRS 216.712 authorizes the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities. Therefore, this administrative regulation conforms to the content of the authorizing statutes by establishing procedures and requirements for implementation of a comprehensive, Cabinet-administered state and national background check program called the Kentucky NBCP.

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing procedures and requirements for implementation of the Kentucky NBCP.

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

(a) How the amendment will change this existing administrative regulation: In accordance with the initially adopted version of this administrative regulation, the Kentucky NBCP was rolled out as a voluntary program in May 2014. Under this amendment, fingerprint-supported state and national background checks will be required as a condition of employment for new hires in long-term care facilities and other settings as defined by Section 1(3) of this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to require more comprehensive background checks in order to reduce a current gap in state law and enhance efforts to help protect elderly and vulnerable adults from potential abuse, neglect, and exploitation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing procedures and requirements for implementation of the Kentucky NBCP.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing procedures and requirements for implementation of the Kentucky NBCP to provide fingerprint-supported state and national background checks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Employers required by this administrative regulation to secure a fingerprint-supported state and national criminal record check on new hires include the following: long-term care facilities (491) (except for family care homes and acute-care facilities performing long-term-care services or hospice services at the same location as the acute care facility); nursing pools and staffing agencies which provide staff to long-term care facilities (68); adult day health programs (107); assisted living facilities (110); home health agencies (114); hospice providers (24), including residential hospice (9); personal services agencies (158); providers of home and community based services (over 250); or any other licensed health facility that applies to participate in the Kentucky NBCP. Additionally, new Cabinet staff whose duties include inspecting long-term care employers or who have one-on-one contact with patients or residents, and new Cabinet staff who work in state-run health facilities are subject to a background check under 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: Upon data entry of an applicant's information, the NBCP performs an automated database search of all available abuse registries and verifies the applicant's professional licensure status, if applicable. "Hits" on an abuse registry or confirmation that an individual's professional license is not in good standing results in disqualification of the individual from employment, thereby eliminating the need for a criminal background check and the costs associated with such checks. If cleared as a result of the registry check and professional licensure verification, applicants are subject to a fingerprint-supported state and national background check.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred initially as employers will continue to pay the \$20 fee they are currently accustomed to paying for name based, state-only criminal background checks. However, upon depletion of NBCP grant monies, the fee for a fingerprint-supported state and national background check will not exceed actual costs, estimated to be no

more than \$20 imposed by the Kentucky NBCP plus actual fees charged by the Department of Kentucky State Police and the FBI. Additionally, if an applicant has been previously fingerprinted and his or her "continuous assessment period" as identified under Section 3 of this administrative regulation has not expired, a fee of \$20 will be charged to the employer to view the applicant's current fitness determination and process a new application, in which case a new fingerprint check and the associated cost is not needed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Employers identified under Section 1(3) of this administrative regulation, professional licensing boards, and other entities authorized to use the system will benefit from a comprehensive screening mechanism intended to limit the ability of "bad actors" to hide any criminal or abusive actions committed in other states, and a reduction in costs as applicants previously fingerprinted move from one employer to another.

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

(a) Initially: This administrative regulation is funded by NBCP grant monies until May 2016 and subject to a one-year extension upon approval by the Centers for Medicare and Medicaid Services (CMS).

(b) On a continuing basis: Upon depletion of grant monies, the Kentucky NBCP will be supported by fees collected. The fee for a fingerprint-supported state and national background check will not exceed actual costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: As stated previously, federal NBCP grant funds are currently used to implement this administrative regulation. Upon depletion of grant monies, continued funding to support the Kentucky NBCP will be from 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: Upon depletion of grant monies, the cost of fingerprint-supported state and FBI checks will not exceed actual costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes fees necessary to sustain operation of the Kentucky NBCP.

(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? Employers required by this administrative regulation to secure a fingerprint-supported state and FBI criminal record check on new hires include the following: long-term care facilities (except for family care homes and acute-care facilities performing long-term-care services or hospice services at the same location as the acute care facility), nursing pools and staffing agencies which provide staff to long-term care facilities, adult day health programs, assisted living facilities, home health agencies, hospice providers, including residential hospice, personal services agencies, providers of home and community based services, or any other licensed health facility that applies to participate in the Kentucky NBCP. Additionally, new Cabinet staff whose duties include inspecting long-term care employers or who have one-on-one contact with patients or residents, and new Cabinet staff who work in state-run health facilities are subject to a background check under this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 42 U.S.C. 1320 a-71, 42 U.S.C. 5119a(a)(1), KRS 216.712, KRS 216.787, KRS 216.789

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 current charge for a name-based, state only criminal record check is \$20. Under this administrative regulation, the charge for a fingerprint-supported state and FBI criminal background check will remain \$20 initially. However, upon depletion of NBCP grant funds, the revenue generated in fees will not exceed the actual costs.

(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? During subsequent years, revenue will be based upon fees charged to use the KARES system, not to exceed actual costs.

(c) How much will it cost to administer this program for the first year? This administrative regulation is funded by NBCP grant monies until May 2016 and subject to a one-year extension upon approval by CMS.

(d) How much will it cost to administer this program for subsequent years? Federal NBCP grant funds are currently used to implement this administrative regulation. Upon depletion of grant monies, continued funding to support the Kentucky NBCP will be from fees collected to process fingerprint-supported state and FBI checks, not to exceed actual 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. 42 U.S.C. 1320 a-7I and 42 U.S.C. 5119a(a)(1)

2. State compliance standards. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 216.789, KRS 216.787, and KRS 216.712 authorizes the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1320 a-7I directs the Secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. As of this date, Kentucky is one of 26 states to receive a National Background Check Program (NBCP) grant awarded by the Centers for Medicare and Medicaid Services under 42 U.S.C. 1320 a-7I. 42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether an individual has been convicted of a crime that bears upon the individual's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements than those required by 42 U.S.C. 1320 a-7I or 42 U.S.C. 5119a(a)(1).

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

GENERAL GOVERNMENT CABINET
Board of Veterinary Examiners
(As Amended at ARRS, December 9, 2015)

201 KAR 16:050. Continuing education.

RELATES TO: KRS 321.211(7), 321.221, 321.235(6), 321.441(2)

STATUTORY AUTHORITY: KRS 321.211(7), 321.235(1), (3), (5), (6), (7), 321.441(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.211(7) authorizes the board to require~~[Pursuant to KRS 321.211(7) the board may require that]~~ a person applying for renewal or reinstatement to show evidence of completion of continuing education. This administrative regulation establishes the requirements for continuing education hours relating to the practice of veterinary medicine.

Section 1. (1)(a) A veterinarian shall complete biennially~~[be required to biennially complete]~~ thirty (30) hours of continuing education to be eligible for renewal of his or her license. A veterinarian may complete the~~[required]~~ thirty (30) hours of continuing education required for renewal by the completion of audio or video recordings or~~[,]~~ electronic, computer, or interactive material prepared or approved by any of the organizations established~~[identified]~~ in Section 2(1) and (2) of this administrative regulation.

(b) Of the required hours:

1.~~[,]~~ At least twenty (20) hours shall be directly related to the practice of veterinary medicine; and

2.~~[no]~~ More than ten (10) hours shall not~~[may]~~ be in related areas such as practice management.

~~[(c) A veterinarian may acquire no more than four (4) hours of continuing education in each renewal period by the completion of audio or video recordings, electronic, computer or interactive materials or programs on scientific subjects prepared or approved by any of the organizations identified in Section 2(1) and (2) of this administrative regulation.]~~

(2) A veterinary technician and veterinary technologist shall annually complete six (6) hours of continuing education to be eligible for renewal of his or her registration. A veterinary technician and veterinary technologist may complete the~~[required]~~ six (6) hours of continuing education required for renewal by the completion of audio or video recordings or~~[,]~~ electronic, computer, or interactive materials or programs prepared or approved by any of the organizations established~~[identified]~~ in Section 2(1) and (2) of this administrative regulation.

(3) Continuing education shall be earned from October 1 of each renewal period until September 30 at the end of the period.

(4) A veterinarian applying for renewal after completing his or her initial term of licensure after graduating from a veterinary college may complete fewer hours of continuing education to be eligible for renewal as established in this subsection.

(a) A veterinarian completing his or her initial term of licensure who~~[that]~~ graduated from a veterinary college during the first year of the preceding biennium shall complete fifteen (15) hours of continuing education to be eligible for renewal. This paragraph shall not apply to applicants for licensure by endorsement under KRS 321.221~~[321.211]~~.

(b) Continuing education requirements shall be waived for a veterinarian completing his or her initial term of licensure who~~[that]~~ graduated during the second year of the preceding biennium. This paragraph shall not apply to applicants for licensure by endorsement under KRS 321.221.

Section 2. Approved Courses. (1) The following programs shall be approved:

(a) All scientific programs of all organizations of the American Veterinary Medical Association, its constituent organizations, and its recognized specialty groups and accredited veterinary medical institutions whose meetings impart educational material directly relating to veterinary medicine;

(b) Programs~~[which are]~~ approved by the Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB); and

(c) All programs approved by the board pursuant to subsection (2) of this section, not associated with RACE or the American Veterinary Medical Association and its suborganizations.

(2) Courses established in subsection (1) of this section~~[Those programs]~~ shall impart knowledge directly relating to the practice of veterinary medicine, including~~[to the end that]~~ the utilization and application of new techniques, scientific and clinical advances, and the achievement of research to~~[may]~~ assure expansive and comprehensive care to the public.

Section 3. (1) A licensee and a registrant shall:

(a) Secure documentation of attendance at a course; and

(b) Annually, list on ~~[“]Licensed Veterinarian Annual Renewal Form[“]~~ or ~~[“]Veterinary Technician Annual Renewal Form[“]~~, as appropriate, each course he or she attended.

(2) The board may require documentation of attendance at continuing education courses to be submitted to it.

Section 4. (1) The board may, in individual cases involving medical disability or illness, grant waivers of the continuing education requirements or extensions of time within which to fulfill the same or make the required reports.

(a) A written request for medical disability or illness waiver or extension of time shall be:

1. Submitted by the licensee and registrant; and

2. Accompanied by a verifying document signed by a licensed physician.

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

(c) 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 registrant shall reapply for another extension.

(2) The board shall~~[may]~~ grant a waiver to a licensee who is unable to meet the continuing education requirements of this administrative regulation because of obligations arising from military duty.

(a) A licensee engaged in active military duty and deployed outside the United States for more than eight (8) months shall not be required to have completed the continuing education requirement for licensure periods during which that status exists.

(b) A licensee who is called to active duty in the armed forces~~[,]~~ shall not be required to have completed the continuing education requirement for licensure periods during which that status exists.

(c) The licensee requesting an extension or waiver pursuant to this subsection~~[under this provision]~~ shall submit the appropriate military assignment form, deployment orders, or a statement from the licensee's unit commander confirming the call-up or deployment.

Section 5. (1)(a) A license or registration that has been terminated shall be reinstated if a licensee or registrant submits proof that the licensee~~[he]~~ has completed the required number of continuing education hours within the twelve (12) month period immediately preceding the date on which the application is

submitted.

(b) The board shall[may] permit the immediate reinstatement of a terminated license or registration if the licensee or registrant agrees to complete the required number of continuing education hours within six (6) months of the date of reinstatement.

(2) Prior to renewal of a license or registration for the licensure period following the licensure period during which the license or registration was reinstated, a reinstated licensee or registrant shall have completed the number of continuing education hours required for renewal of a license or registration by Section 1 of this administrative regulation.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Licensed Veterinarian Biennial Renewal Form[(95)]", November[August] 2015; and

(b) "Veterinary Technician Annual Renewal Form[(95)]", November[August] 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., or by sending a request to the board at P.O. Box 1360, Frankfort, Kentucky 40602.

PERRY W. WORNALL, D.V.M., Board Chairman

APPROVED BY AGENCY: August 21, 2015

FILED WITH LRC: August 24, 2015 at 2 p.m.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601. phone (502) 696-5635, fax (502) 696-3925.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Architects
(As Amended at ARRS, December 9, 2015)**

201 KAR 19:035. Qualifications for examination and licensure.

RELATES TO: KRS 323.050(2), (3), 323.060, 323.120(1)(a)-[(1)(f)]

STATUTORY AUTHORITY: KRS 323.210(1)(b), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 323.050(2) authorizes[allows] the board to prescribe the qualifications and 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 or her 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 and to act to protect the public welfare and safety; or

3. Violated a provision of KRS Chapter 323 or 201 KAR Chapter 19[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 that includes the college transcripts 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.~~[(4)]~~ 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 of experience obtained by the completion of the Intern Development Program training requirements required by subsection (1) of this section and college transcripts 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.

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.

GENERAL GOVERNMENT CABINET
Kentucky Board of Architects
(As Amended at ARRS, December 9, 2015)

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 ~~licensed~~[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 ~~finds~~[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 ~~is~~[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 ~~ensure~~[insure] that all ~~licensed~~[registered] architects remain informed on technical and professional subjects ~~that~~ [which] the board ~~finds~~[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 ~~licensed~~[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 ~~licensee~~[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 ~~licensed~~[registered] Kentucky architect shall:

(a) Obtain a total of ~~at least~~ twelve (12) CEHs~~PDU's~~ per year; and

(b) Report these credits as a condition for ~~license~~[registration] renewal.

(2) ~~Beginning with calendar year 2017~~, 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 ~~on relevant topics~~[,] 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 by an applicant for renewal of a license:

(a) A completed continuing education certification statement of compliance with the annual continuing education requirements portion of the **completed Architect License Renewal Application[Form]** Continuing Education Annual Report Form listing the completed courses];

(b) The completed Architect License Renewal Application[Form] or online renewal on the board's Web site at <http://boa.ky.gov> [A renewal application]; and

(c) The renewal fee required by 201 KAR 19:085.

(2) The following shall be submitted by an applicant for the reinstatement of a license previously administratively revoked:

(a) A completed continuing education certification statement of compliance with the annual continuing education requirements portion of the completed and notarized 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;

(b) The completed and notarized Architect License Reinstatement-Restoration Application;

(c) and

(b) The reinstatement application fee plus the applicable annual renewal fee **required by 201 KAR 19:085** for each year since the date of revocation; and

(d) A two (2) inch by two (2) inch or larger passport quality color photograph of the applicant affixed to the application.

(3) The following shall be submitted by an applicant 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 completed and notarized 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;

(b) The completed and notarized Architect License Reinstatement-Restoration Application;

(c) and

(b) The applicable restoration application fee plus the current annual renewal fee **required by 201 KAR 19:085**; and

(d) A two (2) inch by two (2) inch or larger passport quality color photograph of the applicant affixed to the application.

(4) An incomplete submission shall be returned to the applicant[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 licensee[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 licensee[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 offer 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 licensee[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. (1) Failure to fulfill the continuing education requirements, file the required Architect License Renewal Application or the Architect License Reinstatement-Restoration Application[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:

(a) Nonrenewal;

(b)[,] Denial of reinstatement or restoration;

(c)[,] Probation;[,] or

(d) Suspension of the license[,] and the issuance of a reprimand.

(2) 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", December 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.

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.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:010. Definitions for 201 KAR Chapter 35.

RELATES TO: KRS 309.080, 309.0805, 309.081, 309.0813,
309.084, 309.085, 309.086, 309.087, 309.089

STATUTORY AUTHORITY: KRS 309.0813(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813 requires the Kentucky Board of Alcohol and Drug Counselors to promulgate administrative regulations establishing requirements for alcohol and drug counselors and peer support specialists. This administrative regulation establishes definitions of terms used by the board in administrative regulations pertaining to the credentialing of alcohol and drug counselors and peer support specialists.

Section 1. (1) "Academic course" means a course that is offered by a postsecondary institution accredited by a recognized accreditation agency and that is:

(a) An alcohol and drug counseling course, designated by title or content; or

(b) An academic course, relevant to alcohol and drug counseling.

(2) "Applicant" means an individual who has applied for registration, certification, or licensure in accordance with KRS 309.084 or a credential holder renewing his application in accordance with KRS 309.085.

(3) "Approved" means recognized by the Kentucky Board of Alcohol and Drug Counselors.

(4) "Board" is defined by KRS 309.080(1).

(5) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(6) "Chair" means the chairperson or vice-chairperson of the board.

(7) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (12) of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 309, the administrative regulations promulgated thereunder, or another state or federal statute or regulation.

(8) "Classroom hour" means an academic hour from an accredited institution or continuing education hour.

(9) "Client" means an individual, family, or group who directly receives services from an alcohol and drug counselor or peer support specialist; a corporate entity or other organization if the contract is to provide an alcohol and drug counselor or peer support specialist service of benefit directly to the corporate entity or organization; or a legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.

(10) "Clinical supervision" means a disciplined, tutorial process wherein principles are transformed into practical skills, with four (4) overlapping foci: administrative, evaluative, clinical, and supportive.

(11) "Clinical supervisor" means a certified alcohol and drug counselor who has at least two (2) years of postcredential experience and who provides supervision and whose credential is currently in good standing with the board.

(12) "Complaint" means a written allegation of misconduct by a credentialed individual or another person, alleging a violation of:

(a) KRS Chapter 309;

(b) Administrative regulations promulgated in accordance with KRS Chapter 309;

(c) Another state or federal statute or regulation; or

(d) A combination of paragraphs (a), (b), or (c) of this subsection.

(13) "Complaint screening committee" means a committee that reviews complaints, investigates reports, participates in

informal proceedings to resolve a formal complaint, and consists of:

(a) Up to two (2) board members appointed by the chair; and

(b) If appointed, the executive director of the Division of Occupations and Professions, or another staff person, to be a non-voting member who is available to the committee for assistance[consisting of up to two (2) members of the board appointed by the chair to review complaints, investigative reports, and to participate in informal proceedings to resolve a formal complaint. In addition to board members, the executive director of the Division of Occupations and Professions or another staff member may be appointed to assist the committee, but shall not have voting privileges].

(14) "Continuing education hour" means fifty (50) clock minutes of participating in a continuing education experience.

(15) "Credential holder" is defined by KRS 309.080(3).

(16) "Disciplinary action" means to:

(a) Revoke, suspend, place on probation, or restrict the credential holder; and

(b) Publicly reprimand, publicly admonish, or fine.

(17) "Educational program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or in a series.

(18) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of a matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(19) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

(20) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

(21) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

(22) "Licensee" is defined by KRS 309.080(6).

(23) "Provider" means an organization approved by the Kentucky Board of Alcohol and Drug Counselors for providing continuing education programs.

(24) "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(8).

(25) "Registrant" is defined by KRS 309.080(9).

(26) "Relevant" means having content applicable to the practice of alcohol and drug counseling in accordance with the requirements of 201 KAR 35:040, Section 3(2)[Section 4(2) of this administrative regulation].

(27) "Work experience" means the hours spent performing the services, tasks, and reports necessary for providing counseling, for intervention, or support services to a person with a substance use disorder or that person's significant others.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: June 29, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator,
Division of Occupations and Professions, 911 Leawood Drive,
Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

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GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)

201 KAR 35:015. Grandparenting of Certification to Licensure.

RELATES TO: KRS 309.0832, 309.084(2)(a)

STATUTORY AUTHORITY: KRS 309.0813(1), (5), 309.084(2)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) and (5) authorize the Board of Alcohol and Drug Counselors to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089. KRS 309.084(2)(a) requires the board to promulgate administrative regulations establishing a limited period of time, between ninety (90) days and one (1) year, [one (1) year period of time] for a current certified alcohol and drug counselor to satisfy all the requirements for licensure as a clinical alcohol and drug [and alcohol] counselor. This administrative regulation establishes requirements for a certified alcohol and drug counselor to apply for licensure as a clinical alcohol and drug counselor within a one (1) year grandfathering period.

Section 1. Application. (1) A certified drug and alcohol counselor may apply for licensure as a clinical drug and alcohol counselor no more than one (1) year from the effective date of this administrative regulation.

(2) An applicant for licensure shall submit an Application for Grandparenting as a Licensed Clinical Alcohol and Drug Counselor and satisfy all the requirements of KRS 309.0832.

(3) The applicant shall submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 35:020, Section 1(1).

(4) Upon notification of approval of the application, the applicant shall submit a check or money order payable to the Kentucky State Treasurer for the licensure fee as required by 201 KAR 35:020, Section 3(1)(c).

Section 2. Incorporation by Reference. (1) "KBADC Form 15, Application for Grandparenting as a Licensed Clinical Alcohol and Drug Counselor", June 2015, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Alcohol and Drug Counselors, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5:00 p.m.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814; fax (502) 696-5898.

GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)

201 KAR 35:020. Fees.

RELATES TO: KRS 309.083, 309.0831, 309.0832, 309.0833, 309.084, 309.085(1)(a)

STATUTORY AUTHORITY: KRS 309.0813(1), (4), (5), (12), 309.085(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(4) requires the board to promulgate an administrative regulation governing the administration and grading of the written examination [and oral examinations] which applicants [for certification] shall be required to successfully complete. KRS 309.0813(12) requires the board to promulgate an administrative regulation establishing an initial registration, certification, or

licensure fee and renewal fee. This administrative regulation establishes those fees.

Section 1. Application Fee. (1) The application fee for board review of an [the] application for a licensed clinical alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, certified alcohol and drug counselor, or registered alcohol and drug peer support specialist, KBADC Form 1, [Certification as an Alcohol and Drug Counselor] shall be fifty (50) dollars.

(2) The application fee shall be nonrefundable.

(3) An application [for Certification as an Alcohol and Drug Counselor] shall lapse [and the fee shall be forfeited if the application packet is not completed within] one (1) year from the date it is filed with the board office.

(4)(a) If an approved applicant applies one (1) or more times after the original application lapses, the applicant shall comply with the requirements of this subsection.

1. The applicant shall successfully complete the examination required by the board within two (2) years from the date the original application is filed.

2. If the applicant does not successfully complete the examination within the time period required by subparagraph 1. of this paragraph, the applicant shall update and refile the application prior to sitting for the examination again [does not successfully complete the examination] [examinations] [required by the board for credentialing] [certification] [within two (2) years from the date the original application form is filed with the board, the applicant shall update and refile the application] [for Certification as an Alcohol and Drug Counselor] [prior to sitting for the examination again].

(b) The fee for refiling the application form shall be twenty (20) dollars.

Section 2. [Examination Fees. The following fees shall be paid in connection with the examinations required by the board through December 31, 2008;

(1) The fee for the written examination shall be \$100.

(2)(a) The fee for the oral examination shall be \$125.

(b) In the event the oral examination is rescheduled at the request of the applicant, a twenty-five (25) dollar fee shall be paid prior to rescheduling of the examination.

(3) The fee for retaking either portion of the examination shall be the same fee established in subsections (1) and (2) of this section, and shall accompany the Application for Re-examination.

(4) Applicants shall have the option to sit for the comprehensive examination offered by the International Certification and Reciprocity Consortium by paying the fees established in Section 3 of this administrative regulation.

Section 3. Comprehensive Examination Fee. (1)(a) An applicant for registration as an alcohol and drug peer support specialist shall take the comprehensive examination offered by the International Certification and Reciprocity Consortium and shall pay a fee of \$150. The fee for retaking the comprehensive examination shall be \$150.

(2) An applicant [Effective January 1, 2009, applicants] for certification shall take the comprehensive examination offered by the International Certification and Reciprocity Consortium and shall pay a fee of \$200 [150]. The fee for retaking the comprehensive examination shall be \$200.

(3) An applicant for licensure shall take the comprehensive examination offered by the International Certification and Reciprocity Consortium and shall pay a fee of \$200. The fee for retaking the comprehensive examination shall be \$200 [(2) The fee for retaking the comprehensive examination shall be \$150].

Section 3. Credentialing [4. Initial Certification] Fee. (1)(a) The registration fee for an alcohol and drug peer support specialist shall be \$100.

(b) The [initial] certification fee for a certified alcohol and drug counselor shall be \$200 [for an applicant for certification].

(c) The licensure fee for a licensed clinical alcohol and drug

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counselor or licensed clinical alcohol and drug counselor associate shall be \$300.

(2) If the applicant successfully completes all requirements for registration, certification, or licensure, the [this] fee established in subsection (1) of this section shall cover credentialing [certification] for the initial three (3) year period.

Section 4.[5-] Renewal Fees and Penalties. (1)(a) A registration, certificate, or license not renewed within ninety (90) days after the holder's renewal date shall be deemed cancelled in accordance with KRS 309.085(2).

(b) A person holding a cancelled registration shall not use the title "registered alcohol and drug peer support specialist" or hold himself or herself out as a registered alcohol and drug peer support specialist or engage in the practice of alcohol and drug peer support services.

(c) A person holding a canceled [cancelled] certificate shall not use the title "certified alcohol and drug counselor" [;] or hold himself or herself out as a certified alcohol and drug counselor or engage in the practice of alcohol and drug counseling.

(d) A person holding a canceled license shall not use the title "licensed clinical alcohol and drug counselor" or hold himself or herself out as a licensed clinical alcohol and drug counselor or engage in the practice of alcohol and drug counseling.

(e) A person holding a canceled license as a licensed clinical alcohol and drug counselor associate shall not use the title "licensed clinical alcohol and drug counselor associate" or hold himself or herself out as a licensed clinical alcohol and drug counselor associate or engage in the practice of alcohol and drug counseling.

(2) The [following] fees and penalties established in this subsection shall be paid in connection with registration, certification, or licensure renewals. [;]

(a) The renewal fee for registration shall be \$100 for a three (3) year period, and shall accompany the **Application for Renewal, KBADC Form 16 [Renewal Application]**.

(b) The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$150 for registration for a three (3) year period.

(c) The renewal fee for certification shall be \$200 for a three (3) year period, and shall accompany the Renewal Application.

(d) [(b)] The late renewal fee, including penalty, for the ninety (90) day grace period [;] shall be \$250 [;] for certification for a three (3) year period.

(e) The renewal fee for licensure shall be \$300 for a three (3) year period, and shall accompany the Renewal Application.

(f) The late renewal fee **for the ninety (90) day grace period, as well as licensure for a three (3) year period, shall be a:**

1. \$300 fee; and

2. Penalty fee of fifty (50) dollars [; including penalty, for the ninety (90) day grace period shall be \$350 for licensure for a three (3) year period].

Section 5.[6-] Reinstatement of a Canceled Registration, Certificate, or Licensure. (1) A canceled registration may be reinstated within one (1) year of the anniversary date of issue of renewal by:

(a) Submitting a completed Reinstatement Application;

(b) Proof of completion of continuing education in accordance with 201 KAR 35:040 and of ten (10) hours of continuing education during the one (1) year period; and

(c) Payment of a \$200 reinstatement fee for registration for a three (3) year period.

(2) A canceled certificate may be reinstated within one (1) year of the anniversary date of issue of renewal by:

(a) Submitting a completed ["]Reinstatement Application["]; [and]

(b) Proof of completion of continuing education in accordance with 201 KAR 35:040 and of twenty (20) hours of continuing education during the one (1) year period; and

(c) Payment of a \$300 reinstatement fee, for certification for a three (3) year period.

(3) A canceled license may be reinstated within one (1) year of

the anniversary date of issue of renewal by:

(a) Submitting a completed Reinstatement Application;

(b) Proof of completion of continuing education in accordance with 201 KAR 35:040 and of twenty (20) hours of continuing education during the one (1) year period; and

(c) **Payment for licensure for a three (3) year period, which shall be a:**

1. \$300 fee; and

2. Penalty fee of \$100 [Payment of a \$400 reinstatement fee for licensure for a three (3) year period] (2) The applicant for reinstatement of a canceled certificate shall submit proof of completion of twenty (20) hours of continuing education for each year since the date of last active certification].

Section 6.[7-] Duplicate Credential [Certificate] and ID Card Fees. (1) The fee for a duplicate credential [certificate] shall be twenty (20) dollars.

(2) The fee for a duplicate ID card shall be ten (10) dollars.

Section 7.[8-] Inactive Status Fee. (1) The enrollment fee for voluntarily placing a registration, certificate, or license in inactive status in accordance with 201 KAR 35:080 shall be fifty (50) dollars.

(2) The annual renewal fee for a registration, certificate, or license [certificates] enrolled in inactive status shall be twenty-five (25) dollars based on the renewal date.

(3)(a) The fee for reactivation of a registration shall be \$100 for a three (3) year period commencing on the date the board approves the application for reactivation.

(b) The fee for reactivation of a certificate shall be [is] \$200 for a three (3) year period commencing on the date the board approves the application for reactivation.

(c) The fee for reactivation of a license shall be \$300 for a three (3) year period commencing on the date the board approves the application for reactivation.

Section 8.[9-] Continuing Education Fees. (1) For purposes of this administrative regulation, a continuing education sponsor shall be **defined as** an individual or entity that provides a program of continuing education to credential [certificate] holders which has been reviewed and approved by the board to meet the continuing education requirements set forth in 201 KAR 35:040.

(2) Approvals may consist of a single workshop or a program of courses and shall be effective for one (1) year from the date of approval.

(3) The fee for approval of an application for a single program provider shall be fifty (50) dollars.

(4) The fee for approval of an application for a continuing education sponsor providing a program of courses shall be \$250.

(5) Continuing education sponsors who have received approval for their program of courses may apply for renewal of the approval in accordance with 201 KAR 35:040 and shall pay an annual renewal fee of \$150.

(6)(a) The fee for review of an application for a substantial change in curriculum of an approved program shall be fifty (50) dollars.

(b) A substantial change shall be considered as the addition of a workshop or course to a pre-approved program, or changes to the content of a pre-approved workshop or program which is in excess of twenty (20) percent.

Section 9.[10-] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KBADC Form 1, Application", June 2015 ["Application for Certification as an Alcohol and Drug Counselor" (2008)];

(b) "KBADC Form 16, Application for Renewal", June 2015 ["Application for Re-Examination", 2008];

(c) "KBADC Form 17, Application for Reinstatement", June 2015 ["Renewal Application", 2008];

(d) "KBADC Form 19, **Reinstatement [Re-Examination]** Application", June 2015 ["Reinstatement Application", 200]; and [;]

(e) "Continuing Education Sponsor Application", 2008.

(2) This material may be inspected, copied, or obtained,

subject to applicable copyright law, at the Kentucky Board of [Certification of] Alcohol and Drug Counselors, 911 Leawood Drive, Frankfort, Kentucky, telephone (502) 564-3296, ext. 222], Monday through Friday, 8:30 a.m. to 5 p.m.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:030. Code of Ethics.

RELATES TO: KRS 309.081

STATUTORY AUTHORITY: KRS 309.0813(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(14) requires the board to promulgate a code of ethics for credential holders [certified alcohol and drug counselors]. This administrative regulation establishes the required code of ethics.

Section 1. Responsibility to Clients. (1) A credential holder [An alcohol and drug counselor] shall:

- (a) Advance and protect the welfare of the client;
- (b) Respect the rights of a person seeking assistance; and
- (c) Make reasonable efforts to ensure that services are used appropriately.

(2) If an alcohol and drug peer support specialist is employed by a facility or credential holder from whom the peer support specialist received services as a client, the peer support specialist's supervisor shall clearly define the relationship and boundaries of the peer support specialist's employment position.

(3) Regarding any client, including clients of the facility where the counselor provides alcohol and drug counseling or any other service, or where the peer support specialist provides services, a credential holder shall not:

(a) Discriminate against or refuse professional service to anyone on the basis of:

- 1. Race;
- 2. Gender;
- 3. Age;
- 4. Sexual preference or orientation;
- 5. Religion; or
- 6. National origin;

(b) Exploit the trust and dependency of a client;

(c) Engage in a dual relationship with a client, whether social, business, or personal, that may impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, unless:

1. A dual relationship:

a. Cannot be avoided; and

b. Does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation; and

2. The counselor takes appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur;

(d) Engage in:

1. A romantic or sexual relationship with a:

a. Current or former client;

b. Current or former client of the facility where the counselor provides alcohol and drug counseling; or

c. Member of a client's immediate family or client's romantic partner; or

2. Sexual or other harassment, or exploitation, of a:

a. Client;

b. Student;

c. Trainee;

d. Supervisee;

e. Employee;

f. Colleague;

g. Research subject; or

h. Actual or potential witness or complainant in an investigation or ethical proceeding;

(e) Use the professional relationship with a client to further an institutional or personal interest;

(f) Continue a therapeutic relationship unless it is reasonably clear that the client is benefiting from the relationship;

(g) Fail to assist a person in obtaining other therapeutic service if the counselor is unable or unwilling, for an appropriate reason, to provide professional help;

(h) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of treatment;

(i) Videotape, record, or permit third-party observation of a therapy session without having first obtained written informed consent from the client; or

(j) Diagnose, treat, or advise on problems outside the recognized boundaries of competence [A credential holder] [An alcohol and drug counselor] [shall not:

(a) Discriminate against or refuse professional service to anyone on the basis of:

- 1. Race;
- 2. Gender;
- 3. Age;
- 4. Sexual preference or orientation;
- 5. Religion; or
- 6. [4.] [National origin;

(b) Exploit the trust and dependency of a client or client of the facility where the counselor provides alcohol and drug counseling or any other service or where the peer support specialist provides services;

(c) Engage in a dual relationship with a client or client of the facility where the counselor provides alcohol and drug counseling or any other service or where the peer support specialist provides services, including a social, business, or personal relationship, that may:

- 1. Impair professional judgment;
- 2. Incur a risk of exploitation of the client; or
- 3. Otherwise violate a provision of this administrative regulation.

If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, a counselor shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur. A credential holder shall not engage in a romantic relationship or sexual intimacy with a member of a client's immediate family or client's romantic partner.

(d) Engage in a sexual relationship with a current client or current client of the facility where the counselor provides alcohol and drug counseling or with a former client or former client of the facility where the counselor provides alcohol and drug counseling [for two (2) years following the termination of therapy];

(e) Use the professional relationship with a client or current client of the facility where the counselor provides alcohol and drug counseling to further an institutional or [a] personal interest;

(f) Continue a therapeutic relationship unless it is reasonably clear that the client is benefiting from the relationship;

(g) Fail to assist a person in obtaining other therapeutic service if the counselor is unable or unwilling, for an appropriate reason, to provide professional help;

(h) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of

treatment;

(i) ~~Videotape, record, or permit third-party observation of a therapy session without having first obtained written informed consent from the client;~~

(j) ~~Engage in sexual or other harassment or exploitation of a client, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in an investigation or ethical proceeding; or~~

(k) ~~Diagnose, treat, or advise on problems outside the recognized boundaries of competence].~~

Section 2. Confidentiality. (1) A credential holder[An alcohol and drug counselor] shall respect and guard the confidence of each individual client in any setting and through any means of communication.

(2) A credential holder[An alcohol and drug counselor] shall not disclose a client confidence except:

(a) As mandated~~[,]~~ or permitted by law;

(b) To prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the counseling, at which the credential holder[~~alcohol and drug counselor~~] is a defendant; or

(d) In accordance with the terms of a written informed consent agreement.

(3) A credential holder[~~An alcohol and drug counselor~~] may use client or clinical material in teaching, writing, and public presentations if:

(a) Written informed consent has been obtained in accordance with subsection (2)(d) of this section; or

(b) Appropriate steps have been taken to protect client identity and confidentiality.

(4) A credential holder shall maintain a client's record for no less than seven (7) years from termination of services with the client.

(5) A credential holder[An alcohol and drug counselor] shall store or dispose of a client record so as to maintain confidentiality.

Section 3. Publication Credit. A credential holder[An alcohol and drug counselor] shall assign credit to all who have contributed to the published material and for the work upon which publication is based. A credential holder[An alcohol and drug counselor] shall:

(1) Recognize joint authorship and major contributions of a professional character made by several persons to a common project. The author who has made the principal[principle] contribution to a publication shall be identified as the first listed;

(2) Acknowledge in a footnote or introductory statement minor contributions of a professional character, extensive clerical or similar assistance; and

(3) Acknowledge, through specific citations, unpublished, as well as published, material that has directly influenced the research or writing.

Section 4. Professional Competence and Integrity. (1) A credential holder[An alcohol and drug counselor] shall maintain standards of professional competence and integrity and shall be subject to disciplinary action if:

(a) The board determines the credential holder has violated KRS Chapter 309 or 201 KAR Chapter 35 by an act that results in disciplinary action by another state's regulatory agency; or

(b) The credential holder:

1. Is impaired due to mental capacity or the abuse of alcohol or other substances which negatively impacts the practice of alcohol and drug counseling or peer support services;

2. Refuses to comply with an order issued by the board; or

3. Fails to cooperate with the board by not:

a. Furnishing in writing a complete explanation to a complaint filed with the board;

b. Appearing before the board at the time and place designated; or

c. Properly responding to a subpoena issued by the board~~for:~~

~~(1) Having been subject to disciplinary action by another state's regulatory agency that the board determines violates applicable Kentucky state law or administrative regulation;~~

~~(2) Impairment due to mental incapacity or the abuse of alcohol or other substances which negatively impacts~~~~[impact]~~~~[the practice of alcohol and drug counseling or peer support services;~~

~~(3) Refusing to comply with an order issued by the board; or~~

~~(4) Failing to cooperate with the board by not:~~

~~(a) Furnishing in writing a complete explanation to a complaint filed with the board;~~

~~(b) Appearing before the board at the time and place designated; or~~

~~(c) Properly responding to a subpoena issued by the board].~~

(2) [(5)] A credential holder[An alcohol and drug counselor] who is aware of conduct by another credential holder[certified alcohol and drug counselor] that violates this code of ethics shall report that conduct to the Kentucky Board of [Certification of] Alcohol and Drug Counselors.

(3) [(6)] A credential holder[An alcohol and drug counselor] shall comply with all the policies and procedures of the facilities where a credential holder[he] is employed. If there is conflict with the policies or procedures of the facility and this code of ethics, the credential holder[alcohol and drug counselor] shall report this conflict to the Kentucky Board of [Certification of] Alcohol and Drug Counselors.

Section 5. Responsibility to a Student or Supervisee. A credential holder[An alcohol and drug counselor] shall:

(1) Be aware of his influential position with respect to a student or supervisee;~~[and]~~

(2) Avoid exploiting the trust and dependency of a student or supervisee;

(3) ~~Try to~~ Avoid a social, business, personal, or other dual relationship that could:

(a) Impair professional judgment; and

(b) Increase the risk of exploitation;

(4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;

(5) Not provide counseling to a:

(a) Student;

(b) Employee; or

(c) Supervisee;

(6) Not engage in sexual intimacy or contact with a:

(a) Student; or

(b) Supervisee;

(7) Not permit a student or supervisee to perform or represent oneself~~himself~~ as competent to perform a professional service beyond his level of:

(a) Training;

(b) Experience; or

(c) Competence;

(8) Not disclose the confidence of a student or supervisee unless:

(a) Permitted or mandated by law;

(b) It is necessary to prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the credential holder[~~alcohol and drug counselor~~] is a defendant;

(d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or

(e) In accordance with the terms of a written informed consent agreement.

Section 6. Responsibility to a Research Participant. (1) A credential holder[An alcohol and drug counselor] performing research shall comply with~~[be aware of]~~ federal and state laws and administrative regulations and professional standards governing

the conduct of research.

(2) ~~A credential holder~~[An alcohol and drug counselor] performing research shall:

(a) Be responsible for making a careful examination of ethical acceptability in planning a study;

(b) Seek the ethical advice of another qualified professional not directly involved in the investigation, if it is possible that services to a research participant could be compromised; and

(c) Observe safeguards to protect the rights of a participant.

(3) ~~A credential holder~~[An alcohol and drug counselor] requesting a participant's involvement in research shall:

(a) Inform the participant[him] of all aspects of the research that might reasonably affect the participant's[his] willingness to participate; and

(b) Be sensitive to the possibility of diminished consent if the participant:

1. Is also receiving clinical services;

2. Has an impairment which limits understanding or communication; or

3. Is a child.

(4) ~~A credential holder~~[An alcohol and drug counselor] performing research shall respect a participant's freedom to decline participation in, or to withdraw from, a research study at any time.

(5) ~~A credential holder~~[An alcohol and drug counselor] shall avoid a dual relationship with research participants.

(6) Information obtained about a research participant during the course of an investigation shall be confidential unless there is an authorization previously obtained in writing. The following shall be explained to the participant before obtaining written, informed consent:

(a) A risk that another person, including a family member, could obtain access to the information; and

(b) The plan to be used to protect confidentiality.

Section 7. Financial Arrangements. ~~A credential holder~~[An alcohol and drug counselor] shall:

(1) Not charge an excessive fee for service;

(2) Disclose[his] fees to a client and supervisee at the beginning of service;

(3) Make financial arrangements with a client[patient], third-party payor, or supervisee that:

(a) Are reasonably understandable; and

(b) Conform to accepted professional practices;

(4) Not offer or accept compensation[payment] for a referral of a client;

(5) Represent facts truthfully to a client, third-party payor, or supervisee regarding services rendered; and

(6) Not trade services to the client in exchange for goods or services provided by or on behalf of the client.

Section 8. Advertising. (1) ~~A credential holder~~[An alcohol and drug counselor] shall:

(a) Accurately represent education, training, and experience relevant to the practice of professional alcohol and drug counseling;

(b) Not use professional identification that includes a statement or claim that is false, fraudulent, misleading, or deceptive, including the following:

1. A business card;

2. An office sign;

3. Letterhead;

4. Telephone or association directory listing; or

5. Webpage or social media.

(2) A statement shall be considered false, fraudulent, misleading, or deceptive if it:

(a) Contains a material misrepresentation of fact;

(b) Is intended to or is likely to create an unjustified expectation; or

(c) Deletes a material fact or information.

Section 9. Environment. ~~A credential holder~~[An alcohol and drug counselor] shall provide a safe, functional environment in

which to offer alcohol and drug counseling services. This shall include the following:

(1) Allowance for privacy and confidentiality; and

(2) Compliance with any other health and safety requirement according to local, state, and federal agencies.

Section 10. Documentation. ~~A credential holder~~[An alcohol and drug counselor] shall accurately document activity with a client in a timely manner.

Section 11. Interprofessional Relationships. ~~A credential holder~~[An alcohol and drug counselor] shall treat a colleague with respect, courtesy, and fairness and shall afford the same professional courtesy to other professionals.

(1) ~~A credential holder~~[An alcohol and drug counselor] shall not offer professional service to a client in counseling with another professional unless efforts have been made to inform[except with the knowledge of] the other professional, or to establish collaborative treatment, or until after the termination of the client's relationship with the other professional.

(2) ~~A credential holder~~[An alcohol and drug counselor] shall cooperate with a duly constituted professional ethics committee and promptly supply necessary information unless constrained by the demands of confidentiality.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: June 29, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:040. Continuing education requirements.

RELATES TO: KRS 309.085(1)(b)

STATUTORY AUTHORITY: KRS 309.0813(2), 309.085(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.813(2) and KRS 309.085(1)(b) authorize the Board of Alcohol and Drug Counselors to promulgate administrative regulations establishing[KRS 309.085(1)(b) authorizes the board to require a credential holder] promulgate an administrative regulation requiring certified alcohol and drug counselors[to complete] continuing education requirements as a condition of renewal[of certification]. This administrative regulation establishes the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1.[Definitions. (1) "Academic course" means a course offered by an accredited postsecondary institution beyond the undergraduate level, that is:

(a) An alcohol and drug counseling course, designated by title or content; or

(b) An academic course, relevant to alcohol and drug counseling.

(2) "Approved" means recognized by the Kentucky Board of Certification of Certified Alcohol and Drug Counselors.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in a continuing educational experience.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or in a series.

(5) "Provider" means an organization approved by the Kentucky Board of Certification for Certified Alcohol and Drug Counselors for providing continuing education programs.

(6) "Relevant" means having content applicable to the practice of alcohol and drug counseling in accordance with the

requirements of Section 4(2) of this administrative regulation.

Section 2.] Basic Continuing Education Requirements. (1)(a) A minimum of ten (10) continuing education hours each year shall be accrued by each person holding a registration as an alcohol and drug peer support specialist.

(b) A minimum of sixty (60) continuing education hours shall be accrued by each person holding a certificate as a certified alcohol and drug counselor[certification] during the three (3) year certification period for renewal with at least three (3) continuing education hours in/being on ethics.

(c) A minimum of sixty (60) continuing education hours shall be accrued by each person holding a license as a licensed clinical alcohol and drug counselor during the three (3) year licensure period for renewal with at least three (3) continuing education hours in/being on ethics.

(d) A minimum of twenty (20) continuing education hours each year shall be accrued by each person holding a license as a licensed clinical alcohol and drug counselor associate. A licensed clinical alcohol and drug counselor associate shall obtain at least three (3) continuing education hours in ethics during the renewal cycle.

(2) All continuing education hours shall be relevant to the field of alcohol and drug counseling.

(3)[All continuing education activities approved by the board shall be accepted toward the continuing education requirements for renewal of a certificate.] A credential[certificate] holder shall determine prior to attending a specific continuing education program that the program:

(a) Has been approved by the board; or

(b) Is offered or sponsored by an organization approved by the board to provide continuing education programs.

(4) If the specific continuing education program is not pre-approved as established in subsection (3) of this section, the certificate holder may apply for board approval by providing the information required by Section 4[5] of this administrative regulation.

(5) A credential holder shall complete a minimum of six (6) hours of continuing education in suicide assessment, treatment, and management as required by KRS 210.366. The suicide assessment, treatment, and management continuing education course shall be approved by the board, be provided by an entity identified in Section 2(4)(b)[(3)] of this administrative regulation, or be approved by one (1) of the following boards:

(a) Kentucky Board of Social Work;

(b) Kentucky Board of Licensure of Marriage and Family Therapists;

(c) Kentucky Board of Licensed Professional Counselors;

(d) Kentucky Board of Licensure for Pastoral Counselors;

(e) Kentucky Board of Examiners of Psychology; or

(f) Kentucky Board of Licensure for Occupational Therapy.

Section 2.[3.] Methods of Acquiring Continuing Education Hours.

(1) Continuing education hours applicable to the renewal of the credential[certificate] shall be directly related to the professional growth and development of a credential holder[certified alcohol and drug counselor].

(2) Continuing education hours may be earned by:

(a) Attending a continuing education program that has prior approval by the board;

(b) The completion of appropriate academic coursework; or

(c) Other alternative methods approved by the board in accordance with subsection 6[(5)] of this section.

(3) At least fifty (50) percent off[(d)] the required continuing education hours for a credential holder shall be earned through live, face to face, continuing education presentations.

(4)[not less than fifty (50) percent face to face of the required continuing education hours.

~~(3)]~~ Attendance at continuing education programs automatically approved by the board.

(a) A program relevant to the practice of alcohol and drug counseling that is provided, approved, or sponsored by any of

the providers listed in paragraph (b) of this subsection shall be:

1. Approved without further review; and

2. Exempt from the program fee established in 201 KAR 35:020, Section 9.

(b) The provisions of this subsection shall apply to the following providers:

1. The National Association of Addiction Professionals (NAADAC) and its member boards;

2.[A program provided, approved, or sponsored by any of the following providers and that is relevant to the practice of alcohol and drug counseling shall be deemed to be approved without further review by the board and shall be]and[exempt from the program fee established in 201 KAR 35:020, Section 9:

(a) The National Association of Addiction Professionals (NAADAC) and its[its][member boards;

(b)] The International Certification and Reciprocity Consortium (ICRC);

3.[(e)] The Kentucky Cabinet for Health and Family Services, Division of Mental Health and Substance Abuse and its subcontractors;

4.[(d)] The Kentucky School of Alcohol and Drug Studies;

5.[(e)] An Addiction[Addition] Technology Transfer Center (ATTC);and]

6.[(f)] State or United State Regional Addiction Training Institute; or

7.[(g)] Clinical Applications of the Principles on Treatment of Addictions and Substance Abuse (CAPTASA).

(5)[(4)](a) Academic coursework. An academic course, as defined in 201 KAR 35:010, Section 1(1)[of this administrative regulation], shall not require board review or approval.

(b) A general education course, or elective designated to meet academic[undergraduate] degree requirements, shall be acceptable for continuing education credit if it is relevant to the practice of alcohol and drug counseling.

(c) Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equaling fifteen (15) continuing education hours.

(6)[(5)] Alternative methods for obtaining continuing education hours; programs requiring board review and approval.[A program from any of] The following activities[sources] shall be reviewed by the board to determine whether or not the activity[program] complies with the requirements of Section 3(2)[4(2)] of this administrative regulation:

(a)1. A program, including a home study course and in-service training provided by an organization or education institution not listed in subsection (4)(b)[(3)] of this section; or

2.[(b)] A program or academic course presented by the credential[certificate] holder, who shall earn two (2) continuing education hours for each contact hour of instruction, unless it is repeated instruction of the same course; or

(b)]:

1. A presenter of a relevant program or academic course shall earn two (2) continuing education hours for each contact hour of instruction.

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

(c)1.] A relevant publication in a professionally recognized or juried publication authored by the credential[certificate] holder, who shall earn continuing hours[.

2. Continuing education hours shall be granted for relevant publications] as follows:

1.[a.] Five (5) continuing education hours for each published abstract or book review in a refereed journal;

2.[b.] Ten (10) continuing education hours for each book chapter or monograph;

3.[c.] Fifteen (15) continuing education hours for each published article in a refereed journal; and

4.[d.] Twenty (20) continuing education hours for each published book.

Section 3.[4.] Procedures for Preapproval of Continuing

Education Programs. (1) An applicant seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least thirty (30)~~[sixty (60)]~~ days in advance of the commencement of the program, and shall provide the information required in Section 4[5] of this administrative regulation.

(2) A continuing education activity shall be qualified for approval if the activity:

- (a) Is an organized program of learning;
- (b) Pertains to subject matter relating to alcohol and drug counseling;
- (c) Enhances the professional competence of the credential~~[certificate]~~ holder by:

- 1. Refreshing knowledge and skills; or
- 2. Educating on a new topic or subject; and

(d) Is conducted by a competent instructor, as documented by appropriate academic training, professional licensure~~[licenses]~~ or certification, or professionally recognized experience.

(3)(a) The board may monitor or review a continuing education program approved by the board, in accordance with this section.

(b) Upon evidence of significant variation in the program presented from the program approved, the board shall withdraw approval of the hours granted to the program.

Section 4[5]. Subsequent Approval of Continuing Education Programs. (1) A course that has not been preapproved by the board may be used for continuing education if approval is subsequently secured from the board.

(2) The following information shall be submitted for board review of a program:

- (a) A published course or seminar description;
- (b) The name and qualifications of the instructor;
- (c) A copy of the program agenda indicating hours of education;
- (d) Number of continuing education hours requested;
- (e) Official certificate of completion or college transcript from the sponsoring agency or college; and
- (f) Application for continuing education credits approval.

Section 5[6]. Application for Approved Sponsor. (1) A company, individual, or association that wishes to be designated as an approved sponsor of continuing education shall complete a Continuing Education Sponsor Application incorporated by reference in 201 KAR 35:020~~[shall]~~, and pay the provider fee established in 201 KAR 35:020, Section 9.

(2) An approved sponsor of continuing education shall be allowed to advertise the program as pre-approved to meet the continuing education requirements for credential~~[certificate]~~ renewal.

(3)(a) Approval shall be for one (1) year from date of approval unless substantial course changes occur.

(b) For purposes of this section, a substantial course change shall be a change in the curriculum in excess of twenty (20) percent.

Section 6[7]. Responsibilities and Reporting Requirements of Credential~~[Certificate]~~ Holder; Audit. (1)(a) During the~~[certification]~~ renewal period, the board shall review at least~~[require up to]~~ fifteen (15) percent of all credential holders~~[certificate holders to furnish]~~ documentation supporting~~[of]~~ the completion of the appropriate number of continuing education hours through a random audit process.

(b) Copies of supporting documentation submitted to the board shall be shredded and shall not be returned to the certificate holder upon completion of the audit process.

(c) Verification of continuing education hours shall not otherwise be reported to the board.

(2) A credential~~[certificate]~~ holder shall:

- (a) Be responsible for obtaining the required continuing education hours;
- (b) Identify personal continuing education needs and seek activities that meets those needs;
- (c) Seek ways to integrate new knowledge, skills, and activities;

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

(e) Submit to the board, if applicable, a request for approval for continuing education activities not approved as established in Section 3[2]~~[4]~~3(4) of this administrative regulation;

(f) Document attendance, participation in, and successful completion of continuing education activity; and

(g) Maintain records of continuing education hours for five (5) years from the date of the offering of the continuing education activity.

(3) The following items may be used to document continuing education activity:

- (a) Transcript;
- (b) Certificate;
- (c) Affidavit signed by the instructor;
- (d) Receipt for the fee paid to the sponsor; or
- (e) Written summary of experiences that are not formally or officially documented otherwise.

(4) Failure to comply with this administrative regulation shall constitute a violation of KRS 309.085(1)(b) and shall result in board:

- (a) Refusal to renew credential~~[certification]~~;
- (b) Suspension of credential~~[certification]~~; or
- (c) Revocation of credential~~[certification]~~.

Section 7[8]. Carry-over of Continuing Education Hours Prohibited. Continuing education hours earned in excess of those required pursuant to Section 1[2] of this administrative regulation shall not be carried forward~~[over into the immediately following certification renewal period]~~.

Section 8[9]. Appeal of Denial of Continuing Education Hours by the Board. (1) If an application for approval of continuing education hours is denied, the certificate holder shall have the right to appeal the board's decision.

(2) An appeal shall be:

- (a) In writing;
- (b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and
- (c) Conducted in accordance with KRS Chapter 13B.

Section 10[11]. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

- (a) Medical disability or serious injury of the credential~~[certificate]~~ holder;
- (b) Serious illness of the credential~~[certificate]~~ holder or of an immediate family member; or
- (c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

- (a) Submitted by the certificate holder; and
- (b) Accompanied by a verifying document signed by a licensed physician or an advanced practice registered nurse.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the credential~~[certificate]~~ holder shall reapply for the waiver or extension.

Section 9[14]. Continuing Education Requirements for Reinstatement or Reactivation of a Credential~~[Certification]~~. (1) A person requesting reinstatement of certification or licensure shall:

- (a) Submit evidence of receiving sixty (60) hours of continuing education within the three (3) year period immediately preceding the date that reinstatement is requested; or
- (b) [1.] Obtain sixty (60) hours of continuing education within six (6) months of reinstatement of certification or licensure.
- (2) [2.] Failure to obtain sixty (60) hours within six (6) months

shall result in termination of certification or licensure.

(3)(2) A person requesting reinstatement of a registration shall:

(a) Submit evidence of receiving thirty (30) hours of continuing education within the three (3) year period immediately preceding the date that reinstatement is requested; or

(b) Obtain ten (10) hours of continuing education within six (6) months of reinstatement of registration.

(4)(2) Failure to obtain ten (10) hours within six (6) months shall result in termination of registration.

(5)(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 1(2) of this administrative regulation and shall not be used to comply with the requirements of that section.

Section 10.12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Continuing Sponsor Application Form", [2008;] and

(b) "KBADC Form 18, Continuing Education Program Application", June 2015["Continuing Education Program Application Form" (200)].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Certification of Alcohol and Drug Counselors, 911 Leewood Drive, Frankfort, Kentucky, telephone (502) 564-3296 ext. 222, Monday through Friday, 8:30 a.m. to 5:00 p.m.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:050. Curriculum of study.

RELATES TO: KRS 309.083(4), (8)

STATUTORY AUTHORITY: KRS 309.0813(1), (5), (6), 309.083, 309.0831, 309.0832, 309.0833(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.083, 309.0831, 309.0832, and 309.0833(4) require the Board of Alcohol and Drug Counselors to promulgate administrative regulations establishing curriculum requirements for applicants for a credential[requires that applicants for a credential](certification)[shall complete a specific number of](have completed 270)[classroom hours of board-approved curriculum]. This administrative regulation identifies the areas of study that will satisfy the requirement.

Section 1.(1) Registration. An applicant seeking registration as an alcohol and drug peer support specialist shall:

(a) Complete sixty (60) classroom hours, which shall include:

1.(a) Sixteen (16) hours of interactive, face-to-face training in ethics;

2.(b) Two (2) hours of training in the transmission, control, treatment, and prevention of the human immunodeficiency virus;

3.(c) Ten (10) hours of advocacy training;

4.(d) Ten (10) hours of training in mentoring and education; and

5.(e) Ten (10) hours of training in recovery support; and

(b) File with the board KBADC Form 5, Peer Support Specialist, Verification of Alcohol and Drug Training.

(2) Certification. (a) An applicant seeking certification as an alcohol and drug counselor shall:

1. Complete[The] 270 classroom hours that[which] are[of curriculum required by KRS 309.083(4) to receive certification as

an alcohol and drug counselor shall be] specifically related to the knowledge and skills necessary to perform the following alcohol and drug counselor competencies:

a.[1.] Understanding addiction;

b.[2.] Treatment knowledge;

c.[3.] Application to practice;

d.[4.] Professional readiness;

e.[5.] Clinical evaluation;

f.[6.] Treatment planning;

g.[7.] Referral;

h.[8.] Service coordination;

i.[9.] Counseling;

j.[10.] Client, family, and community education;

k.[11.] Documentation; and

l.[12.] Professional and ethical responsibilities[twelve (12) core function, which shall be:

(a) Screening;

(b) Intake;

(c) Client orientation;

(d) Assessment;

(e) Treatment planning;

(f) Counseling;

(g) Case management;

(h) Crisis intervention;

(i) Client education;

(j) Referral;

(k) Reports and recordkeeping; and

(l) Consultation]; and

2. File with the board KBADC Form 10, Certified Alcohol and Drug Counselor, Verification of Classroom Training.

(b)[(2) A minimum of 135 hours of the total 270 hours shall be specific to alcohol or drug treatment.

(3) A minimum of six (6) hours of the total 270 hours shall be interactive, face-to-face[specific to professional] ethics training relating to counseling.

(c)[; and (4) Two (2) hours of the total 270 hours shall be specific to transmission, control, and treatment of the human immunodeficiency virus and other sexually transmitted diseases.

(d) Three (3) hours of the total 270 hours shall be specific to domestic violence.

(3)(a) An applicant seeking licensure as a licensed clinical alcohol and drug counselor or associate shall:

1. Complete 180 classroom hours of curriculum that[which] are specifically related to the knowledge and skills necessary to perform the following alcohol and drug counselor competencies:

a.[1.] Understanding addiction;

b.[2.] Treatment knowledge;

c.[3.] Application to practice;

d.[4.] Professional readiness;

e.[5.] Clinical evaluation;

f.[6.] Treatment planning;

g.[7.] Referral;

h.[8.] Service coordination;

i.[9.] Counseling;

j.[10.] Client, family, and community education;

k.[11.] Documentation; and

l.[12.] Professional and ethical responsibilities; and
2. File with the board KBADC Form 11, Verification of Classroom Training.

(b) A minimum of six (6) hours of the total 180 hours shall be interactive, face-to-face ethics training relating to counseling.

(c) Two (2) hours of the total 180 hours shall be specific to transmission, control, and treatment of the human immunodeficiency virus and other sexually transmitted diseases.

(d) Three (3) hours of the total 180 hours shall be specific to domestic violence.

[(5) Subsections (2) through (4) shall go into effect January 1, 2009.]

Section 2. (1) Attendance at conferences, workshops, seminars, or in-service training related to addictions shall be acceptable to meet the requirements of Section 1 of this administrative regulation if the board determines that the activity:

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(a) Is an organized program of learning;
(b) Covers an area listed in Section 1 of this administrative regulation; and

(c) Is conducted by a competent instructor, as documented by appropriate academic training, professional licensure or certification, or professionally recognized experience.

(2) One (1) semester hour of study from an accredited college or university credit shall equal fifteen (15) classroom hours.

(3) Publication on a subject relevant to addictions therapy may be submitted to the board. Credit shall be granted as established in this subsection.[follows:]

(a) A chapter in a book shall be equivalent to ten (10) classroom hours.

(b) 1. Authoring or editing a book relevant to addictions therapy shall be given credit equivalent to thirty (30) classroom hours.

2. An applicant shall submit a copy of the title page, table of contents, and bibliography.

(c) 1. Publication in a professional refereed journal shall be[is] equivalent to fifteen (15) classroom hours.

2. An applicant shall submit the journal table of contents and a copy of the article as it appeared in the journal including bibliography.

Section 3. (1) A list of courses the applicant wishes to have considered shall be organized by core area as established in Section 1 of this administrative regulation and shall include documentation to verify that the course satisfies the requirements of that section.

(2) Appropriate documentation of the course shall include:

(a) Date;

(b) Title;

(c) Description;

(d) Sponsoring organization;

(e) Presenter and presenter's credentials;

(f) Number of contact hours attended; and

(g) Certificates of attendance or transcript.

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

(a) "KBADC Form 5, Peer Support Specialist Verification of Alcohol/Drug Training", June 2015;

(b) "KBADC Form 10, Certified Alcohol and Drug Counselor Verification of Classroom Training", June 2015; and

(c) "KBADC Form 11, Verification of Classroom Training", June 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 911 Leawood Drive, Frankfort, Kentucky, Monday through Friday, 8:30 a.m. to 5 p.m.[Certification as an alcohol and drug counselor in the International Certification and Reciprocity Consortium shall be accepted as evidence that the applicant has met both the educational and experiential requirements for certification established in KRS 309.083.]

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

GENERAL GOVERNMENT CABINET Board of Alcohol and Drug Counselors (As Amended at ARRS, December 9, 2015)

201 KAR 35:055. Temporary Registration or Certification.

RELATES TO: KRS 309.083, 309.0831

STATUTORY AUTHORITY: KRS 309.0813(1), (5), 309.083, 309.0831

NECESSITY, FUNCTION, AND CONFORMITY: KRS

309.0813(1) and (5) authorize the board to promulgate administrative regulations establishing the requirements for registering with the Board of Alcohol and Drug Counselors as a registered alcohol and drug peer support specialist, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, or licensed clinical alcohol and drug counselor[an applicant for temporary credentials]. This administrative regulation establishes the requirements for temporary credentials.

Section 1. Application for Temporary Registration. (1) An applicant for temporary registration as a certified drug and alcohol peer support specialist may submit an application[An application for a credential to perform functions as a drug and alcohol peer support specialist may be submitted] after the requirements established in KRS 309.0831(1), (2), (6), (7), and (10) are met.

(2) The application required by subsection (1) of this section shall be made by submitting a completed KBADC Form 1, incorporated by reference in 201 KAR 35:020[application for temporary registration]. The application shall:

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

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

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

(b) Be accompanied by:

1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 35:020, Section 1(1);

2. Proof of a high school diploma or equivalent;

3. A signed agreement to abide by the standards of practice and code of ethics approved by the board;

4. KBADC Form 2, Attestation of Recovery, in which the applicant declares that he or she has been[An attestation to being] in recovery for a minimum of two (2) years from a substance-related disorder; and

5. A supervision agreement signed by the applicant and the applicant's supervisor.

Section 2. Application for Temporary Certification. (1) An applicant for temporary certification as a certified alcohol and drug counselor may submit KBADC Form 1, incorporated by reference in 201 KAR 35:020[An application for a credential to perform functions as a certified drug and alcohol counselor may be submitted] after the requirements established in KRS 309.083(1), (2), (6), (7), and (10) are met.

(2) [The application required by subsection (1) of this section shall be made by submitting a completed application for temporary registration.] The application shall:

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

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

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

(b) Be accompanied by:

1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 35:020, Section 1(1);

2. An official transcript for all levels of education required for certification;

3. A signed agreement to abide by the standards of practice and code of ethics approved by the board; and

4. A supervision agreement signed by the applicant and the applicant's supervisor.

Section 3. Period of Temporary Credential. (1) The period of a temporary credential shall be terminated upon the passage of two (2) years from issuance.

(2) The board may approve an extension of the period of a temporary credential for a maximum of two (2) years if a:

(a) Written request is submitted that is cosigned by the board approved supervisor; and

(b) One (1) of the circumstances delineated in 201 KAR 35:040, Section 8(1), exists[Under exceptional circumstances and upon written request cosigned by the board approved supervisor, the board may approve an extension of the period of a temporary credential for no more than two (2) years].

(3) The board shall not grant[no] more than two (2) extensions of the period of a temporary credential.

Section 4. Incorporation by Reference. (1) "KBADC Form 2, Attestation of Recovery", June 2015, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Alcohol and Drug Counselors, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5:00 p.m.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

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CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:060. Complaint procedure.

RELATES TO: KRS 13B, 61.878(1)(l), 309.0805(1), 309.0813(6), (7), (11), (13), 309.086

STATUTORY AUTHORITY: KRS 309.0813(6), (7), (11)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(6), (7), (11), and 309.086 require the Board of Alcohol and Drug Counselors to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089, including disciplinary actions, complaints, and hearings[authorizes the board to fine, reprimand, admonish, revoke, suspend, place on probation, or restrict a credential][certificate][holder and delineates the causes for which disciplinary action may be taken against a credential][certificate][holder]. This administrative regulation establishes procedures for the filing, evaluation, and disposition of administrative complaints.

Section 1.[Definitions. (1) "Chair" means the chairman or vice-chairman of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 309, the administrative regulations promulgated thereunder, or another state or federal statute or regulation.

(3) "Complaint" means a written allegation of misconduct by a credentialed individual or another person, alleging a violation of:

(a) KRS Chapter 309;

(b) Administrative regulations promulgated in accordance with KRS Chapter 309;

(c) Another state or federal statute or regulation; or

(d) A combination of paragraphs (a), (b) or (c).

(4) "Complaint screening committee" means a committee consisting of up to two (2) members of the board appointed by the chair to review complaints, investigative reports, and to participate in informal proceedings to resolve a formal complaint. In addition to board members, the executive director of the Division of Occupations and Professions or another staff member may be appointed to assist the committee, but shall not have voting privileges.

(5) "Formal complaint" means a formal administrative pleading authorized by the board, which establishes charges against a

certificate holder or another and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of a matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

Section 2.[Receipt of Complaints. (1) A complaint:

(a) May be submitted by:

1. An individual;

2. An organization;

3. An entity; or

4. The board, based upon information in its possession;

and

(b) Shall be:

1. Submitted using a Complaint Form; and

2. Signed by the person offering the complaint[an:

1. Individual;

2. Organization; or

3. Entity;

(b) Shall be:

1. In writing; and

2. Signed by the person offering the complaint; and

(c) May be filed by the board based upon information in its possession].

(2)(a) Upon receipt of a complaint, a copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of the board's notice[date of receipt] to submit a written response.

(3)(a) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant.

(b) The complainant shall have seven (7) days from receipt to submit a written reply to the response.

Section 2.[3.] Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any relevant material available and make a recommendation to the board.

(a) The names of the individuals and other identifying information shall be redacted to provide anonymity.

(b) If the complaint screening committee determines there is insufficient evidence to warrant a formal investigation of the complaint, the committee shall recommend that the board conduct an investigation[The complaint screening committee shall recommend to the board][shall determine][whether there is sufficient][enough][evidence to warrant a formal investigation of the complaint].

(2) If the complaint screening committee determines there is insufficient evidence to warrant an investigation, it shall recommend that the board[determines before formal investigation that a complaint is without merit, it shall]:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board accepts the recommendation of the complaint screening committee[determines] that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

(4) If the board accepts the recommendation of the complaint screening committee that there is a prima facie violation of KRS Chapter 309 or 201 KAR Chapter 35, the board shall issue a formal complaint against the credential holder.

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Section 3. (1) The board may investigate complaints related to violations of this administrative regulation and may impose the following penalties on a credential holder:

- (a) Restrict;
- (b) Probate;
- (c) Suspend;
- (d) Revoke;
- (e) Issue a public reprimand;
- (f) Issue of a private admonishment; or
- (g) Fine.

(2) The board may impose any combination of the penalties in subsection (1) of this section.

~~Section 4. [Results of Formal Investigation; Board Decision on Hearing.]~~ (1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint.

(a) The complaint screening committee shall review the investigative report and make a recommendation to the board.

(b) If the board accepts the recommendation of the complaint screening committee that [shall determine whether] there has been a prima facie violation of KRS Chapter 309 or 201 KAR Chapter 35 [the administrative regulations promulgated thereunder], [and] a complaint shall be filed.

(2) If the board accepts the recommendation of the complaint screening committee [determines] that a complaint does not warrant the issuance of a formal complaint, it shall:

- (a) Dismiss the complaint; and
- (b) Notify the complainant and respondent of the board's decision.

(3) If the board accepts the recommendation of the complaint screening committee [determines] that a violation has occurred but is not serious, the board shall issue a private written admonishment to the credential [certificate] holder.

(a) A copy of the private written admonishment shall be placed in the permanent file of the credential [certificate] holder.

(b) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in any subsequent disciplinary action against the credential holder or applicant. [The certificate holder shall have the right to file a response in writing to the admonishment within thirty (30) days of its receipt and may have it placed in a permanent file.

(c) Alternatively, the certificate holder may file a request for a hearing with the board within thirty (30) days of the admonishment.

(d) Upon receipt of the request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.]

(4) If the board accepts the recommendation of the complaint screening committee [determines] that a complaint warrants a disciplinary action, the board shall issue a notice of disciplinary action and inform the credential holder:

- (a) Of the specific reason for the board's action, including:
 - 1. The statutory or regulatory violation; and
 - 2. The factual basis on which the disciplinary action is based;
- (b) Of the penalty to be imposed; and

(c) That the credential holder may appeal the penalty to the board within twenty (20) calendar days of the date of the board's notice.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the board's notice.

(3) If the request for an administrative hearing is not timely filed, the notice of denial shall be effective upon the expiration of the time for the credential holder to request an appeal.

~~Section 5. [the issuance of a formal complaint against the respondent counsel for the board, in conjunction with the complaint screening committee, shall prepare a formal complaint that states clearly the charge or charges to be considered at the hearing.~~

~~(a) The formal complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B.~~

~~(b) The formal complaint shall be processed in accordance with KRS Chapter 13B.~~

~~(5)] If the board determines that a person is in violation of KRS 309.0805(1), it shall:~~

~~(1)[(a)] Order the individual to cease and desist from further violations of KRS 309.0805(1); or~~

~~(2)[(b)] Initiate action in Franklin Circuit Court pursuant to KRS 309.0813(13) for injunctive relief to stop the violation of KRS 309.0805(1).~~

~~Section 6.[5.] Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of [appropriately] dispensing with the matter.~~

~~(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.~~

~~(3) The board may employ mediation as a method of resolving the matter informally.~~

~~Section 7. Revocation of Probation. (1)(a) If the board moves to revoke the probation of a credential holder, the board shall issue a notice of revocation and inform the credential holder:~~

~~1. [(a)] Of the factual basis on which the revocation is based;~~

~~2. [(b)] Of each probation term violated;~~

~~3. [(c)] That the credential holder may appeal the revocation to the board within fifteen (15) days of the date of notification of revocation. [; and]~~

~~(b) [(d)] The notification shall be sent to the last known address on file with the board for the credential holder.~~

~~(2) A written request for an administrative hearing shall be filed with the board within fifteen (15) calendar days of the date of the board's notice.~~

~~(3) If the request for an administrative hearing is not timely filed, the notice of denial shall be effective upon the expiration of the time for the credential holder to request an appeal.~~

~~Section 8. Any request for an administrative hearing shall be sent to the Board of Alcohol and Drug Counselors by mail to P.O. Box 1360, Frankfort, Kentucky 40602 or by hand-delivery to 911 Leawood Drive, Frankfort, Kentucky 40601[6. Notice of Service of Process. A notice required by KRS Chapter 309 or this administrative regulation shall be issued pursuant to KRS Chapter 13B].~~

~~Section 9. The administrative hearing shall be conducted in accordance with KRS Chapter 13B.~~

~~Section 10.[7.] Incorporation by Reference. (1) "Complaint Form", 2008, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of [Certification of] Alcohol and Drug Counselors, 911 Leawood Drive, Frankfort, Kentucky, telephone (502) 564-3296, ext. 222, Monday through Friday, 8:30 a.m. to 5 p.m.~~

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)

201 KAR 35:070. Supervision[and work] experience.

RELATES TO: KRS 309.083(4), 309.0831, 309.0832, 309.0833

STATUTORY AUTHORITY: KRS 309.0813(1), [and] (3), (5), 309.083, 309.0831, 309.0832, 309.0833, **309.086**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089. KRS 309.0813(3) requires the board to approve or disapprove those persons who shall be credentialed[certified]. **This administrative regulation establishes the standards for the accumulation of required supervised work experience[KRS 309.083, 309.0831, 309.0832, and 309.0833 require](4) requires][all applicants for registration as an alcohol and drug peer support specialist, certification as an alcohol and drug counselor, licensure as a clinical alcohol and drug counselor associate, or licensure as a clinical alcohol and drug counselor to have completed under]300 hours of board-approved experience working with alcohol or drug-dependent persons under the][direct supervision from][of][a certified alcohol and drug counselor who has at least two (2) years of postcertification experience or licensure as a clinical alcohol and drug counselor].** [This administrative regulation establishes the standards for the accumulation of the required supervised work experience.]

Section 1. (1) Peer Support Specialist Supervision. Peer support specialist supervision shall continue throughout the period of registration.

(2)[Definitions. (1) "Clinical supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing services related to the twelve (12) core functions of the alcohol and drug counselor.

(2) "Clinical supervisor" means a certified alcohol and drug counselor who has at least two (2) years of postcertificate experience and who provides supervision to not more than twelve (12) applicants in an individual or group setting at any one (1) time, and whose certificate is currently in good standing with the board.

(3) "Work experience" is defined as the hours spent performing the services, tasks, and reports necessary for providing counseling or intervention to a chemically dependent person or person's significant others.

Section 2.] Clinical Supervision. [(4)] Clinical supervision shall consist of at least 300 hours and shall include a minimum of ten (10) hours in each of the following twelve (12) core functions:

- (a) Screening;
- (b) Intake;
- (c) Client orientation;
- (d) Assessment;
- (e) Treatment planning;
- (f) Counseling;
- (g) Case management;
- (h) Crisis intervention;
- (i) Client education;
- (j) Referral;
- (k) Reports and recordkeeping; and
- (l) Consultation.

(3)[(2)](a) Clinical supervision may occur in individual or in group settings.

(b) The methods of clinical supervision include:

1. Face-to-face;
2. Video conferencing; or
3. Teleconferencing.

(4)[(3)] A minimum of 200 hours of clinical supervision shall be conducted face-to-face in an individual or group setting.

(5)[(4)] Clinical supervisors shall complete and submit **KBADC**

Form 13. Verification of Clinical Supervision. [the Supervisor's form] in the Application for Certification as an Alcohol and Drug Counselor, Application for Licensure as a Clinical Alcohol and Drug Counselor Associate, or Application for Licensure as a Clinical Alcohol and Drug Counselor [incorporated by reference in 201-KAR 35:020, Section 40,] that documents the 300 hours of supervision that has occurred during the work experience.

(6)[(5)] If the applicant qualifies for licensure, supervision obtained under KRS 309.083 prior to the effective date of this administrative regulation shall be calculated toward the 300 hour supervision requirement under KRS 309.0832(10).

Section 2. Except as provided **by Section 1(6) of this administrative regulation**, a supervisory arrangement shall have the prior approval of the board, with both supervisor and supervisee submitting a Supervisory Agreement to the board. The supervisor and supervisee shall submit to the board the description of the supervisory arrangement or a change in the supervisory arrangement at least thirty (30) days prior to the effective date of the arrangement or change unless extenuating circumstances prevent the submission the thirty (30) day requirement[3. Accumulation of Work Experience. (1) 6,000 hours of work experience shall be accumulated in a setting where chemical dependency services are routinely provided.

(2) Supervised work experience shall be in the twelve (12) core functions referenced in Section 2 of this administrative regulation to enhance the candidate's understanding and application of the twelve (12) core functions to the practice of alcohol and drug counseling.

(3) The work experience may be either paid or unpaid.]

Section 3.[4.] (1) All supervision requirements shall:

(a) Be met with face-to-face individual or group weekly contact between supervisor and supervisee except as provided in subsection (2) of this section and Sections 12 and 15 of this administrative regulation;

(b) Consist of not less than two (2) hours, two (2) times a month **in/of** the practice of alcohol and drug counseling; and

(c) Include additional supervision sessions, as needed.

(2) An alternative format of supervision, including two (2) way interactive video, may be substituted for the supervisory contact, required by subsection (1) of this section, upon specific approval by the board **for certain types of circumstances, such as distance, weather, or serious injury or illness of the supervisor or supervisee**.

(3) Upon a change of supervisor, a new plan for supervision shall be submitted by the supervisor and supervisee to the board for approval. This plan may require additional hours of supervision than was previously **approved/aproved** by the board.

(4) Upon termination of the supervisor-supervisee relationship, the final report of supervision shall be submitted to the board within thirty (30) days of the termination[Substitution of Work Experience.

(1) An applicant may substitute, for part of the work experience, a degree in a related field such as:

- (a) Addictions;
- (b) Counseling;
- (c) Psychology;
- (d) Psychiatric nursing; or
- (e) Social work.

(2) Requests for substitution shall be submitted to the board along with transcripts from an accredited College or University.

(3) Educational substitution shall be reviewed and approved by the board based upon education relative to the delivery of alcohol and other drug counseling.

(a)(1) A master's degree or higher in a related field, with a specialization in addictions or drug and alcohol counseling may be substituted for 4,000 hours of work experience.

(b) A master's degree or higher in a related field, may be substituted for 3,000 hours of work experience.

(c) A bachelor's degree in a related field, may be substituted for 2,000 hours of work experience.

(d) A bachelor's degree in an unrelated field shall not qualify for a substitution of hours, and the applicant shall provide proof of

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6,000 hours of work experience as established in Section 3 of this administrative regulation.

(4) The hours of work experience shall be documented on the candidate's application for certification and shall contain verification by the supervisor].

Section 4. (1) A certified alcohol and drug counselor or licensed clinical alcohol and drug counselor who has been approved by the board as a supervisor shall attend a board approved training session in supervisory practices within twelve (12) months of obtaining approval as a supervisor.

(2) A board approved supervisor shall obtain a minimum of three (3) continuing education hours in supervision theory or techniques in each three (3) year renewal cycle. The board shall suspend its approval of a supervisor if the supervisor does not complete the required continuing education.

(3) A certified alcohol and drug counselor or licensed clinical alcohol and drug counselor shall not be the supervisor of record for more than twelve (12) supervisees.

(4) A licensed clinical alcohol and drug counselor associate shall only be supervised by a licensed clinical alcohol and drug counselor.

Section 5. (1) The supervisor shall make all reasonable efforts to be assured that each supervisee's practice is in compliance with this administrative regulation.

(2) The supervisor shall report to the board an apparent violation of KRS 309.086 on the part of the supervisee.

(3) The supervisor shall inform the board immediately of a change in the ability to supervise[,] or in the ability of a supervisee to function in the practice of alcohol and drug counseling in a competent manner.

(4) The supervisor shall control, direct, or limit the supervisee's practice[as appropriate] to insure that the supervisee's practice of alcohol and drug counseling is competent.

(5) The supervisor of record shall be responsible for the practice of alcohol and drug counseling by the supervisee. If the board initiates an investigation concerning a supervisee, the investigation shall include the supervisor of record.

(6) For each person supervised, the supervisor shall maintain a **KBADC Form 13, Verification of Clinical Supervision, for[Supervisor Log of]** each supervisory session that shall include the type, place, and general content of the session. This record shall be maintained for a period of not less than six (6) years after the last date of supervision.

Section 6. (1) The supervisor of record shall submit the Supervisor Log for each supervisee to the board on an annual basis with a **KBADC Form 14, Supervision Annual Report** or as directed otherwise by the board.

(2) The report shall include:

(a) A description of the frequency, format, and duration of supervision;

(b) An assessment of the functioning of the supervisee, including the strengths and weaknesses; and

(c) Other information which may be relevant to an adequate assessment of the practice of the supervisee.

Section 7. (1) If a supervisee[supervisee] 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 require a **written request[special application]** to the board, which shall include detailed information as to how the supervisors shall communicate and coordinate with each other in providing the required supervision.

Section 8. If the supervisee is a licensed clinical alcohol and drug counselor associate, or an applicant for a certificate as a certified alcohol and drug counselor, the supervisor of record shall:

(1) Review all alcohol and drug assessments and treatment

plans;

(2) Review progress notes and correspondence on a regular basis to assess the competency of the supervisee to render alcohol and drug services;

(3) Jointly establish with the supervisee a supervisory plan that shall be submitted to the board and approved within thirty (30) days of the beginning of the supervisory relationship. The plan shall:

(a) Be updated and revised, as needed, and submitted to the board annually;

(b) Include intended format[,] and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process;

(4) **At least semi-annually**, have direct observation of the supervisee's work, **which may[at least semi-annually, Direct observation can]** be accomplished through audiotaping, video camera, videotaping, one (1) way mirror, or as a cotherapist;

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload, as appropriate, to the supervisee's level of competence;

(7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee; and

(8) Have knowledge of the supervisee's physical and emotional well-being **if[when]** it has a direct bearing on the supervisee's competence to practice.

Section 9. If the supervisee is a peer support specialist, the supervisor of record shall:

(1) Jointly establish with the supervisee a supervisory plan that shall be submitted to the board and approved within **thirty[thirty]** (30) days of the beginning of the supervisory relationship. The plan shall:

(a) Be updated and revised, as needed, and submitted to the board annually;

(b) Include intended format[,] and goals to be accomplished through the supervisory process; and

(c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process;

(2) Review and countersign all peer recovery service plans;

(3) Review peer recovery notes and correspondence on an as-needed basis to assess the competency of the supervisee to render peer recovery services;

(4) **At least once every two (2) months**, have direct observation of the supervisee's work, **which may[at least once every two (2) months, Direct observation can]** be accomplished through audiotaping, video camera, videotaping, one (1) way mirror or direct observation;

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload, as appropriate, to the supervisee's level of competence;

(7) Have knowledge of the methods and techniques being used by the supervisee; and

(8) Have knowledge of the supervisee's physical and emotional well-being **if[when]** it has a direct bearing on the supervisee's competence to practice.

Section 10. (1) The supervisee shall:

(a) Keep the supervisor adequately informed at all times of his or her activities and ability to function; and

(b) Seek consultation from the supervisor, as needed, in addition to a regularly-scheduled supervisory session.

(2) The supervisee shall:

(a) Participate with the supervisor in establishing supervisory goals and in completing the regular supervisory reports;

(b) 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 6(1) of this administrative regulation; and

(c) Report to the board an apparent violation on the part of the supervisor.

Section 11. Identification of Provider and Supervisor of Record. The actual deliverer of a service shall be identified to the client, and the client shall be informed of the deliverer's credential and name of supervisor of record. A billing for a rendered service shall identify which service was performed by the registered alcohol and drug peer support specialist, applicant as a certified alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, or other provider who is supervised by the board approved supervisor of record.

Section 12. Supervision of a Disciplined Credential Holder. (1) The board shall appoint an approved supervisor to supervise a disciplined credential holder for the period of time defined by the board and a member of the board to serve as a liaison between the board and the appointed supervisor.

(2) The disciplined credential holder shall be responsible for paying the fee for supervision.

(3) The supervisor shall have completed the board approved training course in supervision.

(4) The supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;

(b) Meet with the disciplined credential 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 approved by the board; and

4. Review the reporting requirements that shall be met during the period of supervision;

(c) Meet with the disciplined credential 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) Make all reasonable efforts to insure that the disciplined credential holder's practice is in compliance with KRS 309.080 to 309.089, and 201 KAR Chapter 35;

(f) Report to the board any apparent violation on the part of the disciplined credential holder;

(g) Immediately report to the board in writing a change in the ability to supervise, or in the ability of the disciplined credential holder to function in the practice of peer recovery support or substance use disorders counseling in a competent manner;

(h) Review and countersign assessments, as needed or appropriate;

(i) Review and countersign service or treatment plans, as needed or appropriate;

(j) Have direct observation of the disciplined credential holder's work on an as-needed basis;

(k) Have direct knowledge of the size and complexity of the disciplined credential holder's caseload;

(l) Have knowledge of the therapeutic methods, modalities, or techniques being used by the disciplined credential holder; and

(m) Have knowledge of the disciplined credential holder's physical and emotional well-being if/when it has a direct bearing on the disciplined credential holder's competence to practice.

(5) The supervisor shall control, direct, or limit the disciplined credential holder's practice ~~as appropriate~~ to ensure that the disciplined credential holder's practice is competent.

(6) The supervisor shall contact the board liaison with any concern or problem with the disciplined credential holder, his or her practice, or the supervision process.

(7) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the supervision. The meeting shall include the supervisor, disciplined credential holder, and board liaison. 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 13. Graduate Students in Programs Emphasizing

Substance Use Disorders Counseling. Graduate-level students in programs that emphasize alcohol and drug counseling who are providing services in health care settings that provide alcohol and drug counseling including independent practice settings shall:

(1) Be supervised by a licensed clinical alcohol and drug counselor or certified alcohol and drug counselor;

(2) Be registered for practicum credit on the transcript in his or her course of study;

(3) Clearly identify their status as unlicensed trainees in the field of alcohol and drug counseling to all clients and payors;

(4) Give to all clients and payors the name of the supervising licensed clinical alcohol and drug counselor or certified alcohol and drug counselor responsible for the student's work; and

(5) Not accept employment or placement to perform the same or similar activities following the completion of their university-sanctioned placement, regardless of the job title given, unless the student holds a certificate or license from the board.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KBADC Form 3, Supervisory Agreement", June 2015;

(b) "KBADC Form 4, Request to Provide Supervision", June 2015;

(c) "KBADC Form 6, Peer Support Specialist Supervisory Agreement", June 2015;

(d) "KBADC Form 7, Supervision Evaluation", June 2015;

(e) "KBADC Form 8, Peer Support Specialist Verification of Supervision", June 2015;

(f) "KBADC Form 9, Supervision Evaluation for Peer Support Specialist", June 2015;

(g) "KBADC Form 13, Verification of Clinical Supervision", June 2015; and

(h) "KBADC Form 14, Supervision Annual Report", June 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 911 Leawood Drive, Frankfort, Kentucky, Monday through Friday, 8:30 a.m. to 5 p.m.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: November 13, 2015

FILED WITH LRC: November 13, 2015 at noon

CONTACT PERSON: Kelly Walls, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:075. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

RELATES TO: KRS 309.083, 309.0831, 309.0832, 309.0833

STATUTORY AUTHORITY: KRS 309.0813(1), (3), (5), 309.083, 309.0831, 309.0832, 309.0833

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) authorizes the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089. KRS 309.083, 309.0831, 309.0832, and 309.0833 establish the standards for the accumulation of the required supervised work experience. **This administrative regulation establishes the requirements for substituting education for work experience requirements for an applicant for certification as an alcohol and drug counselor.**

Section 1. Substitution for Work Experience for an Applicant for Certification as an Alcohol and Drug Counselor. (1) An applicant may substitute, for part of the work experience, a degree in a related field such as:

(a) Addictions;

- (b) Counseling;
- (c) Psychology;
- (d) Psychiatric nursing; or
- (e) Social work.

(2) An applicant may request to substitute an educational degree for part of the required work experience by submitting KBADC Form 12, Workplace Experience Substitution Request. [Requests for substitution shall be submitted] to the board along with transcripts from an accredited college or university.

(3) Educational substitution shall be reviewed and approved by the board based upon education relative to the delivery of alcohol and other drug counseling.

(a) A master's degree or higher in a related field, with a specialization in addictions or drug and alcohol counseling, may be substituted for 4,000 hours of work experience.

(b) A master's degree or higher in a related field, without the specialization in paragraph (a) of this subsection, may be substituted for 3,000 hours of work experience.

(c) A bachelor's degree in a related field may be substituted for 2,000 hours of work experience.

(d) A bachelor's degree in an unrelated field shall not qualify for a substitution of hours, and the applicant shall provide proof of 6,000 hours of work experience as established in KRS 309.083(3) [Section 3 of this administrative regulation].

(4) The hours of work experience shall be documented on the candidate's application for certification and shall contain verification by the supervisor.

Section 2. Incorporation by Reference. (1) "KBADC Form 12, Workplace Experience Substitution Request", June 2015, is incorporated by reference.

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

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-5898.

**GENERAL GOVERNMENT CABINET
Board of Alcohol and Drug Counselors
(As Amended at ARRS, December 9, 2015)**

201 KAR 35:080. Voluntary inactive status.

RELATES TO: KRS 309.0813(12)

STATUTORY AUTHORITY: KRS 309.0813(1), ~~(3)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089. [KRS 309.0813(3) requires the board to approve or disapprove those persons who shall be registered, certified, or licensed.] This administrative regulation allows credential holders to place their credential [certificate] in voluntary inactive status for a period of time if they do not intend to actively practice alcohol and drug counseling or alcohol and drug peer support services in the Commonwealth of Kentucky.

Section 1. Conditions for Application for Voluntary Inactive Status. (1) Voluntary inactive status shall be for the credential holder who is currently not working as a peer support specialist or an alcohol and drug counselor, yet plans to return to providing peer support services or alcohol and drug counseling.

(2) The Kentucky Board [of Certification] of Alcohol and Drug Counselors shall grant inactive status if one (1) or more of the following conditions apply:

- (a) Medical problems;
- (b) Maternity or paternity;
- (c) Education;
- (d) Military service; or
- (e) Family or personal issues.

Section 2. Instructions for Application for Voluntary Inactive Status. (1) A credential holder [Credential holders] desiring inactive status shall send a letter of request to the office of the Kentucky Board [of Certification] of Alcohol and Drug Counselors and include the following information:

- (a) Current home address and telephone number;
- (b) Reason for request;
- (c) Final date of employment in the alcohol and drug field;
- (d) Anticipated date of return to employment in the alcohol and drug field; and
- (e) Nonrefundable enrollment fee as established in 201 KAR 35:020, Section 7.

(2) The request for voluntary inactive status shall be placed on the agenda of the next regularly-scheduled meeting of the Kentucky Board [of Certification] of Alcohol and Drug Counselors for consideration.

(3) The applicant shall be notified of the board's decision no[not] later than two (2) weeks after the board's meeting.

Section 3. Terms and Responsibilities. (1) While on voluntary inactive status, an individual shall continue to receive bulletins, newsletters, and other communications from the Kentucky Board [of Certification] of Alcohol and Drug Counselors.

(2) A counselor on voluntary inactive status shall not practice or use the initials of a [certified] counselor (e.g. CADC, LCADCA, or LCADC).

(3) A peer support specialist on voluntary inactive status shall not practice or use the initials of a registered peer support specialist (e.g. RPSS).

(4) Individuals on voluntary inactive status shall not be eligible for reciprocity.

(5) ~~(4)~~ Individuals on voluntary inactive status shall comply with [subscribe to any of the applicable aspects of] the Kentucky Code of Ethics as established in 201 KAR 35:030.

(6) ~~(5)~~ The voluntarily inactive individual shall immediately notify the Kentucky Board [of Certification] of Alcohol and Drug Counselors prior to [upon] returning to work in the alcohol and drug field and pay the reactivation fee established in 201 KAR 35:020, Section 7.

(7) ~~(6)~~ Failure to notify the board prior to [within thirty (30) days of] returning to [such] employment shall constitute a violation of the Kentucky Board [of Certification] of Alcohol and Drug Counselors Code of Ethics in 201 KAR 35:030, and shall, incorporated by reference in 201 KAR 35:040, and will] result in referral to the board for investigation, in accordance with the procedures outlined in 201 KAR Chapter 35 [the Code of Ethics and in these administrative regulations].

Section 4. Reactivation. (1) Individuals requesting reactivation of their registration, certification, or licensure status shall send a letter of request to the office of the Kentucky Board [of Certification] of Alcohol and Drug Counselors and shall include the following:

- (a) Current home address;
- (b) Current e-mail address;
- (c) Description of change of circumstances allowing active participation in the field;
- (d) ~~(e)~~ Address of employing agency, if applicable;
- (e) ~~(d)~~ Submission of proof of attendance of continuing education as required by 201 KAR 35:040; and
- (f) ~~(e)~~ Nonrefundable reactivation fee as established in 201 KAR 35:020, Section 8(3).

(2)(a) A request for reactivation shall be considered at the next regularly scheduled meeting of the Kentucky Board [of Certification] of Alcohol and Drug Counselors.

(b) The applicant shall be notified within two (2) weeks of the board's decision.

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GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: June 29, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator,
Division of Occupations and Professions, 911 Leawood Drive,
Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-
5898.

GENERAL GOVERNMENT CABINET Board of Alcohol and Drug Counselors (As Amended at ARRS, December 9, 2015)

**201 KAR 35:090. 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.**

RELATES TO: KRS 13B, 309.085, 309.086, 309.087

STATUTORY AUTHORITY: KRS 309.0813(1), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS
309.0813(1) and (6) require the Board of Alcohol and Drug
Counselors to promulgate administrative regulations
concerning denial, suspension, failure to reissue, or
revocation of a license, certificate, or registration[309.086
authorizes the board to refuse to issue or renew a registration,
certificate, or license. KRS 309.085 authorizes the board to
reinstate a registration, certificate, or license not renewed
within ninety (90) days of the renewal date and requested
within one (1) year of the anniversary date of issue of
renewal]. This administrative regulation establishes procedures for
appealing the board's refusal[appeals from the board
refusing] to issue, renew, or reinstate a registration, certificate, or
license or deny continuing education hours.

Section 1. The board may, in accordance with KRS 309.086:

- (1) Deny issuance of a registration, certificate, or license;
- (2) Refuse to renew a registration, certificate, or license; or
- (3) Refuse to reinstate a registration, certificate, or license.

Section 2. (1) The board may deny, refuse to renew, or refuse
to reinstate a registration, certificate, or license to an applicant or
credential holder, who violates the provisions of KRS
309.086(1).

(2) For purposes of this section:

(a) A conviction shall include a plea of guilty, an Alford
plea, or a trial conviction of a felony or misdemeanor; and
(b) Disregarding professional standards of practice, or
violating the Code of Ethics in KRS 309.086(1)(d), shall include
a:

(a) Has entered an Alford plea guilty, pleaded guilty, or has
been convicted of a:

1. Felony; or
2. Misdemeanor;

(b) Has had] disciplinary action taken against a professional
license, certificate, registration, or permit held by the applicant or
licensee in any jurisdiction or state, including Kentucky; or
(c) Has violated of a provision of KRS 309.080 to 309.089
or 201 KAR Chapter 35].

(3)[(2)] The board shall base its decision on the seriousness of
the offense or disciplinary action, the length of time since the
offense or disciplinary action, and the applicant's or credential
holder's showing of remorse, rehabilitation, and restitution by clear
and convincing evidence.

Section 3. (1)(a) The board shall issue written notice of the
denial or refusal and inform the applicant or credential holder of the
specific reason for the board's action, including:

1. The statutory or regulatory violation; and
2. The factual basis on which the denial or refusal is based;

and

(b) The notice of denial or refusal shall be sent to the last
address provided to the board by the applicant or credential holder.

(2) A written request for an administrative hearing shall be filed

with the board within twenty (20) calendar days of the date of the
board's notice.

(3) If the request for an administrative hearing is not timely
filed, the denial or refusal shall be effective upon the expiration of
the time for the credential holder to request an appeal.

(4) The administrative hearing shall be conducted in
accordance with KRS Chapter 13B.

(5) A credential holder may petition the board to stay the
effectiveness of a refusal to renew.

Section 4. Appeal of Denial of Continuing Education Hours by
the board. (1) If an application for approval of continuing education
hours is denied, the credential holder or provider shall have the
right to appeal the board's decision.

(2) An appeal shall be:

(a) In writing;

(b) Received by the board within thirty (30) days after the date
of the decision denying approval of continuing education hours;
and

(c) Conducted in accordance with KRS Chapter 13B.

Section 5. Any request for an administrative hearing shall be
sent to the Board of Alcohol and Drug Counselors by mail to P.O.
Box 1360, Frankfort, Kentucky 40602 or by delivery to 911
Leawood Drive, Frankfort, Kentucky 40601.

GEOFFREY WILSON, Board Chairperson

APPROVED BY AGENCY: July 1, 2015

FILED WITH LRC: August 25, 2015 at 3 p.m.

CONTACT PERSON: Kelly Wells, Board Administrator,
Division of Occupations and Professions, 911 Leawood Drive,
Frankfort, Kentucky 40602, phone (502) 782-8814, fax (502) 696-
5898.

GENERAL GOVERNMENT CABINET Board of Licensed Professional Counselors (As Amended at ARRS, December 9, 2015)

201 KAR 36:030. Continuing education requirements.

RELATES TO: KRS 13B, 194A.540, 210.366, 335.500-
335.990[335.535(8)]

STATUTORY AUTHORITY: KRS 210.366, 335.515(3), (6),
335.535(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 210.366
requires a board licensee to complete a minimum of six (6) hours
of continuing education in suicide assessment, treatment, and
management every six (6) years. KRS 335.515(3), (6) and
335.535(8) require the board to promulgate an administrative
regulation requiring a licensee to complete continuing education
requirements as a condition of renewal of his licensee. This
administrative regulation delineates the requirements for continuing
education and prescribes methods and standards for the
accreditation of continuing education courses.

Section 1. Definitions. (1) "Academic courses offered by an
accredited postsecondary institution" means:

(a) A professional counseling course, designated by a
professional counseling title or content; or

(b) An academic course, relevant to professional counseling.

(2) "Approved" means recognized by the Kentucky Board of
Licensed Professional Counselors.

(3) "Continuing education hour" means fifty (50) clock minutes
of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or a series.

(5) "Provider" means an organization approved by the
Kentucky Board of Licensed Professional Counselors for providing
continuing education programs.

(6) "Relevant" means having content applicable to the practice
of professional counseling[as determined by the board].

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Section 2. Accrual of Continuing Education Hours. (1) A minimum of ten (10) continuing education hours shall be accrued by each person holding a license during the annual period for renewal.

(2) All continuing education hours shall be in or related to the field of professional counseling.

(3) A person holding a license shall complete a minimum of three (3) hours of continuing education in domestic violence within three (3) years of initial licensure, as required by KRS 194A.540.

(4) 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 in suicide assessment, treatment, and management within the first year of licensure if the counselor:

1. Graduated from a Council for Accreditation of Counseling and Related Education Program since 2009; or

2. Completed a three (3) semester hours graduate course in suicide and crisis assessment, prevention, and intervention.

(b) A person holding a license shall be exempted from the requirement to complete a continuing education course in suicide assessment, treatment, and management if the counselor:

1. Is employed in a position that requires at least forty (40) hours of counseling in suicide and crisis assessment, prevention, and intervention;

2. Teaches a graduate-level counseling course in suicide and crisis assessment, prevention and intervention; or

3. Teaches a continuing education course in suicide and crisis assessment, prevention and intervention at least once per year during the six (6) year period.

(c) The continuing education course in suicide assessment, treatment, and management shall be board approved in accordance with Section 3 of this administrative regulation.

(d) An individual asserting an exemption of the suicide assessment, treatment, and management course shall maintain sufficient documentation to establish the exemption. Documentation listed in Section 6(3) of this administrative regulation shall be sufficient to establish the exemption.

(5) A person holding a license shall complete a minimum of three (3) hours of continuing education on the law for regulating professional counseling, KRS Chapter 335.500 to 335.990 and 201 KAR Chapter 36, every three (3) years. A person holding a license shall be exempt from this requirement if the person:

(a) Teaches a graduate-level course that includes KRS Chapter 335.500 to 335.990 and 201 KAR Chapter 36 during the three (3) year period; or

(b) Teaches a continuing education course on KRS Chapter 335.500 to 335.990 and 201 KAR Chapter 36 during the three (3) year period.

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 the licensee's practice of professional counseling. They may be earned by completing any of the following educational activities as established in this section:

(1) Programs not requiring board review and approval. An educational program from any of the following providers shall be deemed to be relevant to the practice of professional counseling and shall be approved without further review by the board if it is:

(a) Sponsored or approved by:

1. The American Counseling Association, or any of its affiliated branches or divisions;

2. The Kentucky Counseling Association, or any of its affiliated chapters or divisions;

3. The National Association of Social Workers or any of its affiliated state chapters;

4. The American Association of Marriage and Family Therapy or any of its affiliated state chapters;

5. The American School Counselor Association or any of its

affiliated state chapters; or

4. The American Psychological Association, or any of its affiliated state chapters or divisions;

7. The divisions of the Department of Mental Health and Mental Retardation of the Kentucky Cabinet for Health Services; or

8. The National Board for Certified Counselors; or

(b) An academic course offered by an accredited post-secondary institution directly related to professional counseling or counseling psychology;

(2) Programs requiring board review and approval. For approval purposes, the board shall review the following types of programs to determine relevancy. A program from any of the following sources shall be reviewed and determined if it is relevant and therefore subsequently approved by the board:

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

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

A presenter of relevant programs or academic courses may earn full continuing education credit for each contact hour of instruction, except the earned credit shall not exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course; or

(c) An article authored by the licensee that was published in a relevant, professionally recognized or juried publication. Credit shall not be granted for an article unless it was published within the one (1) year period immediately preceding the renewal date and a licensee shall not earn more than one-half (1/2) of the continuing education hours required for renewal. More than one (1) publication shall not be counted during a renewal period.

(3) The following continuing education programs shall be presented by an instructor who is licensed by the board:

(a) Domestic violence under Section 2(3) of this administrative regulation;

(b) Supervision training under 201 KAR 36:060, Section 3(3); or

(c) Suicide assessment, treatment, and management under Section 2(4) of this administrative regulation.

(4) Academic credit equivalency for continuing education hours shall be fifteen (15) continuing education hours for every one (1) academic credit hour.

(5) A general education course, whether elective or used to meet degree requirements, shall not be acceptable as continuing education credit. A continuing education program in domestic violence under Section 2(3) of this administrative regulation; supervision training under 201 KAR 36:060, Section 2(3); and/or suicide assessment, treatment, and management under Section 2(4) of this administrative regulation shall be presented by an instructor who is licensed by the board.

(3) A general education course, either elective or designated to meet degree requirements, shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

Section 4. Procedures for Approval of Continuing Education Programs. In order to submit the course to the board for approval, the following course, 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 these programs, the following information shall be submitted:

(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, 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) **The Continuing Education Program** Application~~[to the board for continuing education credits approval]~~; and

(7) If a provider seeking approval for a continuing education course, an application review fee of twenty (20) dollars.

Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs. (1) Sponsor approval. Any entity seeking to obtain approval:

(a) 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 on an annual basis for each program.

(b) As a prior-authorized continuing education provider under Section 3(1) of this administrative regulation, shall satisfy the board that the entity seeking this status:

1. Consistently offers programs which meet or exceed all the requirements set forth in Section 2(2) of this administrative regulation; and

2. Does not exclude a licensee from its programs.

(2) A continuing education activity shall be qualified for approval 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 professional counseling;

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

(d) Is conducted by individuals who have educational training or experience acceptable to the board.

Section 6. Responsibilities and Reporting Requirements of a Licensee. (1) During the licensure renewal period, up to fifteen (15) percent of all licensees shall be selected at random by the board and required to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.

(2) A licensee shall:

(a) Be responsible for obtaining required continuing education hours;

(b) Identify his own continuing education needs and seek activities that meets those needs;

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

(d) 1. Select approved activities by which to earn continuing education hours; or

2. Submit to the board a request for approval for continuing education activities not approved as required in Section 3(2) of this administrative regulation;

(e) At the time of renewal, list the continuing education hours obtained during that licensure renewal period;

(f) Document attendance, participation in, and successful completion of continuing education activity for a period of one (1) year from the date of the renewal; and

(g) Maintain records of continuing education hours.

(3) The following items may be used to document continuing education activity:

(a) Transcript;

(b) Certificate;

(c) Affidavit signed by the instructor; or

(d) Receipt for the fee paid to the sponsor. ~~[;]~~

(4) **Compliance[Comply]** with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.540(1)(b) and shall result in sanctions in accordance with KRS 335.540(1).

(5) Documentation sent to the board prior to renewal shall be returned to the licensee by regular mail.

Section 7. Responsibilities and Reporting Requirements of Providers and Sponsors. (1) A provider of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 6(3) of this administrative regulation, directly to the licensee.

(2) A sponsor 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 of Denial. (1) If an application for approval of continuing education hours is denied, in whole or part, the **continuing education course provider or** licensee shall have the right to appeal the board's decision.

(2) An appeal shall be:

(a) In writing;

(b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and

(c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

(a) Medical disability of the licensee;

(b) Illness of the licensee or an immediate family member; and

(c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

(a) Submitted by the person holding a license; and

(b) Accompanied by a verifying document signed by a licensed physician.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

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

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of License. (1) A person requesting reinstatement or reactivation of a license shall submit:

(a) Evidence of ten (10) hours of continuing education within the twelve (12) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board; or

(b) Upon request by the applicant, the board may permit the applicant to resume practice, ~~if[with the provision that he shall obtain the]~~ ten (10) hours continuing education **is obtained** within three (3) months of the date on which the applicant is approved to resume practice.

(2) 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) "Continuing Education Program Application, KBLPC 007", June 2015 edition, is incorporated by reference.

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

CHRISTOPHER A. GRIFFITH, Chairperson

APPROVED BY AGENCY: November 13, 2015

FILED WITH LRC: November 13, 2015 at noon

CONTACT PERSON: Diana Jarboe, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8803, fax (502) 696-5836.

GENERAL GOVERNMENT CABINET
Office of Occupations and Professions
Kentucky Board of Licensure for Massage Therapy
(As Amended at ARRS, December 9, 2015)

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~~

~~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 at <http://bmt.ky.gov>.

(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 in writing 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.

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
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(As Amended at ARRS, December 9, 2015)

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 in writing 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 at <http://bmt.ky.gov>.

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.

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
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(As Amended at ARRS, December 9, 2015)

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 **201 KAR Chapter 42[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. ~~(1)~~ The complaint committee shall:

~~(a)[(1)]~~ Review the initiating complaint and the response filed by the respondent at its next meeting; and

~~(b)[(2)]~~ Recommend one (1) of the following options to the board at the board's next meeting:

~~1.[(a)]~~ Dismissal;

~~2.[(b)]~~ Further investigation;

~~3.[(c)]~~ Issuance of a formal complaint; or

~~4.[(d)]~~ Referral to another government agency.

~~(2)[(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.

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
Office of Occupations and Professions
Board of Licensure for Massage Therapy
(As Amended at ARRS, December 9, 2015)**

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 Initial Application Form 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 in writing 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 the Certificate of Good Standing for a Massage Therapy Training Program Renewal Application 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 ~~for~~ Application 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 in writing 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

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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.

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, December 9, 2015)

301 KAR 2:030. Commercial guide license.

RELATES TO: KRS 150.170, ~~150.175,~~ 150.412, **164.772**

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[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 **assists a commercial guide and is in the same boat or** is directly **along side of the** ~~[supervised by a]~~ commercial guide **if standing on a stream or river bank and** while guiding others ~~[involved]~~ in the taking of fish ~~[wildlife]~~.

(3) [(4)] "Hunting guide helper":

(a) 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; and

(b) Does[, but shall] not include a person [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 **shall be** ~~[is]~~ valid from March 1 through the last day of February ~~[for one (1) calendar year]~~.

(3) An applicant **for** ~~[of]~~ a commercial guide license shall:

(a) Be eighteen (18) years of age or older;

(b) **Have** ~~[Have]~~ not been convicted of any state or federal fish or wildlife violation ~~[game violations]~~ during the previous three (3) years;

(c) **Have 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) Except as established in subsection (6) of this section,

~~in order~~ ~~[An applicant wanting]~~ to obtain ~~[apply for]~~ a commercial guide license, a person shall submit to the department:

(a) A ~~completed~~ ~~[An]~~ **Commercial Guide License Application Form** ~~[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;

~~[(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 **upon** ~~[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,]~~ **upon** ~~[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 **established in subsection (5) (d) of this section and,** ~~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) ~~[(c)]~~ of this section, **upon** ~~[when]~~ applying for a commercial guide license.

[(7) [(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 he or she represents[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 have been convicted of a felony[Certifications shall be maintained as specified by the certifying organization].

(7) A commercial guide license holder shall be responsible for any violation of this administrative regulation by a helper who is registered by the commercial guide.

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 Form", 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

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.

**TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, December 9, 2015)**

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, **164.772**

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.

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- (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 continuously 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) Except as established in subsection (2) of this section, each captive facility shall have ~~an approved handling facility or device, such as~~ a squeeze chute or crush ~~that, which~~ facilitates inspection, handling, or capture of an individual animal.

(2) If a permittee's facility does not have the handling or capture facilities established listed in subsection (1) of this section, the alternative shall be a dart gun or tranquilizer that immobilizes the animal 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) Except as established in subsection (3) of this section, 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 pygargus*); 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 of a violation of this administrative regulation, 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. Sell, offer to sell, trade, transport, hunt, or slaughter captive cervids ~~that~~ which are housed in that facility.

(13)(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.

(14)(13)(7) Expansions.

(a) A facility may be expanded ~~at any time~~ and shall conform to the fencing specifications established ~~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 established ~~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
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.

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, December 9, 2015)

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 148.029, 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 301 KAR Chapter 2[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 established[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 established[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
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.

GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
Division of Environmental Services
(As Amended at ARRS, December 9, 2015)

302 KAR 29:010. Definitions for 302 KAR Chapter 29.

RELATES TO: KRS Chapter 217B

STATUTORY AUTHORITY: KRS 217B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes the definitions which apply to 302 KAR Chapter 29, which implements the provisions of KRS Chapter 217B.

Section 1. Definitions. (1) "Accident" means an unexpected, undesirable event caused by the use or presence of a pesticide that adversely affects humans or the environment.

(2) "Application" means placing of a pesticide for effect, including mixing and loading.

(3) "Authorized agent" means a manager or license holder that is actively engaged in the company.

(4) "Calibration" means adjustment of dispersal or output of application equipment to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.

(5) "Certification" or "certified" means recognition by the department that a person has demonstrated a minimum level of competence by examination and continuing education units and is authorized to use or supervise the use of pesticides in the area of his certification.

(6) "Children are present" means the designated time period between two (2) hours before the start time and forty-five (45) minutes after the dismissal time of the regularly scheduled school day as determined by the school authority under the calendar set by the school board.

(7) "Commercial structural applicator" means a certified applicator that, for compensation, uses or supervises the use of any pesticide on any structure or substandard structure as defined in subsections (45)[(43)] and (46)[(44)] of this section.

(8)[(7)] "Commercial structural fumigation license" means a license issued to a person allowing him to engage in the business of using poisonous gases to control pests, general pests, and wood destroying organisms in structures.

(9)[(8)] "Common exposure route" means a probable manner, oral, dermal, or respiratory, by which a pesticide may reach or enter an organism.

(10)[(9)] "Compatibility" means chemical property of a pesticide that permits use with other chemicals without undesirable results being caused by the combination.

(11)[(10)] "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

[(14)] "Consumer disclosure" means a form which:

(a) ~~Discloses to the consumer any wood-destroying organism work to be performed by the commercial structural applicator; and~~

(b) ~~Includes the elements of the consumer disclosure form recommended by the Pest Control Advisory Board, approved by the Kentucky Department of Agriculture, and incorporated by reference in 302 KAR 29:050.]~~

(12) "Continuing education unit" means one (1) contact instructional hour of fifty (50) minutes.

(13) "Conventional termite treatment" means treatment with a registered liquid termiticide, used according to label instructions.

(14) "Environment" means water, air, land, plants, humans and other animals living therein, and the interrelationships which exist among them.

(15) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(16) "Graph" means a drawing of a structure that identifies the type of structure, provides an outline of the structure indicating

approximate length and width and records current visible wood-destroying activity, any current visible wood-destroying damage, and treatment methods recommended.

(17) "Hazard" means a probability that a given pesticide will have an adverse effect on humans or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(18) "Health care center" means hospitals, nursing homes, convalescent centers, clinics, medical centers, or any facility that provides overnight stay for the purpose of health care.

(19) "Host" means any plant or animal on or in which another plant or animal lives for nourishment, development, or protection.

(20) "Inactive status" means holding in reserve a license held by a person not actively engaged in pesticide sales or application.

(21) "Integrated pest management program" means a strategy of controlling pests, general pests, and wood destroying organisms by combining biological, chemical, cultural, mechanical, and physical control methods in a way that minimizes economic, health, and environmental risks.

(22) "Kentucky State Plan" means the certification maintenance requirements and training courses approved by the department on recommendation of the Pest Control Advisory Board as set forth in 302 KAR 29:060.

(23) "Moisture control treatment" means a treatment applied under the structure which consists of a ventilation system, soil cover, liquid chemical treatment, or any combination of the above.

(24) "Negligent manner" means failure to use reasonable care in application or use of pesticides.

(25) "New employee" means a person who has not been previously trained for thirty (30) days pursuant to KRS 217B.560.

(26) "Noncommercial structural applicator" means a certified person who uses or supervises the use of any pesticide while making applications to any structure owned, occupied, or managed by him or his employer.

(27) "Nontarget organism" means a plant or animal other than the one against which the pesticide is applied.

(28) "Notification" means information distributed to persons who request a notice of a pesticide application.

(29) "Operator in charge" means a person certified to apply fumigants and charged with the duty of overseeing the fumigation operation.

(30) "Outside areas":

(a) Means the property associated with commercial, industrial, or residential structures where a commercial structural pest control license holder, under KRS 217B.515(1)(a), is authorized to control pests, general pests, and wood destroying organisms by means other than "lawn chemicals" as defined by/under KRS 217B.300(1)(e); and

(b) Does not mean[. Outside areas shall exclude] places where land use practices are turf sports, golf courses, or/and farming/practices[.]

(31)[(29)] "Partial termite treatment" means any treatment performed to selected areas of a structure.

(32) "Posted" means a sign measuring at least eight and one-half (8.5) inches by eleven (11) inches displaying the words "Pesticide Treatment Area" and "Do Not Enter" along with listing an identified time for re-entry after the pesticide application is made.

(33)[(30)] "Practical knowledge" means the comprehension of and ability to identify and use pertinent facts in dealing with specific problems and situations.

(34)[(31)] "Protective equipment" means clothing or any other materials or devices that shield against unintentional exposure to pesticides.

(35)[(32)] "Registry" means a list, maintained by a school authority, of individuals that request advance notification of pesticide application.

(36)[(33)] "Regulated pest" means an organism for which restrictions, administrative regulations, or control procedures are in effect to protect the host, humans, or the environment.

(37)[(34)] "Remote pesticide sales agent" means an individual located outside of the Commonwealth of Kentucky who sells or distributes restricted use pesticides for delivery within the

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Commonwealth of Kentucky, or sells and makes recommendations for the use or application of pesticides to the final user accepting delivery within the Commonwealth of Kentucky.

~~(38)~~~~[(35)]~~ "Resident pesticide sales agent" means an individual located within the Commonwealth of Kentucky who sells or distributes restricted use pesticides or sells and makes recommendations for the use or application of pesticides to the final user.

~~(39)~~~~[(36)]~~ "School" means an institution for teaching children such as, but not limited to, preschool, kindergarten, child day care centers, primary, and secondary schools.

~~(40)~~~~[(37)]~~ "School authority" means superintendent, assistant superintendent, principal, assistant principal, headmaster, or a designee.

~~(41)~~~~[(38)]~~ "Spot fumigation" means a fumigation operation performed for the control of structural pests or wood-destroying organisms in special rooms, vaults, chambers, tanks, railroad boxcars, barges, aircraft, or other enclosed areas of limited size, and which are segregated so that the fumigation crews and other persons remain outside and are not exposed to toxic concentrations of the fumigants used.

~~(42)~~~~[(39)]~~ "Standard" means the level of knowledge and ability which must be demonstrated as a requirement for certification.

~~(43)~~~~[(40)]~~ "State" means the Commonwealth of Kentucky.

~~(44)~~~~[(41)]~~ "Structural pests" means those pests that have the potential to invade structures or may cause damage to structures.

~~(42)~~ "Structural pest control license" means a license issued to a person allowing him to engage in the business of structural pest control.

~~(45)~~~~[(43)]~~ "Structure" means any building regardless of its design or type of construction, public or private, vacant or occupied.

~~(46)~~~~[(44)]~~ "Substandard structure" means those structures with less than fourteen (14) inches of clearance between the soil and the bottom of the floor joists in the crawl area, structures with wood-to-soil contact, or any other structures that cannot be treated according to label directions.

~~(47)~~~~[(45)]~~ "Susceptibility" means the degree to which an organism is affected by a pesticide at a particular level of exposure.

~~(48)~~~~[(46)]~~ "Termite baiting system" means a termite monitoring and control program that uses bait stations, according to label directions, to deliver toxicant to termites.

~~(49)~~~~[(47)]~~ "Termite pretreatment" means the application of an approved termiticide or baiting system, according to label directions, in new construction.

~~(50)~~~~[(48)]~~ "Toxicity" means the property of a pesticide that causes any adverse physiological effects to a living organism.

~~(51)~~~~[(49)]~~ "Unauthorized personnel" means any individual or individuals not belonging to, or a part of, the fumigating crew performing a fumigation operation.

JAMES R. COMER, Commissioner

APPROVED BY AGENCY: September 14, 2015

FILED WITH LRC: September 15, 2015 at 11 a.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 500 Mero Street, 7th Floor, Frankfort Kentucky 40601, phone (502) 564-4696, fax (502) 564-2133.

GENERAL GOVERNMENT CABINET

Department of Agriculture

Office of Consumer and Environmental Protection

Division of Environmental Services

(As Amended at ARRS, December 9, 2015)

302 KAR 29:040. Settlement proceedings.

RELATES TO: KRS Chapter 217B

STATUTORY AUTHORITY: KRS 13B.070(3), 217B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS

Chapter 217B. This administrative regulation establishes procedures for the settlement of administrative complaints brought pursuant to KRS 217B.545.

Section 1. Commencement of Settlement Proceedings. At any time after the service of an administrative complaint upon a licensee and before hearing, the responding licensee may seek a settlement of any pending allegation **with the department**.

Section 2. Presentation of Proposal to Board. If an appropriate settlement has been negotiated, **the department shall present the negotiated settlement to the Pest Control Advisory Board[~~it shall be presented to the board~~] for acceptance, rejection, or modification. If accepted or modified, the offer of settlement[and if accepted,] shall be signed by the chairman and forwarded to the commissioner for acceptance or rejection.**

Section 3. Effect of Rejection. If the board rejects an offer of settlement, the matter shall continue to proceed as a formal proceeding pursuant to KRS Chapter 13B, unless the licensee requests that the offer be submitted directly to the commissioner for decision. If requested by the licensee, the offer shall be submitted directly to the commissioner along with the board's reasons for rejecting the offer and a recommendation from the board that the commissioner not approve the offer. The commissioner shall accept or reject the offer after reviewing the whole record. He may allow oral argument on the proposed offer before he makes a decision if either party moves for it and if it appears that such argument would substantially contribute to the decision-making process. If the commissioner approves the offer, he shall enter an appropriate order in conformance with the proposal. If the commissioner rejects the offer, the matter shall continue to proceed as a formal proceeding pursuant to KRS Chapter 13B. Rejection shall not be taken as a finding or determination of any kind on behalf of the board or commissioner, and no orders or other pleadings shall be filed in regard to any rejected offer.

Section 4. Action by the Commissioner. ~~(1)~~~~[(#)]~~ The commissioner **shall enter an order to:**

(a) Approve the board's recommendation for:

1. Acceptance of an offer of settlement;

2. Rejection of an offer of settlement; or

3. Modification of an offer of settlement;

(b) Approve a settlement request by a licensee after rejection by the board; or

(c) Conform with the commissioner's finding to dismiss a complaint in whole or in part.

~~(2)~~~~[approves of the board's recommendation for acceptance,] or [rejection, or modification of an offer of settlement, a request by the licensee for settlement after rejection by the board, or if the commissioner dismisses the complaint in whole or in part, he shall enter an order in conformance with his findings.]~~ If the commissioner rejects the settlement, the matter shall continue to proceed as a formal proceeding pursuant to KRS Chapter 13B.

~~[Section 5. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

JAMES R. COMER, Commissioner

APPROVED BY AGENCY: September 14, 2015

FILED WITH LRC: September 15, 2015 at 11 a.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 500 Mero Street, 7th Floor, Frankfort Kentucky 40601, phone (502) 564-4696, fax (502) 564-2133.

GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
Division of Environmental Services
(As Amended at ARRS, December 9, 2015)

302 KAR 29:050. Commercial structural pest control and fumigation.

RELATES TO: KRS 217B.190, 217B.515, 217B.520, 217B.525, 217B.545

STATUTORY AUTHORITY: KRS 217B.050, 217B.530

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. KRS 217B.515 requires that any person engaging in structural pest control be licensed. This administrative regulation establishes requirements applicable to the licensure and practice of commercial structural pest control and fumigation.

Section 1. Applicability. A person shall not engage in commercial structural pest control or fumigation without first obtaining a license from the department. A person may apply for a license in one (1) or more of the following categories:

- (1) Commercial structural pest control applicator;
- (2) Commercial structural pest control manager;
- (3) Commercial structural fumigation applicator;
- (4) Commercial structural fumigation manager; or
- (5) Pesticide sales agent.

Section 2. License Application. (1) All applicants for applicator or manager licenses shall provide the following:

- (a) A completed ["Commercial Structural Pest Control Examination Application"];
 - (b) A statement from a statewide law enforcement agency that the applicant has never been convicted of fraud[,] or misrepresentation[, or a felony];
 - (c) College transcripts if applicable; and
 - (d) Written verification of pesticide work experience, pursuant to KRS 217B.520.

(2) All applications for applicator or manager examinations shall be sworn to and notarized.

(3) Pursuant to KRS 217B.525(1), all applications for applicator or manager licenses shall be postmarked thirty (30) days prior to the next scheduled testing date. Any application received after the thirty (30) day deadline shall be returned.

(4) Any applicant failing to submit a complete application thirty (30) days prior to the scheduled testing date shall not be allowed to test.

(5) Any false or misleading statements made in a license application shall be grounds to deny or revoke the license.

(6) The application of any applicant convicted of a felony shall require approval by the board.

(7) The manager's license examinations shall be given the second Tuesday of each month at a location specified by the department. If the second Tuesday falls on a holiday, the examination shall be given on the following Tuesday.

(8) The manager's license examination shall be timed and shall be completed within two (2) hours.

(9) An applicant for an applicator's or manager's license shall pass both parts of the examination in a single testing session pursuant to KRS 217B.530(7).

Section 3. License Renewal. (1) Each license shall expire on June 30 of each year.

(2) Failure to submit, by July 1 of each year, a completed ["Structural Pest Control Renewal"] form with a fee of \$100 for each place of business maintained in Kentucky, shall result in the license holder having his license suspended until the renewal registration has been received and the fee and any associated fines are paid.

(3) At the time of license renewal, each company shall submit to the department a list with the following information on each

employee:

- (a) Name, address, and home telephone number;
- (b) Social Security number; and
- (c) Job title.

(4) Within thirty (30) days of the addition or termination of an employee, the company shall submit to the department the information required in subsection (4) of this section for each new or terminated employee.

Section 4. Change of Address Notices. Each license holder shall notify the department of any change of address within ten (10) days after the change has been made.

Section 5. Treatment for Wood-destroying Organisms. Unless the structure is substandard, the following standards shall apply:

(1) Treatment measures taken for the prevention or control of wood-destroying organisms shall be based upon an inspection of the structure.

(2) ~~Termite treatment measures. The following standards shall apply to the treatment of all structures for the control or prevention of subterranean termite infestations.~~

~~(a) The selection and use of soil-applied liquid termiticides, termite bait systems, wood treatments, or any other product used for control of wood-destroying organisms, including powderpost beetles and old house borers, shall be in accordance with directions on the product label.~~

~~(3) Loose cellulose debris that can be raked from beneath structures shall be removed.~~

~~(4) Except for a component of a termite baiting system that is affixed to termite tubes, all accessible termite tubes shall be removed.~~

~~(5) Upon performance of treatment for control or prevention of wood-destroying organisms, an agreement shall be made between the company and the property owner. This shall be a duplicate agreement, one (1) copy being issued to the property owner and one (1) copy retained by the company. The agreement shall include a graph[1. Loose cellulose debris that can be raked from beneath structures shall be removed.~~

~~2. Except for a component of a termite baiting system that is affixed to termite tubes, all accessible termite tubes shall be removed.~~

~~(b) Termite pretreatments shall be carried out in accordance with label directions of the product used and shall not be applied at less than label rates.~~

~~(c) Any alternative termite treatment measures or new technology in termite control with less than five (5) years efficacy data shall receive prior written approval from the department before the measures and technology may be registered and used. All alternative termite treatment measures or new technology in termite treatments shall be applied in accordance with label directions.~~

~~(3) Powderpost beetle and old house borer treatment measures:~~

~~(a) Treatment for the control of powderpost beetle or old house borer infestations may be performed by spraying or painting infested and adjacent areas with a pesticide labeled for their control; and~~

~~(b) Fumigation by licensed fumigators may be used to control powderpost beetle or old house borer infestations if other control measures have failed or are inappropriate].~~

~~(6) [(4)] Requirements for prevention and control of wood-destroying fungi. The following shall be the minimum requirements for control of wood-destroying fungi in crawl space areas or other areas of buildings after the buildings have been constructed:~~

~~(a) The applicator shall determine the moisture content of joists, sills, and subfloor in the building. If excess dampness from the soil under a building contributes to moisture readings above twenty (20) percent, the applicator shall:~~

~~1. Install a vapor barrier over approximately seventy (70) percent of the soil;~~

~~2. Install additional ventilation so there is at least one (1) square foot of vent space per 150 square feet of crawl space area without a vapor barrier;~~

3. Install vents to give cross ventilation with a vapor barrier;
4. Improve drainage;
5. Waterproof the foundation; or
6. Perform any combination of the items specified in subparagraphs 1 to 5 of this paragraph.

(b) The application of fungicides under the structure may be used in the control of existing decay problems under the following circumstances:

1. Spot treatment may be performed for areas with twenty (20) percent or above moisture readings.
2. Complete liquid treatment may only be performed in conjunction with paragraph (a) of this subsection if moisture readings are above twenty (20) percent in four (4) separate areas of a structure. a. The separate areas of a structure shall be:
 - (i) Left front;
 - (ii) Right front;
 - (iii) Left rear;
 - (iv) Right rear;
 - (v) Left center; and
 - (vi) Right center.
- b. Moisture readings shall be recorded on a graph at the time of original sale of treatment.
- c. If a structure qualifies with four (4) moisture readings, a moisture control treatment shall be performed.

~~Section 6[Wood-destroying Organism Reports. (1) A person holding a commercial structural pest control applicator's license shall submit to the department a monthly report of all work done for control or prevention of wood-destroying organisms. Each office or branch office shall file a separate report.~~

~~(2) Reports shall be made on the "Monthly Report of Wood-Destroying Organism Treatments" form and received by the department no later than the 15th of the month following treatment.~~

~~(3) All reports shall be signed by the licensed applicator or authorized agent for that company.~~

~~(4) Upon performance of treatment for control or prevention of wood-destroying organisms, a contract shall be made between the company and the property owner. This shall be, at minimum, a duplicate contract, one (1) copy being issued to the property owner and one (1) copy retained by the company.~~

~~Section 7. Consumer Disclosure. All contracts issued except those for preconstruction treatments shall be accompanied by a consumer disclosure signed by the consumer or an individual authorized by the consumer and a graph. If a signature cannot be obtained, a detailed explanation for the absence of the signature shall be included on the form.~~

~~Section—8]. Inspections by the Department. (1) The commissioner or his authorized representative may examine properties treated for the purpose of determining compliance with the treatment standards established in Section 5 of this administrative regulation.~~

~~(2)[2.] The pest control operator shall not accompany the inspector on the initial inspection unless requested by the department.~~

~~(3)[3.] If violations are found, the license holder shall be notified and given a reasonable length of time in which to abate the violations.~~

~~(4)[4.] If the license holder neglects or refuses to abate the violations, the license shall be suspended, as provided by KRS 217B.545, except for good cause shown.~~

~~(5) If a license is suspended, the license holder shall:~~

- (a) Retreat all properties on which a violation has been found;
- (b) Not otherwise service any current contracts or solicit any new business; and

~~(c) Notify the department of the dates of all reexaminations and retreatments.~~

~~(6) When all properties previously reported in an unsatisfactory condition have been reexamined and retreated, the department shall make the reinspections at its earliest convenience.~~

~~(7) If the department, on reinspection, finds all the properties in satisfactory condition, the suspension shall be removed.~~

Otherwise, the license shall be permanently revoked.

~~Section 7.[9.] Rodent Control.[Since most rodenticides are toxic to humans and domestic animals, care shall be exercised and precautionary steps taken to avoid accidental poisoning of human beings and domestic animals.] Rodenticides shall be used only according to label directions.~~

~~Section 8.[10.] Fumigation. (1) Fumigation crews. For purposes of safety, at least two (2) individuals shall compose a crew for the release of any fumigant or fumigants operation. Fumigation shall not be conducted unless at least two (2) individuals work jointly and concurrently in the release of a fumigant or fumigants. This subsection shall not apply to spot fumigation.~~

~~(2) Official notice of fumigation.~~

~~(a) Before performing general fumigation in a structure or enclosed space, a license or certification holder shall notify in writing the fire department and the police department having jurisdiction over the location where the fumigation operation is to be performed.~~

~~(b)1. Except as provided in subparagraph 2 of this paragraph, the written notification shall be given to each fire department and police department at least three (3) hours prior to the time stated in the notice for the release of the fumigant.~~

~~2. Notification shall be provided in advance of the fumigating operation, without the time limit established by subparagraph 1 of this paragraph, for fumigation of vessels, aircraft, boxcars, trucks, or common carriers.~~

~~(c) The notice shall give the following information:~~

1. Location of structure or enclosed space to be fumigated as well as its character and use;
2. The fumigant to be used;
3. The date and time of release of fumigant and approximate exposure period; and
4. The name and day and night telephone numbers of the operator in charge.

~~(3) If trucks, boxcars, or other common carriers are in transit during the fumigation operation, the carrier and the receiver shall be notified that fumigation has taken place. Other than trucks, boxcars, or other common carriers, this subsection shall not apply to spot fumigation.~~

~~(4) Structures to be vacant.~~

~~(a) Human beings or domestic animals shall not occupy the structure to be fumigated, or any part or parts thereof, during the period of fumigation. In addition, structures or enclosed spaces which are physically joined to or in contact with the structure to be fumigated shall not be occupied by human beings or domestic animals during the period of fumigation.~~

~~(b) The operator in charge shall make a careful examination of all parts of the structure to be fumigated and structures or enclosed spaces physically joined to or in contact with the structure, to verify that no human beings or domestic animals are remaining in the structure and that all necessary precautions have been taken to safeguard the lives and health of all persons.~~

~~(5) Notice of warning shall be served upon the occupants of the structure or enclosed space to be fumigated no later than three (3) hours in advance of any fumigation operation by leaving the notice with a responsible adult person or by attaching the notice in a conspicuous manner on the entrance or entrances of the structures or enclosed spaces occupied by human beings.~~

~~(6) The operator in charge shall make a personal inspection and examination of the structure or enclosed space to be fumigated.~~

~~(7) Danger signs.~~

~~(a) Prior to releasing the fumigant, warning signs shall be posted at the ground level on all doors or entrances as follows:~~

(Skull and Crossbones)	Danger Fumigation with (Name of Fumigant) Deadly Poison All persons are warned to keep away	(Skull and Crossbones)
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Name of Fumigator:

Address:
Telephone:
Operator in Charge:
Day Phone:
Night Phone:

(b) The signs shall be printed in indelible red ink or insoluble paint on a white background. The words "danger" and "deadly poison" shall be in block letters two (2) inches high and all other letters shall be in proportion.

(8) Final prefumigation inspection. Immediately before the fumigant is to be released, the operator in charge shall make a final inspection and shall ascertain the following:

(a) That all preparations have been completed;

(b) That no human beings or domestic animals are present within the structure or enclosed space to be fumigated, or in any adjacent structures or enclosed spaces that were to be vacated because of danger from the fumigation operation;

(c) That no open fires or open flames, pilot lights or oil lamps are burning;

(d) That all personnel engaged in the fumigation operation are outside the structure or enclosed space to be fumigated unless proper application of the fumigant requires personnel to be within the enclosed space at the time of application; and

(e) That all doors, windows, and all other means of access have been locked, barred, or guarded. All doors or other entrances which can be opened from the outside shall be locked.

(9) Guards and watchmen.

(a) During the period of fumigation, and until the structure has been ventilated and declared safe, at least one (1) capable, alert watchman or guard, shall remain on duty at the structure or enclosed space being fumigated. One (1) guard or watchman shall be considered sufficient for each fumigation operation unless, in the judgment of the operator in charge, the conditions and circumstances necessitate additional guards or watchmen.

(b) The guard or watchman shall prevent the entrance of unauthorized personnel into the structure or enclosed space during the exposure period and while the structure or enclosed space is being ventilated after the exposure period.

(c) Spot fumigation shall not require a guard or watchman, unless deemed necessary in the judgment of the operator in charge. (d) If a warning agent is used, the requirements established in this subsection shall not apply unless specified by the label.

(10) Declaring structure or enclosed space fumigated safe for reoccupancy. The operator in charge shall not permit or allow any unauthorized person to enter the structure or enclosed space fumigated until he has ascertained that it is safe for human occupancy.

(11) Spot fumigation. Spot fumigation may be performed by persons under the full-time supervision of a person certified to apply fumigants. Spot fumigation may be performed without the posting of guards as required for general fumigation. This shall not relieve the operator in charge of the duty to comply with all other safety precautions and requirements.

(12) The following procedures shall not be considered fumigation operations if nonrestricted use pesticides are used according to label directions:

(a) Aerosol dispersions; and

(b) Any equipment or device which produces a fog, smoke, or mist.

Section 9.[14-] Structural Pest Control and Fumigation Licenses. (1) A person holding a general pest and wood-destroying organism or fumigation license may continue to do business in those categories of pest control for which the person is licensed under KRS 217B.515(1)(b). A general pest and wood-destroying organism or fumigation certification shall not be a manager's or applicator's license and shall not entitle the holder to engage in business in all the categories that a manager or applicator may engage.

(2) Commercial structural pest control or fumigation licenses shall be renewed by June 30 of each year and shall be subject to all the terms and conditions of other licenses issued under this

administrative regulation. These licenses may be modified, suspended, or revoked for the same reasons, and using the same procedures, that a manager's or applicator's license may be modified, suspended, or revoked. These license holders shall meet the application standards and obey the requirements for contracting, recordkeeping, and reporting, established by KRS 217B.150 and by 302 KAR 29:020.

(3) A person holding a general pest and wood-destroying organism or fumigation license shall be, by reason of KRS 217B.180(3), certified to purchase or use restricted-use pesticides. This shall not relieve them from obtaining certification under the federal law as contained in the Federal Insecticides, Fungicide, and Rodenticide Act of 1972, as amended, 7 U.S.C. 136 et seq. The certification of persons certified under KRS 217B.180(3) may be modified, suspended, or revoked pursuant to 302 KAR 29:020. To maintain certification, persons certified pursuant to KRS 217B.180(3) shall meet the requirements of 302 KAR 29:060.

Section 10. Integrated Pest Management in Schools. Each school district shall implement an integrated pest management program with a primary goal of controlling pests, general pests, and wood-destroying organisms with the judicious use of pesticides. (1) Pesticides may be applied without notification indoors and to outside areas when children are not present.

(2) Pesticides may be applied without notification when children are present but shall be limited to:

(a) Germicides, disinfectants, bactericides, sanitizing agents, water purifiers, and swimming pool chemicals used in normal cleaning activities;

(b) Personal insect repellents;

(c) Human or animal ectoparasite control products administered by qualified health professionals or veterinarians;

(d) Manufactured paste, gel, or other formulations designated on the product label as bait and applied according to label instructions where humans do not have reasonable access to the application area; and

(e) Rodent control products placed in industry identified tamper-resistant bait stations or rodenticides placed in wall voids or other rodent harborage sites that are inaccessible to humans.

(3)(a) Each school authority shall maintain a registry of electronic mail or telephone contact numbers of parents or guardians who have requested notification prior to the application of pesticides in schools when children are present, and shall provide written notice to parents or guardians at the beginning of each school year of the existence of the registry and the process for being placed on the registry. The written notice shall be as follows:

"Dear Parent or Guardian:

Each school district in the Commonwealth is required to implement a program of "integrated pest management" with the primary goal of preventing and controlling pests through strategies that may include judicious use of pesticides. The application of pesticides in the school or on school grounds during times when children are present is limited by state regulation, but there may be occasions when, after consulting with a certified pesticide applicator, the school administration determines that a pesticide application is necessary when children are present in the school. As required by state regulation, we have created a registry for parents or guardians who wish to receive an electronic message or telephone call prior to the application of pesticides in the school when children are present. Please provide the school administration your email address or phone number if you wish to be placed on this registry."

(b) Notification by the school to parents or guardians on the registry shall be required *if/when* the school authority, after consultation with the certified applicator, determines that a pesticide application other than those listed in subsection (2) of this section, is necessary when children are present in the school.

(c) For pesticide applications made when children are present, the school authority shall provide the notification to persons listed on the registry at least one (1) hour prior to the making of the application.

(4) The notification required by subsection (3)(b) of this section

shall include:

- (a) The date and time of the pesticide application;
- (b) The target pests to be treated;
- (c) A description of the use of the area treated;
- (d) The brand name of the pesticides applied and the pesticide application method; and

(e) A telephone number that persons requesting prior notification can use to contact the school authority for more information.

(5) A copy of the notification shall be maintained by the school authority for twenty-four (24) months after the notification is issued and shall be subject to inspection upon request by Kentucky Department of Agriculture personnel.

(6) The certified applicator shall only be required to provide to the school authority the information required in subsection (4)(a) to (d) of this section on an Integrated Pest Management School Acknowledgement form provided by the department. The certified applicator shall retain a copy of the completed form.

(7) The completed form required by subsection (6) of this section shall:

(a) Include the information required in subsection (4)(a) to (d) of this section; and

(b) Be signed by the school authority acknowledging that the required information was received from the certified applicator prior to the application of pesticides when children are present.

(8) A copy of the completed form shall be maintained for thirty-six (36) months by the certified applicator after it is received and shall be subject to inspection upon request by Kentucky Department of Agriculture personnel.

(9) The area where the point of application of a pesticide occurred shall be posted by the certified applicator regardless of the absence or presence of children. ~~Section 12. Pesticide Application in Schools. Each school district shall implement an integrated pest management program with a primary goal of controlling dangerous and destructive pests with the judicious use of pesticides. An integrated pest management program shall include the items specified in this section:~~

(1) Advance notification of pesticide use.

(a) If a pesticide is to be applied in or around a school, an advance notification of pesticide use shall be given or sent by the school at least twenty-four (24) hours prior to the pesticide application to all staff members, health professionals assigned to provide services at the school and parents or guardians of students enrolled in the school as determined by the contact information maintained on file. Notice shall not be required if:

1. A pesticide is to be applied at a time the school is not in session under the calendar set by the school board; and

2. Persons other than the applicators and the minimum number of school staff necessary to allow the applications are not scheduled to be in the building during the application and for at least twenty-four (24) hours after the application.

(b) A master copy of the notification shall be maintained by the school in a file marked IPM for twenty-four months after the notice is issued and shall be subject to inspection upon request by Division of Environmental Services personnel.

(2) The notification shall include the following:

(a) The date of possible pesticide application;

(b) A description of the general location of the pesticide application;

(c) description of pests treated, the brand name of the pesticides applied, including the list of active ingredients, and the pesticide application method; and

(d) A telephone number that parents and staff can use to contact the school for more information.

(3) If special circumstances arise that prevent advance notice from being provided as required, such as the emergency application of pesticides to control organisms that pose an immediate health threat, the school shall provide the notice as soon as possible. The notice shall explain the reasons why advance notice was not provided and shall also include the information required in subsection 2(a) to (d) of this section.

(4) The certified applicator shall only be responsible to furnish to the school the information needed by the school to comply with

subsections (2)(a) to (c) of this section:

(a) At least thirty-six (36) hours prior to the application of the pesticide, if the school notification is provided as required by subsection (1)(a) of this section; or

(b) As early as possible, if the school notification is provided as required by subsection (3) of this section;

(5) Qualifications for pesticide applicators. Persons who apply pesticides in schools shall be certified under Category 7(a), General Pest and Wood-destroying Organisms, and Category 7(b), Integrated Pest Management, to apply pesticides. Applicators currently holding a Category 7(a) certification on the effective date of this administrative regulation shall receive their Category 7(b) certification without additional examination.

(6) Exemptions. This administrative regulation shall not apply to application of the following types of pesticides:

(a) Germicides, disinfectants, bactericides, sanitizing agents, water purifiers, and swimming pool chemicals used in normal cleaning activities;

(b) Personal insect repellents;

(c) Human or animal ectoparasite control products administered by qualified health professionals or veterinarians; and

(d) Manufactured paste or gel bait insecticides placed in areas where humans or pets do not have reasonable access to the bait; or

(e) Paraffin-based rodent control products placed in industry identified tamper-resistant bait stations].

Section 11. Branch Office Operations. Each branch office shall have a licensed manager. Any vacancy in the position of branch manager shall be filled within sixty (60) days of the occurrence of the vacancy. ~~Section 13. Qualifications for Pesticide Application for Health Care Centers. Pesticide applicators who apply pesticides in health care centers shall be certified in 7(a), General Pest and Wood-destroying Organisms, and 7(b), Integrated Pest Management, to apply pesticides. Applicators currently holding a Category 7(a) certification on the effective date of this administrative regulation shall receive their Category 7(b) certification without additional examination.~~

Section 12. ~~[44.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Commercial Structural Pest Control Examination Application", 2002;

(b) "Integrated Pest Management School Acknowledgement", 2015; and "[Monthly Report of Wood-Destroying Organism Treatments]" form, 11/99]

(c) "Structural Pest Control Renewal Form", December 2006; and

(d) "Consumer Disclosure Form", 2010].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Environmental Services, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained at www.kyagr.com.

JAMES R. COMER, Commissioner

APPROVED BY AGENCY: September 14, 2015

FILED WITH LRC: September 15, 2015 at 11 a.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 500 Mero Street, 7th Floor, Frankfort Kentucky 40601, phone (502) 564-4696, fax (502) 564-2133.

GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
Division of Environmental Services
(As Amended at ARRS, December 9, 2015)

302 KAR 29:060. Certification.

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136
 STATUTORY AUTHORITY: KRS 217B.050, 217B.060
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. KRS 217B.060 authorizes the department to establish classifications of pesticide licenses. This administrative regulation establishes a system of certification for persons required to be licensed or certified under KRS Chapter 217B.

Section 1. Certification. Except as provided by Section 7 of this administrative regulation, the certifications established in this administrative regulation shall be valid for three (3) years and shall be renewed and maintained in accordance with Section 7 of this administrative regulation.

Section 2. Types of Certification. (1) Category 7. Industrial, institutional, structural, and health-related pest control. This category shall cover all persons using or supervising the use of pesticides ~~in[only for] structural pest control only[pests]~~ in, on, or around food-handling establishments, human dwellings, educational facilities, health care centers, and industrial establishments, including warehouses and grain elevators and any other structures and ~~outside[adjacent]~~ areas, public or private; or for the protection of stored, processed, or manufactured products. Industrial, institutional, structural, and health-related pest control certification shall be divided into the following subcategories:

(a) Structural pest control certification shall cover the use of pesticides in the control of ~~pests, general pests and wood-destroying organisms by all means other than fumigation. Persons certified under this section shall be exempt from the certification requirements of 302 KAR Chapters 27 and 28 if using or supervising the use of pesticides for the control of pests, general pests, and wood-destroying organisms in outside[structural-invading pests in] areas[adjacent to or outside any structure] being treated by the person pursuant to 302 KAR Chapter 29; and~~

~~(b)[Integrated pest management certification shall cover an environmentally sound approach to pest management in schools and health care facilities with the goal of the judicious use of pesticides; and~~

~~(c)[Structural fumigation certification shall cover the use of pesticides in the form of poisonous gases.~~

(2) Category 8. Public health pest control. This category shall include state, federal, or other governmental employees using or supervising the use of pesticides in management and control of pests in public health programs.

(3) Category 12. Pesticide sales agent. This category shall include any individual who sells or distributes restricted use pesticides or any individual who sells and makes recommendations for the use and application of pesticides to the final user. Category 12 certification as a pesticide sales agent under this administrative regulation shall meet the requirements of Category 12 certification under 302 KAR Chapters 27 and 28. Persons taking orders or explaining service programs without naming or making recommendations for pesticide use shall be excluded from certification if the person selling or distributing pesticides is licensed as a pesticide sales agent.

Section 3. General Requirements. To obtain certification, a person shall take and pass, with a minimum score of seventy (70) percent, a certification examination in the category or categories in which certification is requested. A person shall not take an examination for a certification category while holding an active certification in the same category as the examination requested. Competency in the use and handling of pesticides shall be

determined and based upon standards established in this administrative regulation. The examination and testing shall include the general standards of competency in Section 4 of this administrative regulation and the specific standards of competency in Section 5 of this administrative regulation for each category or subcategory in which a person desires to be certified. A person shall pay an initial certification examination fee of twenty-five (25) dollars. For persons testing in multiple categories, there shall be an additional examination fee of ten (10) dollars for each additional category. Examination fees shall be charged each time a person takes a certification examination and shall be charged regardless of the passing or failing of the examination. Upon successfully passing an examination, a person shall have ninety (90) days from the date of testing to submit a completed ["]Structural Pest Control License Form["] specifying the category or categories in which a license is requested. After ninety (90) days have expired, a person shall retake the exam before activation of a license may occur.

Section 4. General Standards of Competency. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the requested certification and may include the following areas of competency:

- (1) Label and labeling comprehension:
 - (a) An understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labeling;
 - (b) Classification of the product, general or restricted; and
 - (c) Necessity for use consistent with the labeling;
- (2) Safety factors, including:
 - (a) Pesticide toxicity, hazard to humans, and common exposure routes;
 - (b) Common types and causes of pesticide accidents;
 - (c) Precautions necessary to guard against injury to applicator and other individuals in or near treated areas;
 - (d) Symptoms of pesticide poisoning;
 - (e) First aid and other procedures to be followed if a pesticide accident occurs;
 - (f) Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticide containers; and
 - (g) The proper selection and use of personal protective equipment for the handling and application of pesticides;
- (3) The potential environmental consequences of the use and misuse of pesticides as may be influenced by factors such as:
 - (a) Weather and other climatic conditions;
 - (b) Types of terrain, soil, or other substrata;
 - (c) Presence of fish, wildlife, and other nontarget organisms; and
 - (d) Drainage patterns;
- (4) Pest identification, including consideration of the following factors:
 - (a) Common features of pest organisms and characteristics of damage necessary to facilitate pest recognition; and
 - (b) Pest maturation and development as it may relate to the problem of identification and control;
- (5) Pesticides, including consideration of the following factors:
 - (a) Types of pesticides;
 - (b) Types of pesticide formulations;
 - (c) Compatibility, synergism, persistence, and animal and plant toxicity of the formulation;
 - (d) Hazards and residues associated with use;
 - (e) Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
 - (f) Dilution procedures;
- (6) Equipment, including consideration of the following factors:
 - (a) Types of pesticide application equipment and advantages and limitations of each; and
 - (b) Uses, maintenance, and calibration of equipment;
- (7) Application techniques; factors including:
 - (a) Methods used to apply various formulations of pesticides, solutions, and gases together with a knowledge of which technique or application to use in a given situation;
 - (b) Relationship of discharge and placement of pesticides to

proper use, unnecessary use, and misuse; and

(c) Prevention of drift and pesticide loss into the environment; and.

(8) Laws and regulations. Knowledge of pertinent aspects of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136-136y, and KRS Chapter 217B.

Section 5. Specific Standards of Competency. In addition to meeting the requirements of Sections 3 and 4 of this administrative regulation, persons requesting certification for a specific category shall demonstrate competence relating to that category as follows:

(1) Category 7. Industrial, institutional, structural, and health-related pest control. This category shall be subdivided as follows:

(a) Structural pest control. Persons requesting certification in this subcategory shall demonstrate practical knowledge of a wide variety of pests including general pests and wood-destroying organisms. This practical knowledge shall include their life cycles, habits, types of formulations, insecticides appropriate for their control, minimum standards of application, and methods of application that avoid contamination of habitat and exposure of people and pets and a practical knowledge of an integrated pest management program to determine if and when a treatment is needed. Components of an integrated pest management program may include education, proper sanitation, structural repair, mechanical control techniques, and pesticide application. Because[Since] human exposure[, including babies, pregnant women, and elderly people,] is frequently a potential problem, an applicant[applicants] shall demonstrate practical knowledge of the specific factors that[which] may lead to a hazardous condition. Because structural pest control may involve outdoor applications, an applicant[persons] shall also demonstrate practical knowledge of environmental conditions.

~~(b)[Integrated pest management. Persons requesting certification in this subcategory shall demonstrate a practical knowledge of an integrated pest management program to determine if and when a treatment is needed. Components of an integrated pest management program may include education, proper waste management, structural repair, maintenance, biological and mechanical control techniques, and pesticide application. A prerequisite for integrated pest management certification shall be 7(a) certification. Regardless of the original issue date of a 7(b) integrated pest management certification, its expiration and renewal dates shall be the same as the corresponding 7(a) certification.~~

(e) Structural fumigation. Persons requesting certification in this subcategory shall demonstrate a practical knowledge of those pests for which treatment by fumigation is an appropriate control technique. This practical knowledge shall include their life cycles, fumigants appropriate for their control, and alternative control techniques. Because of the potential dangers inherent in the use of fumigant gases, the applicant shall demonstrate knowledge of the dangers involved and the safety precautions established by 302 KAR Chapter 29 and by good operating practice. For those persons holding both a category 7(a) and 7(b)[7(e)] certification, the expiration and renewal dates of the 7(b)[7(e)] certification shall be the same as the corresponding 7(a) certification regardless of its original issue date.

(2) Category 8. Public health. A person[Persons] requesting public health certification shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences pesticide application programs. A wide variety of pests are involved and pests[they] shall be known and recognized.; and Appropriate life cycles and habitats shall be understood as a basis for control strategy. An applicant[These applicants] shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. An applicant[They] shall also have a practical knowledge of the importance and employment of nonchemical control methods as sanitation, waste disposal, and drainage[Each person with certification in category 8 in effect on September 8, 2010 shall be granted certification in category 7(a) and category 7(b) with a expiration date of December 31, 2012].

(3) Category 12. Pesticide sales agent. Persons desiring

certification in this category shall demonstrate practical knowledge of pesticide labels and label comprehension including environmental hazards, rates of application, proper application techniques, storage, shipping, handling, worker protection safety issues, and the different types of pesticides.

Section 6. License Examination. Structural. The examinations administered by the department pursuant to KRS 217B.530 and this administrative regulation for licensees to do business as structural pest control applicators, structural pest control managers, structural fumigation applicators, and structural fumigation managers shall contain all the requirements for certification to apply pesticides under this administrative regulation. If a person obtains a license to do business in one (1) or more of the above categories, that person shall be certified to purchase, use, or apply pesticides in the appropriate subcategory of industrial, institutional, structural, or health-related pest control.

Section 7. Certification Maintenance. (1) To maintain a category 7(a)[, or category 12] certification, each person certified under this administrative regulation shall, in any three (3) year period, attend at least fifteen (15)[twelve (12)] continuing education units of training, approved by the department, in the management of pests, general pests, and wood-destroying organisms[use] and application of pesticides. To[maintain a category 7(b) certification, an additional three (3) continuing education units of training shall be required. And, to] maintain a category 7(b)[7(e)] certification, each person certified in this category shall, in any three (3) year period, attend at least nine (9) continuing education units and three (3) category specific continuing education units of training. For those persons holding a category 7(a) certification who are also seeking to maintain a category 7(b)[7(e)] certification, an additional three (3) category specific continuing education units shall be required.[All certifications in effect on the effective date of this administrative regulation shall be renewed with an expiration date of December 31, 2015.] Credit shall be given in full continuing education unit increments only.

(2) To maintain a category 8 or category 12, each person certified under this administrative regulation shall, in any three (3) year period, attend at least twelve (12) continuing education units of training for a single category, approved by the department, in the use and application of pesticides. The training shall consist of nine (9) continuing education units of training based on Section 4 of this administrative regulation, and three (3) continuing education units of training based on Section 5 of this administrative regulation. For each additional category, in addition to the single category held by the person, an additional three (3) continuing education units shall be required. Nine (9) continuing education units of training based on Section 4 of this administrative regulation shall be required to maintain certification regardless of how many additional categories a person may hold. Credit shall be given in full continuing education unit increments[units] only.

(3) The department shall approve continuing education units based on the criteria in Sections 4 and 5 of this administrative regulation.

Section 8. Credentials. (1) If a person meets all the requirements to obtain a license to do business under KRS 217B.500 to 217B.585 and this administrative regulation, the department shall issue a document signifying that he is licensed to do business in the category for which he qualifies.

(a) Inactive status. If an applicator or operator for any reason changes status and is no longer employed but elects to maintain his license, he may do so by advising the department of the change and the reason for the change. The department shall then issue to that person a notification that his license will be held in inactive status. The license holder shall maintain certification and pay the annual renewal fee required by KRS 217B.535. The licensee shall not perform any type of regulated activity until the license is reactivated.

(b) Employee commercial license and certification. An employee of the Kentucky Department of Agriculture employed after the effective date of this administrative regulation shall not

obtain or maintain any active commercial pesticide license or active certification during the term of his employment with the department unless required by the department in the performance of his official duties. Any commercial pesticide license obtained by an employee prior to the effective date of this administrative regulation shall be placed in inactive status for the duration of his employment with the department unless required by the department in the performance of his official duties.

(2) If a person qualifies for certification incident to qualification for a license to do business, the department shall issue him one (1) document which shall be the license to do business and shall contain the certification category number.

(3) The department may, after payment of all applicable fees, waive the certification requirement and issue a certification to any person who holds a valid certification in another state if, in the opinion of the department, the other state's requirements are substantially similar to that of Kentucky and the other state agrees to reciprocate with Kentucky.

(4) A certification may be granted, denied, suspended, or revoked independent of the grant, denial, suspension, or revocation of any license to do business. In a like manner, any license to do business may be suspended or revoked independent of the grant, denial, suspension, or revocation of any certification.

Section 9. Incorporation by Reference. (1) "Structural Pest Control License Form", October 2012, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Pesticide Regulation, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained at www.kyagr.com.

JAMES R. COMER, Commissioner

APPROVED BY AGENCY: September 14, 2015

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CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 500 Mero Street, 7th Floor, Frankfort Kentucky 40601, phone (502) 564-4696, fax (502) 564-2133.

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water
(As Amended at ARRS, December 9, 2015)**

401 KAR 10:026. Designation of uses of surface waters.

RELATES TO: KRS 146.200-146.360, 146.410-146.535, 146.550-146.570, 146.600-146.619, 146.990, 224.1-010[224.04-040], 224.1-400[224.04-400], 224.16-050, 224.16-070, 224.70-100-224.70-140, 224.71-100-224.71-145, 224.73-100-224.73-120

STATUTORY AUTHORITY: KRS 146.220, 146.241, 146.270, 146.410, 146.450, 146.460, 146.465, 224.10-100, 224.16-050, 224.16-060, 224.70-100, 224.70-110, 40 C.F.R. Part 131, 16 U.S.C. 1271-1287, 1531-1544, 33 U.S.C. 1311, 1313, 1314, 1316, 1341

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the cabinet to develop and conduct a comprehensive program for the management of water resources and to provide for the prevention, abatement, and control of pollution. This administrative regulation and 401 KAR 10:001, 10:029, 10:030, and 10:031 establish procedures to protect the surface waters of the Commonwealth, and thus protect water resources. This administrative regulation applies the designated uses described in 401 KAR 10:031 to the surface waters of the Commonwealth. This administrative regulation also establishes that[makes] all surface waters shall be subject to the general criteria specified in 401 KAR 10:031, Section 2.

Section 1. Scope of Designation. (1) Surface waters listed in this administrative regulation shall be designated for all legitimate uses contained in KRS 224.70-100(1) except as specified in 401 KAR 10:031, Sections 5 and 8, or until redesignated in accordance

with the procedures of this administrative regulation.

(2) Designated uses are:

- (a) Warm water aquatic habitat;
- (b) Cold water aquatic habitat;
- (c) Primary contact recreation;
- (d) Secondary contact recreation;
- (e) Domestic water supply; and
- (f) Outstanding state resource water.

(3) Listed waters shall meet all criteria applicable to their designated uses and those criteria listed in 401 KAR 10:031, Section 2, unless the cabinet grants an exception pursuant to 401 KAR 10:031, Section 10 or 11.

(4) Outstanding state resource waters may have unique water quality characteristics that shall be protected by additional criteria established in 401 KAR 10:031, Section 8.

Section 2. Redesignation of Surface Water Uses. (1)(a) Surface waters shall not[may] be redesignated except[only] upon affirmative findings by the cabinet pursuant to Sections 3 and 4 of this administrative regulation.

(b) Before redesignating a surface water, the cabinet shall provide notice and an opportunity for a public hearing.

(2) In redesignating a surface water, the cabinet shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream surface waters.

(3) A designated use shall not be removed for a surface water if:

(a) That use is an existing use;[.] or

(b)[if] The use may be attained by implementing effluent limitations required under Sections 301(b) and 306 of the Clean Water Act, 33 U.S.C. 1311(b) and 1316, and by implementing cost-effective best management practices for nonpoint source control.

(4) If a surface water is designated for a use that is not an existing use, the cabinet shall redesignate the surface water upon demonstration that the designated use is unattainable because:

(a) Naturally occurring pollutant concentrations prevent the attainment of the use;

(b) Natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges;

(c) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;

(d) Dams, diversions, or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the surface water to its original condition or to operate the modification in a way that would result in the attainment of the use;

(e) Physical conditions related to the natural features of the surface water, but unrelated to water quality, preclude attainment of the aquatic life use, such as the lack of a proper substrate, cover, flow, depth, pools, or riffles; or

(f) Controls more stringent than those required by Sections 301(b) and 306 of the Clean Water Act, 33 U.S.C. 1311(b) and 1316, would result in substantial and widespread economic and social impact as determined by the guidelines in Interim Economic Guidance for Water Quality Standards Workbook, EPA, March 1995.

(5) Redesignations shall be consistent with the antidegradation provisions of 401 KAR 10:029 and 10:030.

Section 3. Documentation for Redesignations. (1)(a) A person may request redesignation of surface water uses by petition to the cabinet.

(b) The petitioner shall provide the cabinet with the documentation required in subsection (3) of this section and shall have the burden of proof that the redesignation is appropriate.

(2)(a) The cabinet may propose redesignations of surface water uses.

(b) The cabinet shall provide documentation for those surface waters that it proposes for use redesignation.

(3) Documentation to support the redesignation of a surface

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water of the Commonwealth shall be:

(a) A United States Geological Survey 7.5 minute topographic map or its equivalent showing those surface waters to be redesignated, with a description consisting of a river mile index with existing and proposed discharge points;

(b) Existing uses and water quality data for the surface waters for which the redesignation is proposed. If adequate data are unavailable, additional studies shall be required by the cabinet;

(c) Descriptions of general land uses and specific land uses adjacent to the surface waters for which the redesignation is proposed;

(d) The existing and designated uses of the downstream waters into which the surface water under consideration discharges;

(e) General physical characteristics of the surface water including width, depth, bottom composition, and slope;

(f) The frequency of occasions ~~if~~^{when} there is no natural flow in the surface water and the 7Q₁₀ and harmonic mean flow values for the surface water and adjacent surface waters;

(g) An assessment of the existing and potential aquatic life habitat in the surface waters under consideration and the adjacent upstream surface waters.

1. The existing aquatic life shall be documented and livestock and natural wildlife dependence on the surface water shall be assessed; ~~and~~^[-]

2. The occurrence of individuals or populations, indices of diversity and well-being, and abundance of species of unique native biota shall be documented;

(h) The proposed designated uses for the surface water in question; and

(i) An explanation of the irretrievable person-induced, or natural conditions that preclude attainment of a higher use designation or an assessment of the substantial and widespread social and economic impacts resulting from the imposition of additional controls necessary for existing point sources, beyond the most stringent effluent limitation levels normally required for the sources.

Section 4. Procedures for Redesignation. (1) For each of the surface waters for which a redesignation is proposed, the cabinet or petitioner shall prepare a fact sheet containing~~the following information~~:

(a) The name and address of the petitioner;

(b) The name and sketch or description of the surface water proposed for specified use redesignations, including the location of existing and proposed dischargers;

(c) The proposed use redesignations;

(d) A brief abstract of the supportive documentation, which demonstrates that the redesignation is appropriate;

(e) The appropriate water quality criteria for the surface water based on the proposed designated use;

(f) The treatment requirements proposed for discharges to the surface water in question if designated for the proposed use; and

(g) A "plain English" summary of the implications of the designation for the community and other users or potential users of the surface water in question.

(2) The cabinet shall document the determination to propose or deny redesignation as a result of a petition, and shall provide a copy of the decision to the petitioner and other interested parties.

Section 5. Surface Water Use Designations. (1) Listed in the tables in this administrative regulation are the use designations for specific surface waters of the Commonwealth. The county column indicates the county in which the mouth or outlet of the surface water is located. The identifying symbols for use designations are listed in table A of this section.

Table A: Use Designation Symbols	
WAH	Warm Water Aquatic Habitat
CAH	Cold Water Aquatic Habitat
PCR	Primary Contact Recreation
SCR	Secondary Contact Recreation
DWS	Domestic Water Supply, applicable at existing points of public water supply intake
OSRW	Outstanding State Resource Water

(2)(a) Surface waters not specifically listed in this section are designated for the uses of warm water aquatic habitat, primary contact recreation, secondary contact recreation, and domestic water supply in accordance with Section 1 of this administrative regulation.

(b) Domestic water supply criteria in 401 KAR 10:031, Section 6, are implemented at locations listed in Table B in this paragraph.

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Name	Description	County
BIG SANDY RIVER BASIN		
Paintsville Municipal Water Works	Mile 9.3 of Paint Creek	Johnson
Paintsville Utilities Commission	Mile 38.8 [38.9] of Levisa Fork	Johnson
Louisa Municipal Water Works	Mile .06 [27.35] of Levisa Fork	Lawrence
Prestonsburg City Utilities Commission	Mile 57.3 [84.3] of Levisa Fork	Floyd
Pikeville Water Works/US Filter	Mile 87.9 [117.8] of Levisa Fork	Pike
Martin County Water District #1	Mile 23.8 of Tug Fork	Martin
US Filter/Southern Water & Sewer District	Mile 65.42 [65.4] of Levisa Fork	Floyd
Jenkins Water Works	Mile 0.2 of Little Elkhorn Creek (Elkhorn Lake)	Letcher
Mountain Water District	Mile 4.6 of Russell Fork	Pike
Martin County Water District #1	Mile 1.3 [1.35] of Lick Branch (Crum Reservoir)	Martin
Jenkins Water Works	Mile 24.4 [23.8] of Elkhorn Creek	Letcher
Little Sandy River Basin		
Grayson Utility Commission	Mile 39.03 of Little Sandy River	Carter
Greenup Water Plant	Mile 0.7 of Little Sandy River	Greenup
Rattlesnake Ridge Water District	Mile 58.2 [57.93] of Little Sandy River (Grayson Lake)	Elliott
Tygarts Creek Basin		
Olive Hill Water Works	Mile 2.2 of Perry Branch (Olive Hill Reservoir)	Carter
Olive Hill Water Works	Mile 81.3 [78.9] of Tygarts Creek	Carter
Upper Cumberland River Basin		
Water Service Corporation of KY	Mile 3.2 of Little Yellow Creek (Fern Lake)	Bell
Somerset Water Service	Mile 504.5 [543.6] of Cumberland River (Lake Cumberland)	Pulaski
Corbin City Utilities Commission	Mile 18.6 [21.45] of Laurel River (City Reservoir)	Laurel

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Burnside Water Company	Mile 508.4[517.6] of Cumberland River (Lake Cumberland)	Pulaski
City of Albany [Municipal Water Works Plant A]	Mile 4.5[7.0] of Indian Creek (Lake Cumberland)	Clinton
Monticello Water & Sewer Commission	Mile 493.5[502.2] of Cumberland River (Lake Cumberland)	Wayne
London Utility Commission	Mile 1.3[4.2] of Indian Camp Creek (Laurel River Reservoir)	Laurel
Harlan Municipal Water Works	Mile 0.2 of Poor Fork	Harlan
Mt Vernon Municipal Water Works	Mile 3.3 of Renfro Creek (Lake Linville)[(emergency use only)]	Rockcastle
Laurel County Water District [Department] #2	Mile 1.0[4.9] of Indian Camp[Craig] Creek (Laurel River Lake)	Laurel
Laurel County Water District [Department] #2	Mile 25.2[27.95] of Laurel River[(Dorthea Dam) (emergency use only)]	Laurel
McCreary County Water District Plant A	Mile 8.9 of Laurel Creek (Laurel Creek Reservoir)	McCreary
Burkesville Municipal Water Works	Mile 421.95[427.05] of Cumberland River	Cumberland
McKee Municipal Water Works	Mile 2.35[2.3] of Bills Branch (McKee City Reservoir)	Jackson
Williamsburg Water Works	Mile 581.35[589.7] of Cumberland River	Whitley
Jamestown Municipal Water Works	Mile 3.75 of Greasy Creek Branch (Lake Cumberland)	Russell
Jamestown Municipal Water Works	Mile Point 4.3[4.6] of Greasy Creek Branch (Lake Cumberland due to the lowering)	Russell
Jackson County Water Association Inc	Mile 2.1 of Flat Lick Creek (Beulah Lake)	Jackson
Knox County Utility Commission	Mile 635.6[642.61] of Cumberland River	Knox
Wood Creek Water District	Mile 4.15[7.2] of Wood Creek (Wood Creek Lake)	Laurel
Cumberland Water Works	Mile 25.0[25.2] of Poor Fork	Harlan
Pineville Water System	Mile 3.2 of Cannon Creek (Cannon Creek Lake)	Bell
Benham Water Works	Mile 3.5 of Looney Creek	Harlan
Woodson Bend Resort	Mile 2.98 of South Fk. Cumberland River (Lake Cumberland)	Pulaski
Barbourville Utility Commission	Mile 1.3 of Indian Camp Creek (Laurel River Lake)	Laurel
[Barbourville Utility Commission	Mile 17.5 of Laurel River (main intake)	Laurel]
Cawood Water District	Mile 10.2[10.1] of Martins Fork	Harlan
Barbourville Utility Commission	Mile 628.45[635.5] of Cumberland River	Knox
[Albany Municipal Water Works Plant B	Mile 3.9 of Indian Creek (Lake Cumberland)	Clinton]
McCreary County Water District Plant B	Mile 31.1[31.3] of South Fork Cumberland River (Lake Cumberland)	McCreary
[Evarts Municipal Water Works	Mile 0.1 on UT of Bailey Creek. UT at mile 0.6	Harlan
Evarts Municipal Water Works	Mile 1.0 of Bailey Creek	Harlan]
Bell County Forestry Camp	Mile 13.9[0.2] of Clear [Bear]Creek (Chenoa Lake)	Bell
Stanford Water Works	Mile 58.1 Buck Creek (Buck Creek Lake)	Lincoln
Licking River Basin		
[Millersburg Municipal Water Works	Mile 78.1 of Hinkston Creek	Bourbon]
Paris Municipal Water Works	Mile 16.7 of Stoner Creek	Bourbon
Northern Ky Water Service District Plant A	Mile 4.7[4.55] of Licking River	Kenton
Mt Sterling Water & Sewer System	Slate Creek at mile 36.1 (Reservoir)	Montgomery
Mt Sterling Water & Sewer System	Mile 36.5 of Slate Creek[at the plant]	Montgomery
Cynthiana Municipal Water Works	Mile 51.1[50.4] of South Fork Licking River	Harrison
Flemingsburg Utilities	Mile 0.7 of UT off[te] Town Branch (Flemingsburg Lake)	Fleming
Williamstown Municipal Water	Mile 1.89 of Lake Branch (Lake Williamstown)	Grant
Morehead State University Water Plant	Mile 0.7 of Evans Branch (Evans Branch Impoundment)	Rowan
Morehead State University Water Plant	Mile 13.7 of Triplets Creek	Rowan
Carlisle Municipal Water Plant	Mile 3.5 of UT to Brushy Fork (City Lake)	Nicholas
Falmouth Water Plant	Mile 52.6[52.09] of Licking River	Pendleton
Morehead Utility Plant Board	Mile 176.4[170.6] of Licking River	Rowan
Western Fleming Water District	Mile 102.3[100.5] of Licking River	Nicholas
Salysville Municipal Water Works	Mile 271.9[270.3] of Licking River	Magoffin
Cynthiana Municipal Water Works	Mile 84.3[83.1] of Licking River	Harrison
[Flemingsburg Utilities	UT of Town Branch at mile 1.6 (Old Reservoir)	Fleming]
Carlisle Municipal Water Department	Mile 110.0[107.8] Licking River	Nicholas
West Liberty Water Company	Mile 227.4[14.35 of North Fork] Licking River [(Cave Run Lake)]	Morgan [Rowan]
West Liberty Water Company	Mile 3.7 of North Fork Licking River	Morgan/Rowan
Cave Run Water Commission	Mile 196.2[195.9] of Licking River (Cave Run Lake)	Menifee
[Rattlesnake Ridge Water District	Mile 57.4 of Little Sandy River (Grayson Lake)	Carter]
Kentucky River Basin		
Lancaster Municipal Water Works	Mile 145.0[141.62] of Kentucky River (Pool #8)	Garrard
Northpoint Training Center	Mile 17.3 of Dix River (Herrington Lake)	Boyle
Frankfort Electric & Water Plant Board	Mile 71.5[69.8] of Kentucky River (Pool #4)	Franklin
Hazard Water Department	Mile 104.1 of North Fork Kentucky River	Perry

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Wilmore Utilities System	Mile 117.0[144.0] of Kentucky River (Pool #6)	Jessamine
Nicholasville Water Works	Mile 157.7[154.4] of Kentucky River (Pool #8)	Jessamine
Berea Municipal Utilities	Mile 3.6 of Cowbell Creek Cowbell Lake	Madison
Jackson Municipal Water Works	Mile 47.2[305.45] of North Fork Kentucky River	Breathitt
Kentucky American Water Company Plant A	Mile 171.25[467.43] of Kentucky River (Pool #9)	Fayette
Kentucky American Water Company Plant B	Mile 10.6 of East Hickman Creek (Reservoir #4)	Fayette
Kentucky American Water Company	Reservoir #1 (Lake Ellerslie) (Primarily used as emergency backup)	Fayette
Danville Water Works	Mile 18.9 of Dix River (Herrington Lake)	Boyle
Lawrenceburg Municipal Water Works	Mile 85.9[83.75] of Kentucky River	Anderson
Versailles Municipal Water Works	Mile 87.5[85.27] of Kentucky River (Pool 5)	Woodford
Harrodsburg Municipal Water Works	Mile 120.8[147.85] of Kentucky River (Pool 7)	Mercer
Stanford Water Works	Mile 6.0[5.63] of Neals Creek.(Stanford Reservoir[Rice Lake])	Lincoln
Richmond Utilities Board	Mile 206.2[201.3] of Kentucky River (Pool 11)	Madison
Whitesburg Municipal Water Works/Veolia Water	Mile 150.95 of North Fork Kentucky River	Letcher
Manchester Water Works	Mile 3.9 of Beech Creek (Bert Combs Lake)	Clay
Georgetown Municipal Water & Sewer	Mile 50.9 of North Elkhorn Creek (Royal Springs)	Scott
Beattyville Water Works	Mile 3.4[262.8] of North Fork Kentucky River (Pool #14)	Lee
Bullock Pen Water District	Mile 2.8 Of Bullock Pen Creek (Bullock Pen Lake)	Grant
Winchester Municipal Utilities	Mile 6.5 of Lower Howard Creek (Winchester Reservoir {Carol E. Ecton Reservoir})	Clark
Winchester Municipal Utilities	Mile 180.5[176.5] of Kentucky River (Pool #10)	Clark
Campton Water Works	Mile 0.2[0.3] of Hiram Branch (Campton Lake)	Wolfe
Hyden-Leslie County Water District	Mile 76.6 of Middle Fork Kentucky River	Leslie
Booneville Water & Sewer District	Mile 12.8 of South Fork Kentucky River	Owsley
Georgetown Municipal Water & Sewer	Mile 0.61 of UT (Royal Springs) at mile 33.5 of North Elkhorn Creek	Scott
Kentucky American Northern Division	Mile 0.55 of Severn Creek	Owen
Kentucky American Northern Division	Mile 6.3 of North Fork of North Severn Creek (Lower Thomas Lake)	Owen
Irvine Municipal Utilities	Mile 223.1[248.5] of Kentucky River (Pool #11)	Estill
Bluegrass Army Depot	Mile 0.25[0.4] of Little Muddy Creek (Lake Vega)	Madison
Beech Fork Water Commission	Mile 0.3 of Beech Fork (Beech Fork Reservoir)	Powell
Berea Municipal Utilities	Mile 2.15[2.4] of East Fork Silver Creek (Lower Silver Creek Lake)	Madison
Berea Municipal Utilities	Mile 2.8 of East Fork Silver Creek (Upper Silver Creek Lake)	Madison
Berea Municipal Utilities	Mile 2.5 of Owsley Fork (Owsley Fork Lake)	Madison
Manchester Water Works	Mile 18.9[19.5] of Goose Creek	Clay
Beech Fork Water Commission	Mile 31.0 of Red River	Powell
Kentucky American Water Co (Plant C	Mile 47.8 of Kentucky River	Franklin
Knott County Water and Sewer District	Mile 11.6 of Carr Fork Lake	Knott
Salt River Basin		
Shelbyville Municipal Water & Sewer Commission	Mile 27.5 of Guist Creek (Guist Creek Lake)	Shelby
Bardstown Municipal Water Works	Mile 1.1 of Buffalo Creek (Lake Sympton)	Nelson
Lebanon Water Works Company	Mile 98.2 of Rolling Fork River	Marion
Springfield Water Works	Mile 4.2 of Long Lick Creek (Willisburg Lake)	Washington
Lebanon Water Works Company	Mile 2.0 of Fagan Branch (Fagan Branch Reservoir)	Marion
Springfield Water Works	Mile 1.3 of Allen Branch (Springfield Reservoir)	Washington
Green River Basin		
Morgantown Utilities Commission	Mile 144.6[143.27] of Green River	Butler
Campbellsville Water Works	Mile 1.3 of Trace Fork (City Reservoir)	Taylor
Columbia/Adair Co Water Commission	Mile 317.4 of[311.7] Green River (Green River Lake)	Adair[Taylor]
Glasgow Water Co/Plant B	Mile 21.5[22.4] of Beaver Creek	Barren
Greensburg Municipal Water Works	Mile 283.3[279.8] of Green River	Green
Livermore Water Works	Mile 71.7[71.3] of Green River	McLean
[Elizabethtown Municipal Water Works A	From Old City Spring at mile 9.55 of Valley Creek	Hardin
Elizabethtown Municipal Water Works A	Gaithers Station Spring at mile 7.48 of Valley Creek	Hardin]
Bowling Green Municipal Utilities	Mile 38.1[37.8] of Barren River	Warren
Green River Valley Water District	Rio Springs at UT to Green River at mile 240.5[240.6]	Hart
Hodgenville Water Works	Mile 5.85[144.7] of North Fork Nolin River	Larue
Central City Municipal Water & Sewer	Mile 85.9[85.4] of Green River	Muhlenberg
Calhoun Water Works	Mile 63.75[63.9] of Green River	McLean

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Hartford Municipal Water Works	Mile 29.8 of Rough River	Ohio
Greenville Utilities Commission	Luzerne Lake (Luzerne Lake no longer connected to Caney Creek at mile 2.3)	Muhlenberg
Ohio County Water Plant	Mile 131.8[130-55] of Green River	Ohio
Franklin Water Plant	Mile 23.4 of West Fork Drake's Creek	Simpson
Glasgow Water Co/Plant A	Embayment [Mile 86.8]of Barren River Lake upstream of mouth of Skaggs Creek[(Barren River Reservoir)]	Barren
Leitchfield Municipal Water Works	Mile 107.7 of Rough River (Reservoir)	Grayson
Campbellsville Water Works	Mile 5.3 of Robinson Creek (Green River Reservoir)	Taylor
Campbellsville Water Works	Mile 2.1 of Stone Quarry Creek	Taylor
Edmonson County Water District	Mile 183.6[181-3] of Green River	Edmonson
Hardin County Water District 2 Elizabethtown[Municipal Water Works B]	Mile 2.1 of Freeman Creek (Freeman Lake)	Hardin
Tompkinsville Municipal Water Works	Mile 6.0 of Mill Creek (Mill Creek Reservoir)	Monroe
Madisonville Municipal Water Works	Mile 53.9[54-] of Green River	Hopkins
Liberty Water Works	Mile 1.4 of Hickman Creek (Lake Liberty)	Casey
Stanford Water Works	Mile 0.6 of UT to Green River (James C. Harris Reservoir)	Lincoln
Hardin County Water District #2	Nolin River at mile 80.4 (White Mills Spring)	Hardin
Green River Valley Water District	Mile 240.5[237-0] of Green River	Hart
Scottsville Municipal Water Works	Mile 88.5[91-7] of Barren River (Barren River Lake)	Allen
Butler County Water System	Mile 143.6[143-8] of Green River	Butler
Edmonson County Water District	Mile 23.6[28-0] of Nolin River (Nolin Lake [Reservoir])	Grayson
[Henderson Water Utilities/South	Mile 41.3 of Green River	Webster]
Henderson Water & Sewer Department	Raw Storage Lake	Henderson
Webster Cnty Water District	Mile 47.3[47-5] of Green River	Webster
Hodgenville Water Works	Mile 0.3 of UT at mile 116.9 of North Fork Nolin River (Salem Lake)	Larue
Grayson County Water District	Mile 97.7 of Rough River (Rough River Reservoir)	Grayson
Lower Cumberland River Basin		
Kentucky State Penitentiary	Mile 40.1[43-65] of Cumberland River (Lake Barkley)	Lyon
Hopkinsville Water Environmental Authority	Mile 74.83 of North Fork Little River	Christian
Hopkinsville Water Environmental Authority	Mile 14.2[14-6] of Little River (Lake Barkley)	Christian[Trigg]
Princeton Water Department	Mile 41.8[46-0] of Cumberland River (Lake Barkley)	Lyon
Kuttawa Municipal Water Plant	Mile 37.5[41-0] of Cumberland River (Lake Barkley)	Lyon
Barkley Lake Water District	Mile 1.3[0-7] of Hopson Creek (Lake Barkley)	Trigg
Crittenden-Livingston Co Water District	Mile 13.95[15-95] of Cumberland River	Livingston
Hopkinsville Water Environmental Authority	From Hopkinsville Stone Quarry No. 1 (South Quarry) adjacent to North Fork Little River at mile 14.8	Christian
[Cadiz Water Company	Mile 13.5 of Little River (emergency use only when primary Cadiz Spring is unable to provide sufficient supply)	Trigg
Cadiz Water Co	Mile 3.2 of Little Yellow Creek	Trigg]
Hopkinsville Water Environmental Authority	Hopkinsville Stone Quarry No. 2 (North Quarry) adjacent to White Creek at mile 0.2	Christian
Eddyville Municipal Water Works	Mile 40.2 of Cumberland River (Lake Barkley)	Lyon
Logan Todd Regional Water Commission	Cumberland River at Clarksville TN	TN
Tradewater River Basin		
Providence Water Works	New Providence City Lake (mile 0.3 of Owens Creek[(New Providence City Lake)])	Webster
Madisonville Municipal Water Works	Mile 6.3 of Greasy Creek (Lake Pewee).	Hopkins
Dawson Springs City Water & Sewer	Mile 0.1 of Piney Creek (Lake Beshear)	Caldwell
Providence Municipal Water Works	Mile 41.3[40-8] of Tradewater River	Webster
Ohio River Basin (Main Stem And Minor Tributaries)		
Maysville Utility Commission	Mile 408.0[408-5] of Ohio River	Mason
Ashland Municipal Water Works	Mile 320.3[319-68] of Ohio River	Boyd
Northern Ky Water Service District - Newport Plant	Mile 464.0[463-6] of Ohio River	Campbell
Paducah Water Works	Mile 935.6 of Ohio River	McCracken
Louisville Water Company /ZPS A	Mile 600.6 of Ohio River	Jefferson
Henderson Water & Sewer Department	Mile 803.6 of Ohio River	Henderson
Northern Ky Water Service District Plant B	Mile 462.9[462-7] of Ohio River	Campbell

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Morganfield Municipal Water Works	Mile 840.0 of Ohio River	Union
Russell Water Plant	Mile 327.7 of Ohio River	Greenup
Marion Municipal Water Works	Mile 25.6 of Crooked Creek (City Lake)	Crittenden
US Army Ft Knox A	Mile 8.5[8.6] of Otter Creek	Meade
Louisville Water Company BEPWTP B	Mile 594.7 of Ohio River	Jefferson
Sturgis Municipal Water Works	Mile 868.8[874.4] of Ohio River	Union

(3)(a) Table C in this subsection lists waters that have:

1. A designated use of CAH or OSRW; or
2. Exceptions to specific criteria in 401 KAR 10:031.

(b) All other criteria in 401 KAR 10:031 applicable to the listed use designations shall apply to surface waters listed in Table C in this subsection.

(c)1. DWS use shall apply to all waters listed in Table C in this section.

2. DWS use criteria found in 401 KAR 10:031, Section 6, shall apply only at the surface water intakes listed in Table B of this section.

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles)	County	Use Designation	Exceptions to Specific Criteria
BIG SANDY RIVER BASIN				
Hobbs Fork of Pigeonroost Fork of Wolf Creek	Mouth to Headwaters (0.0-3.9)	Martin	WAH, PCR, SCR, OSRW	
Lower Pigeon Branch of Elkhorn Creek	Left Fork to Headwaters (0.6-1.9)	Pike	WAH, PCR, SCR, OSRW	
Paint Creek of Levisa Fork	Levisa Fork to Paintsville Dam (0.0-8.3)	Johnson	CAH, PCR, SCR	
Russell Fork of Levisa Fork of Big Sandy River	Clinch Field RR Yard off HWY 80 to Virginia State Line (15.0-16.5)	Pike	WAH, PCR, SCR, OSRW	
Thompson Fork of Souders Branch	Mouth to Headwaters (0.0-1.0)	Floyd	WAH, PCR, SCR, OSRW	
Toms Branch of Elkhorn Creek	Mouth to Headwaters (0.0-1.6)	Pike	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Hobbs Fork	Hobbs Fork of Pigeonroost Fork to Headwaters (0.0-0.55)	Martin	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Open Fork Paint Creek	Mouth to Headwaters (0.0-0.8)	Morgan	WAH, PCR, SCR, OSRW	
LAKES AND RESERVOIRS				
Paintsville	Entire reservoir	Johnson	WAH, CAH, PCR, SCR	
LITTLE SANDY RIVER BASIN				
Arabs Fork of Big Sinking Creek	Clay Fork to Headwaters (0.0-5.1)	Elliott	WAH, PCR, SCR, OSRW	
Big Caney Creek	Grayson Lake to source (1.8-15.3)	Elliott/ Rowan	CAH, PCR, SCR, OSRW	
Big Sinking Creek of Little Sandy River	SR 986 to Clay Fork and Arab Fork (11.0-15.9)	Carter/ Elliott	WAH, PCR, SCR, OSRW	
Laurel Creek of Little Sandy River	Little Sandy River to Carter School Rd (0.0-7.6)	Elliott/ Rowan	CAH, PCR, SCR,	
Laurel Creek of Little Sandy River	Carter School Rd Bridge to Headwaters (7.6-14.7)	Elliott/ Rowan	CAH, PCR, SCR, OSRW	
Meadow Branch of Little Fork of Little Sandy River	Mouth to Headwaters (0.0-1.4)	Elliott	WAH, PCR, SCR, OSRW	
Middle Fork of Little Sandy River	Mouth to Sheepskin Branch (0.0-3.4)	Elliott	WAH, PCR, SCR, OSRW	
Nichols Fork of Little Fork of Little Sandy River	Green Branch to Headwaters (0.0-2.0)	Elliott	WAH, PCR, SCR, OSRW	
LAKES AND RESERVOIRS				
Greenbo	Entire Reservoir	Greenup	WAH, CAH, PCR, SCR	
LICKING RIVER BASIN				
Blackwater Creek of Licking River	Eaton Creek to Greasy Fork (3.8-11.7)	Morgan	WAH, PCR, SCR, OSRW	
Blanket Creek of Licking River	Mouth to Unidentified Tributary (0.0-1.9)	Pendleton	WAH, PCR, SCR, OSRW	
Botts Fork of Brushy Fork of Licking River	Mouth to Landuse Change (0.0-2.1)	Menifee	WAH, PCR, SCR, OSRW	
Bowman Creek	Mouth to Unidentified Tributary (0.0-6.0)	Kenton	WAH, PCR, SCR, OSRW	
Brushy Fork of Meyers Creek	Cave Run Lake Backwaters to Headwaters (0.7-5.6)	Menifee	WAH, PCR, SCR, OSRW	

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Bucket Branch of North Fork of Licking River	Mouth to Headwaters (0.0-1.9)	Morgan	WAH, PCR, SCR, OSRW	
Cedar Creek of Licking River	Mouth to North Branch of Cedar Creek (0.0-1.7)	Robertson	WAH, PCR, SCR, OSRW	
Craney Creek	Source to North Fork of Licking River (0.0-11.2)	Rowan/ Morgan	CAH, PCR, SCR, OSRW	
Devils Fork of North Fork of Licking River	Mouth to Headwaters (0.0-8.5)	Elliott/ Morgan	WAH, PCR, SCR, OSRW	
Flour Creek of Licking River	Mouth to Unidentified Tributary (0.0-2.2)	Pendleton	WAH, PCR, SCR, OSRW	
Grovers Creek of Kincaid Creek	Kincaid Lake Backwaters to Unidentified Tributary (0.5-3.4)	Bracken/ Pendleton	WAH, PCR, SCR, OSRW	
Licking River	Mouth of UT entering on the right descending bank to 0.1 mile upstream of Turkey Run (River mile 138.3-140.3)	Bath/Fleming	WAH, PCR, SCR, OSRW	
Licking River	River Mile 144.0 (38.25141-83.6932) to River Mile 146.1 (0.75 mile downstream of Haven Branch)	Bath/Fleming	WAH, PCR, SCR, OSRW	
Licking River	River Mile 175.6 (U.S. Highway 60 Bridge) to River Mile 180.8 (Cave Run Lake Dam (175.6-180.8))	Bath/ Rowan	CAH, PCR, SCR	
Licking River	River Mile 159.3 (SR 211) to River Mile 170.5 (Unnamed Road off Slate Point Road)	Bath/ Rowan/ Fleming	WAH, PCR, SCR, OSRW	
Licking River	River Mile 19.3 (Hwy 536 Bridge) to River Mile 117.6 (1.3 [river] miles above Fishtrap Creek)	Kenton/ Campbell/ Pendleton/ Harrison/ Robertson/ Fleming	WAH, PCR, SCR, OSRW	
Minor Creek of Craney Creek	Mouth to river mile 2.8 (0.0-2.8)	Morgan/ Rowan	CAH, PCR, SCR	
North Fork of Licking River	Cave Run Lake Backwaters to Devils Fork (8.4-13.4)	Morgan	WAH, PCR, SCR, OSRW	
Sawyers Fork of Cruises Creek	Mouth to Headwaters (0.0-3.3)	Kenton	WAH, PCR, SCR, OSRW	
Slabcamp Creek of Craney Creek of Licking River	Mouth to Headwaters (0.0-3.7)	Rowan	CAH, PCR, SCR, OSRW	
Slate Creek of Licking River	Mouth to Mill Creek (0.0-13.55)	Bath	WAH, PCR, SCR, OSRW	
South Fork Grassy Creek of Grassy Creek of Licking River	Mouth to Greasy Creek (0.0-19.8)	Kenton/ Pendleton	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Shannon Creek of North Fork of Licking River	Mouth to Headwaters 0.0-2.2)	Mason	WAH, PCR, SCR, OSRW	
Welch Fork of Brushy Fork of Licking River	Mouth to First Unnamed Tributary (0.0-1.0)	Meniffee	WAH, PCR, SCR, OSRW	
West Creek of Licking River	Mouth to Headwaters (0.0-9.8)	Harrison/ Robertson	WAH, PCR, SCR, OSRW	
KENTUCKY RIVER BASIN				
Backbone Creek of Sixmile Creek of Kentucky River	Mouth to Scrabble Creek (0.0-1.65)	Franklin/ Henry/ Shelby	WAH, PCR, SCR, OSRW	
Bear Branch of North Fork of Kentucky River	Above Sediment Pond to Headwaters (0.3-1.2)	Perry	WAH, PCR, SCR, OSRW	
Big Double Creek of Red Bird River	Mouth to Confluence of Left and Right Forks of Big Double Creek (0.0-4.4)	Clay	WAH, PCR, SCR, OSRW	
Bill Branch of Laurel Fork of Greasy Creek	Mouth to Right Fork and Left Fork Creek (0.0-0.3)	Leslie	WAH, PCR, SCR, OSRW	
Billey Fork of Millers Creek	Land Use Change to Headwaters (2.6-8.8)	Lee/Elliott	WAH, PCR, SCR, OSRW	
Bill Oak Branch of Left Fork of Buffalo Creek	Mouth to Headwaters (0.0-0.3)	Owsley	WAH, PCR, SCR, OSRW	
Buffalo Creek of South Fork of Kentucky River	Mouth to Right Fork and Left Fork (0.0-1.6)	Owsley	WAH, PCR, SCR, OSRW	
Bullskin Creek of South Fork Kentucky River	Mouth to Headwaters (0.0-14.55)	Clay	WAH, PCR, SCR, OSRW	

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Cavanaugh Creek	South Fork of Station Camp Creek to Foxtown Rd (0.0-8.3)	Jackson	WAH, PCR, SCR, OSRW	
Cherry Run of Boyd Run of North Elkhorn Creek	Mouth to Boyd Run (0.0-0.9)	Scott	WAH, PCR, SCR, OSRW	
Chester Creek of Middle Fork of Red River	Mouth to Headwaters (0.0-2.8)	Wolfe	WAH, PCR, SCR, OSRW	
Chimney Top Creek of Red River	Basin (0.0-4.6)	Wolfe	CAH, PCR, SCR	
Clear Creek of Kentucky River	Mouth to East Fork Clear Creek (0.0-9.0)	Woodford	WAH, PCR, SCR, OSRW	
Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-4.8)	Breathitt	WAH, PCR, SCR, OSRW	
Coles Fork of Buckhorn Creek	Mouth to Headwaters (0.0-6.2)	Breathitt	WAH, PCR, SCR, OSRW	
Craig Creek of Kentucky River	Mouth (Kentucky River Backwaters) to Unidentified Tributary (0.0- 2.7)	Woodford	WAH, PCR, SCR, OSRW	
Deep Ford Branch of Cutshin Creek	Above Pond to Headwaters (0.3-1.35)	Leslie	WAH, PCR, SCR, OSRW	
Dix River	Mouth (Kentucky River) to River Mile 3.1 (Herrington Lake Dam) (0.0-3.1)	Garrard/ Mercer	CAH, PCR, SCR	
Dog Fork of Swift Camp Creek	Basin	Wolfe	CAH, PCR, SCR	
Drennon Creek of Kentucky River	Fivemile Creek to Town Branch (8.7-12.2)	Henry	WAH, PCR, SCR, OSRW	
East Fork of Indian Creek of Indian Creek of Red River	Headwaters East Fork of Indian Creek to Indian Creek (0.0-9.0)	Menifee	CAH, PCR, SCR OSRW	
Elisha Creek of Red Bird River	Land Use Change (Residential) to the confluence of Right Fork and Middle Fork Elisha Creek (0.8-1.8)	Leslie	WAH, PCR, SCR, OSRW	
Emily Run of Drennon Creek	Mouth to Unidentified Tributary (0.0-4.0)	Henry	WAH, PCR, SCR, OSRW	
Evans Fork of Billey Fork of Millers Creek	Mouth to Headwaters (0.0-3.0)	Estill	WAH, PCR, SCR, OSRW	
Falling Rock Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-0.7)	Breathitt	WAH, PCR, SCR, OSRW	
Gilberts Creek of Kentucky River	Mouth to Unidentified Tributary (0.0-2.6)	Anderson	WAH, PCR, SCR, OSRW	
Gladie Creek of Red River	Basin	Menifee	CAH, PCR, SCR	
Gladie Creek of Red River	Land Use Change to Long Branch (0.5-7.25)	Menifee	CAH, PCR, SCR, OSRW	
Goose Creek of South Fork of Kentucky River	Mouth to Laurel Creek (0.0-9.1)	Clay/Leslie	WAH, PCR, SCR, OSRW	
Griers Creek of Kentucky River	Kentucky River Backwaters to Unidentified Tributary (0.1-3.5)	Woodford	WAH, PCR, SCR, OSRW	
Grindstone Creek of Kentucky River	Kentucky River Backwaters to Headwaters (0.1-1.9)	Franklin	WAH, PCR, SCR, OSRW	
Hardwick Creek of Red River	Mouth to Little Hardwick Creek (0.0-3.25)	Powell	WAH, PCR, SCR, OSRW	
Hell For Certain of Middle Fork of Red River	Mouth to Big Fork (0.0-2.1)	Leslie	WAH, PCR, SCR, OSRW	
Hines Creek of Kentucky River	Kentucky River Backwaters to confluence with Unidentified Tributary (0.1-1.9)	Madison	WAH, PCR, SCR, OSRW	
Honey Branch of Greasy Creek of Middle Fork of Kentucky River	Mouth to Headwaters (0.0-1.35)	Leslie	WAH, PCR, SCR, OSRW	
Hopper Cave Branch of Cavanaugh Creek	Mouth to Headwaters (0.0-1.8)	Jackson	WAH, PCR, SCR, OSRW	
Indian Creek of Eagle Creek	Mouth to Headwaters (0.0-5.4)	Carroll	WAH, PCR, SCR, OSRW	
Indian Creek of Red River	River Mile 1.25 (East Fork of Indian Creek) to River Mile 5.2 (0.3 [river] miles below Bear Branch)	Menifee	CAH, PCR, SCR	

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Indian Fork of Sixmile Creek of Kentucky River	Mouth to Headwaters (0.0-3.3)	Shelby	WAH, PCR, SCR, OSRW	
Jessamine Creek of Kentucky River	Stream segment within the R.J. Corman Natural Area (12.3-13.55)	Jessamine	WAH, PCR, SCR, OSRW	
John Carpenter Fork of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-1.2)	Breathitt	WAH, PCR, SCR, OSRW	
Joyce Fork of Cortland Fork	Mouth to Headwaters (0.0-1.2)	Owsley	WAH, PCR, SCR, OSRW	
Katies Creek of Red Bird River	Mouth to Headwaters (0.0-4.0)	Clay	WAH, PCR, SCR, OSRW	
Laurel Fork of Left Fork Buffalo Creek of Buffalo Creek	Cortland Fork to Big Branch (0.0-3.75)	Owsley	WAH, PCR, SCR, OSRW	
Left Fork of Big Double Creek of Kentucky River	Mouth to Headwaters (0.0-1.5)	Clay	WAH, PCR, SCR, OSRW	
Line Fork of North Fork of Kentucky River	Defeated Creek to Headwaters (12.2-28.6)	Letcher	WAH, PCR, SCR, OSRW	
Little Middle Fork of Elisha Creek of Red Bird River	Mouth to Headwaters (0.0-0.75)	Leslie	WAH, PCR, SCR, OSRW	
Little Millseat Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-1.2)	Breathitt	WAH, PCR, SCR, OSRW	
Little Sixmile Creek of Sixmile Creek of Kentucky River	Mouth to Headwaters (0.0-5.3)	Henry	WAH, PCR, SCR, OSRW	
Little Sturgeon Creek of Sturgeon Creek	Mouth to Warren Chapel Branch (0.0-3.0)	Owsley	WAH, PCR, SCR, OSRW	
Low Gap Branch of Elk Creek	Mouth to Headwaters (0.0-0.8)	Letcher	WAH, PCR, SCR, OSRW	
Lower Devil Creek of North Fork Kentucky River	Mouth to Middle Fork Lower Devil Creek (0.0-4.65)	Lee	WAH, PCR, SCR, OSRW	
Lower Howard Creek of Kentucky River	Mouth to West Fork (0.5- 6.6)	Clark	WAH, PCR, SCR, OSRW	
Lulbegrud Creek of Red River	Mouth to Falls Branch (0.0-7.3)	Clark/ Powell	WAH, PCR, SCR, OSRW	
Middle Fork of Kentucky River	Mouth to Upper Twin Creek (0.0-12.7)	Lee/ Owsley	WAH, PCR, SCR, OSRW	
Middle Fork of Kentucky River	Hurts Creek to Greasy Creek (75.2-85.5)	Leslie	WAH, PCR, SCR, OSRW	
Middle Fork of Red River	River Mile 10.7 (0.7 [river]miles below Sinking Fork) to Headwaters (15.3)	Powell	CAH, PCR, SCR	
Middle Fork of Red River	South Fork of Red River to Natural Bridge State Park Lake (1.8-7.2)	Powell	CAH, PCR, SCR, OSRW	
Mikes Branch of Laurel Fork of Left Fork of Buffalo Creek	Mouth to Headwaters (0.0-0.7)	Owsley	WAH, PCR, SCR, OSRW	
Mill Creek of Kentucky River	Near Mouth to Headwaters (0.0-1.85)	Owen	WAH, PCR, SCR, OSRW	
Millseat Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-1.85)	Breathitt	WAH, PCR, SCR, OSRW	
Muddy Creek of Kentucky River	Elliston, Kentucky to Viney Fork (13.8-20.65)	Madison	WAH, PCR, SCR, OSRW	
Musselman Creek of Eagle Creek	Mouth to Headwaters (0.0-9.0)	Grant	WAH, PCR, SCR, OSRW	
Parched Corn Creek	Source to Red River (0.0-2.25)	Wolfe	CAH, PCR, SCR	
Red River	River Mile 70.4 (SR 746) to River Mile 50.3 (0.1 miles[Miles] below Auxier Branch)	Menifee/ Wolfe	WAH, PCR, SCR, OSRW	
Red Bird River of South Fork of Kentucky River	Mouth to Big Creek (0.0-15.3)	Clay	WAH, PCR, SCR, OSRW	
Right Fork of Buffalo Creek of Kentucky River	Mouth to Headwaters (0.0-2.1)	Owsley	WAH, PCR, SCR, OSRW	

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Right Fork of Elisha Creek of Redbird River	Mouth to Headwaters (0.0-3.3)	Leslie	WAH, PCR, SCR, OSRW	
Roaring Fork of Lewis Fork of Buckhorn Creek	Mouth to Headwaters (0.0-0.9)	Breathitt	WAH, PCR, SCR, OSRW	
Rock Lick Creek	Mouth to Headwaters (0.0-9.6)	Jackson	WAH, PCR, SCR, OSRW	
Sand Ripple Creek of Kentucky River	Kentucky River Backwaters to Headwaters (0.1-3.9)	Henry	WAH, PCR, SCR, OSRW	
Severn Creek of Kentucky River	Kentucky River Backwaters to North Fork of Severn Creek (1.35-3.0)	Owen	WAH, PCR, SCR, OSRW	
Shaker Creek of Kentucky River	Near Mouth to Shawnee Run (0.1-1.4)	Mercer	WAH, PCR, SCR, OSRW	
Shelly Rock Fork of Millseat Branch of Clemons Fork	Mouth to Headwaters (0.0-0.6)	Breathitt	WAH, PCR, SCR, OSRW	
Sixmile Creek of Kentucky River	Little Sixmile Creek to Dam (7.1-15.3)	Henry	WAH, PCR, SCR, OSRW	
South Fork of Kentucky River	Mouth to Sexton Creek (0.0-27.8)	Owsley	WAH, PCR, SCR, OSRW	
South Fork of Red River	Mouth to Sandlick Fork (0.0-4.2)	Powell	WAH, PCR, SCR, OSRW	
South Fork of Station Camp Creek of Kentucky River	Mouth to Rock Lick Creek (0.0-9.7)	Jackson	WAH, PCR, SCR, OSRW	
Spruce Branch of Redbird River	Mouth to Headwaters (0.0-1.0)	Clay	WAH, PCR, SCR, OSRW	
Station Camp Creek of Kentucky River	Landuse Change (Crooked Cr.) to South Fork of Station Camp Creek (3.3-22.7)	Estill	WAH, PCR, SCR, OSRW	
Steeles Run of Elkhorn Creek	Mouth to Unidentified Tributary (0.0-4.2)	Fayette	WAH, PCR, SCR, OSRW	
Steer Fork of War Fork of Station Camp Creek	Mouth to Headwaters (0.0-2.7)	Jackson	CAH, PCR, SCR, OSRW	
Sturgeon Creek of Kentucky River	Duck Fork to Little Sturgeon Creek (1.3-13.7)	Lee/ Owsley	WAH, PCR, SCR, OSRW	
Sugar Creek of Redbird River	Landuse Change to Headwaters (0.6-5.4)	Leslie	WAH, PCR, SCR, OSRW	
Sulphur Lick Creek of Elkhorn Creek	Mouth to Headwaters (0.0-5.2)	Franklin	WAH, PCR, SCR, OSRW	
Swift Camp Creek	Red River to Source (0.0-13.9)	Wolfe	CAH, PCR, SCR	
Unidentified Tributary of Cawood Branch of Beech Fork	Mouth to Headwaters (0.0-2.1)	Leslie	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Cedar Creek of Kentucky River	Mouth to Headwaters (0.0-1.4)	Owen	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Glenns Creek of Kentucky River	Mouth to Headwaters (0.0-1.9)	Woodford	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Jacks Creek of Kentucky River	Mouth to Headwaters (0.0-1.15)	Madison	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Kentucky River	Mouth at Kentucky River Backwaters to Land Use Change (0.1-1.4)	Franklin	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Line Fork of North Fork of Kentucky River (LCW)	Mouth to Headwaters (0.0-0.6)	Letcher	WAH, PCR, SCR, OSRW	
War Fork of Station Camp Creek	Mouth to Headwaters (0.0-13.8)	Jackson	CAH, PCR, SCR, OSRW	
War Fork of Station Camp Creek	Basin above River Mile 1.9 (0.3[river] miles below Tarpin Lick Branch (2.5))	Jackson	CAH, PCR, SCR	
Watches Fork of Laurel Fork of Left Fork of Buffalo Creek	Mouth to Headwaters (0.0-1.0)	Owsley	WAH, PCR, SCR, OSRW	
Wolfpen Creek of Red River	Mouth to Headwaters (0.0-3.6)	Menifee	WAH, PCR, SCR, OSRW	

LAKES AND RESERVOIRS

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Bert Combs	Entire Reservoir	Clay	WAH, CAH, PCR, SCR	
Fishpond	Entire Reservoir	Letcher	WAH, CAH, PCR, SCR	
Mill Creek	Entire Reservoir	Wolfe	WAH, CAH, PCR, SCR	
SALT RIVER BASIN				
Brashears Creek of Salt River	Guist Creek to Bullskin and Clear Creek (13.0-25.9)	Shelby/ Spencer	WAH, PCR, SCR, OSRW	
Cedar Creek of Salt River	Mouth to Greens Branch (0.0-5.2)	Bullitt	WAH, PCR, SCR, OSRW	
Chaplin River of Salt River	Thompson Creek to Cornishville, Kentucky (40.9-54.2)	Washington	WAH, PCR, SCR, OSRW	
Doctors Fork of Chaplin River	Mouth to Begley Branch (0.0-3.8)	Boyle	WAH, PCR, SCR, OSRW	
Guist Creek of Brashears Creek	Mouth to Jeptha Creek (0.0-15.7)	Spencer	WAH, PCR, SCR, OSRW	
Harts Run of Wilson Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-1.8)	Bullitt	WAH, PCR, SCR, OSRW	
Indian Creek of Thompson Creek of Chaplin River of Salt River	Mouth to Unidentified Tributary (0.0-2.9)	Mercer	WAH, PCR, SCR, OSRW	
Lick Creek of Long Lick Creek of Beech Fork of Salt River	Mouth to 0.1miles below Dam (0.0-4.1)(0.0-4.1)	Washington	WAH, PCR, SCR, OSRW	
Otter Creek of Rolling Fork of Salt River	Landuse Change to confluence of East Fork and Middle Fork Otter Creek (1.7-2.9)	Larue	WAH, PCR, SCR, OSRW	
Overalls Creek of Wilson Creek of Rolling Fork of Salt River	Mouth to Headwaters of Middle Fork of Overalls Creek (0.0-3.2)	Bullitt	WAH, PCR, SCR, OSRW	
Paddy's Run	Mouth (Ohio River) to headwaters	Jefferson	PCR, SCR	401 KAR 10:031, Section 2(1)(d) and 2(2) do not apply.
Rolling Fork of Salt River	River Mile 53.6 (0.8 mi upstream of Stiles Rd Bridge) to River Mile 62.5 (0.5 mi upstream of Otter Cr)	Larue/ Nelson	WAH, PCR, SCR, OSRW	
Salt Lick Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-8.6)	Larue, Marion	WAH, PCR, SCR, OSRW	
Sulphur Creek of Chaplin River	Mouth to confluence of Cheese Lick and Brush Creek (0.0-10.0)	Anderson/ Washington Mercer/	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Glens Creek of Chaplin River	Mouth to Headwaters (0.0-2.3)	Washington	WAH, PCR, SCR, OSRW	
West Fork of Otter Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0- 5.4)	Larue	WAH, PCR, SCR, OSRW	
Wilson Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-18.4)	Bullitt/ Nelson	WAH, PCR, SCR, OSRW	
GREEN RIVER BASIN				
Barren River	Green River to River Mile Lock and Dam #1 to Green River (0.0-15.1)	Butler/ Warren	WAH, PCR, SCR, OSRW	
Beaverdam Creek	Source to Green River (14.5-0.0)	Edmonson	CAH, PCR, SCR, OSRW	
Big Brush Creek	Brush Creek to Poplar Grove Branch (13.0-17.3)	Green	WAH, PCR, SCR, OSRW	
Cane Run of Nolin River	Nolin River Lake Backwaters to Headwaters (0.8-6.5)	Hart	WAH, PCR, SCR, OSRW	
Caney Fork of Peter Creek	Mouth to Headwaters (0.0-6.7)	Barren	WAH, PCR, SCR, OSRW	
Clifty Creek of Rough River	Barton Run to Western Kentucky Parkway (7.5-17.3)	Grayson	WAH, PCR, SCR, OSRW	
Clifty Creek of Wolf Lick Creek	Little Clifty Creek to Sulphur Lick (0.0-13.4)	Todd	WAH, PCR, SCR, OSRW	

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Double Sink Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson/ Barren	CAH, PCR, SCR, OSRW	
East Fork of Little Barren River	Red Lick Creek to Flat Creek (18.9-20.6)	Metcalfe	WAH, PCR, SCR, OSRW	
Echo River	Basin Outside Mammoth Cave National Park Boundary (underground system)	Edmonson	CAH, PCR, SCR, OSRW	
Elk Lick Creek	0.1 mile[Mile] Downstream of Mouth of Duck Lick Creek to Barren Fork Creek and Edger Creek (3.6-11.8)	Logan	WAH, PCR, SCR, OSRW	
Ellis Fork of Damron Creek	Mouth to Headwaters (0.0-2.2)	Adair/ Russell	WAH, PCR, SCR, OSRW	
Falling Timber Creek of Skaggs Creek	Landuse Change to Headwaters (10.8-15.2)	Barren/ Metcalfe	WAH, PCR, SCR, OSRW	
Fiddlers Creek of North Fork of Rough River	Mouth to Headwaters (0.0-5.9)	Breckinridge	WAH, PCR, SCR, OSRW	
Forbes Creek of Buck Creek of East Fork of Pond River	Mouth to Unidentified Tributary (0.0-4.1)	Christian	WAH, PCR, SCR, OSRW	
Ganter Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson	CAH, PCR, SCR, OSRW	
Gasper River of Barren River	Clear Fork to Wiggington Creek (17.2-35.6)	Logan/ Warren	WAH, PCR, SCR, OSRW	
Goose Creek of Green River	Mouth to Little Goose Creek (0.0-8.5)	Casey/ Russell	WAH, PCR, SCR, OSRW	
<u>Green River</u>	<u>0.5 miles upstream of Davenport Landing to 0.75 miles downstream of Lock & Dam #3 (105.9-108.4)</u>	<u>Muhlenburg/Ohio</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Green River</u>	<u>0.9 miles upstream of William Natcher Parkway to 0.1 miles upstream of Unidentified Tributary on right descending bank (139.7-140.7)</u>	<u>Butler</u>	<u>WAH, PCR, SCR, OSRW</u>	
Green River	River Mile 210.6 (eastern Mammoth Cave National Park Boundary to River Mile 309.1 (Green River Lake Dam)	Hart/Taylor/ Green	WAH, PCR, SCR, OSRW	
Green River	River Mile 185.0 (western Mammoth Cave National Park Boundary) to River Mile 210.6 (eastern Mammoth Cave National Park Boundary)	Edmonson/ Hart	WAH, PCR, SCR, OSRW	
Green River	Downstream Mammoth Cave National Park Boundary to Lynn Camp Creek (185.0-250.3)	Edmonson/ Hart	WAH, PCR, SCR, OSRW	
Green River	River Mile 148.5 (1.0 river mile below Lock and Dam #4) to River Mile 170.0 (Lock and Dam #5)	Butler/ Warren	WAH, PCR, SCR, OSRW	
Halls Creek of Rough River	Unidentified Tributary to Headwaters (4.8-9.6)	Ohio	WAH, PCR, SCR, OSRW	
Lick Creek of West Fork of Drakes Creek	Mouth to Headwaters (0.0-10.2)	Simpson	CAH, PCR, SCR, OSRW	
Linders Creek of Rough River	Mouth to Sutzer Creek (0.0-7.9)	Hardin	WAH, PCR, SCR, OSRW	
Little Beaverdam Creek of Green River	Mouth to SR 743 (0.0-11.4)	Edmonson/ Warren	WAH, PCR, SCR, OSRW	
Little Short Creek of Rough River	Mouth to Headwaters (0.0-3.1)	Grayson	WAH, PCR, SCR, OSRW	
Lynn Camp Creek	Green River to Source (0.0-8.3)	Hart	CAH, PCR, SCR	
Lynn Camp Creek of Green River	Mouth to Lindy Creek (0.0-8.5)	Hart	CAH, PCR, SCR, OSRW	
McFarland Creek of West Fork of Pond River	Grays Branch to Unidentified Tributary (1.5-5.0)	Christian	WAH, PCR, SCR, OSRW	
McCoy Spring	Basin Outside Mammoth Cave National Park Boundary	Hart	CAH, PCR, SCR, OSRW	
Meeting Creek of Rough River	Little Meeting Creek to Petty Branch (5.2-14.0)	Grayson/ Hardin	WAH, PCR, SCR, OSRW	

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Mile 205.7 Spring	Basin Outside Mammoth Cave National Park Boundary	Hart	CAH, PCR, SCR, OSRW	
Muddy Creek of Caney Creek of Rough River	Landuse Change to Headwaters (13.5-15.5)	Ohio	WAH, PCR, SCR, OSRW	
Nolin River	River Mile 7.7 (Nolin Lake Dam) to Green River (0.0-7.7)	Edmonson	CAH, WAH, PCR, SCR	
North Fork of Rough River	Buffalo Creek to Reservoir Dam (22.1 -26.9)	Breckinridge	WAH, PCR, SCR, OSRW	
Peter Creek of Barren River	Caney Fork to Dry Fork (11.6-18.5)	Barren	WAH, PCR, SCR, OSRW	
Pike Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson	CAH, PCR, SCR, OSRW	
Pond Run of Rough River	Landuse Change to Headwaters (1.4-6.8)	Breckinridge/Ohio	WAH, PCR, SCR, OSRW	
Puncheon Creek	Mouth to state line	Allen	WAH, PCR, SCR, OSRW	
Rough River	Linders Creek to Vertrees Creek (138.0-149.4)	Hardin	WAH, PCR, SCR, OSRW	
Rough River	River Mile 89.6 to Rough River Lake Dam to 90.4	Ohio/ Grayson	CAH, WAH, PCR, SCR	
Rough River	River Mile 74.5 to River Mile 74.2 (Hwy 54 Bridge)	McLean/ Ohio	CAH, PCR, SCR	
Roundstone Creek of Nolin River	Hwy 1140 (River Mile 3.8) to Headwaters (River Mile 10.25)	Hart	CAH, PCR, SCR	
Running Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson	CAH, PCR, SCR, OSRW	
Russell Creek of Green River	Mouth to Columbia WWTP (0.0-40.0)	Green/ Adair	WAH, PCR, SCR, OSRW	
Russell Creek of Green River	Reynolds Creek to confluence with Hudson Creek and Mount Olive Creek (56.9 -66.3)	Adair, Russell	WAH, PCR, SCR, OSRW	
Sixes Creek of Indian Camp Creek	Wild Branch to Headwaters (2.0-7.5)	Ohio	WAH, PCR, SCR, OSRW	
Suds Spring	Basin Outside Mammoth Cave National Park Boundary	Hart/ Barren	CAH, PCR, SCR, OSRW	
Sulphur Branch of Alexander Creek	Mouth to Headwaters (0.0-3.0)	Edmonson	WAH, PCR, SCR, OSRW	
Thompson Branch	Webb Branch to Tennessee State Line (0.3-1.5)	Simpson	WAH, PCR, SCR, OSRW	
Trammel Fork of West Fork of Drakes Creek	River Mile 30.6 (Kentucky/Tennessee State Line) to Hwy 31E (River Mile 23.8)	Allen	CAH, PCR, SCR,	
Trammel Fork of West Fork of Drakes Creek	Mouth to Tennessee State Line (0.0-30.6)	Allen/ Warren	CAH, PCR, SCR, OSRW	
Turnhole Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson/ Barren	CAH, PCR, SCR, OSRW	
Underground River System	Mammoth Cave National Park	Edmonson/ Hart/Barren	CAH, PCR, SCR, OSRW	
Unidentified Tributary of Green River	Landuse Change to Headwaters (1.7-3.2)	Adair	WAH, PCR, SCR, OSRW	
Unidentified Tributary of White Oak Creek	Hovious Rd Crossing to SR 76 (0.0-2.1)	Adair	WAH, PCR, SCR, OSRW	
West Fork of Pond River	Unidentified Tributary to East Branch of Pond River (12.45 - 22.5)	Christian	WAH, PCR, SCR, OSRW	
TRADEWATER RIVER BASIN				
East Fork of Flynn Fork of Tradewater River	Landuse Change (US Hwy 62) to Headwaters (2.15-4.6)	Caldwell	WAH, PCR, SCR, OSRW	
Piney Creek of Tradewater River	Lake Beshear Backwaters to Headwaters (4.5-10.2)	Caldwell, Christian	WAH, PCR, SCR, OSRW	
Sandlick Creek of Tradewater River	Camp Creek to Headwaters (4.5-8.6)	Christian	WAH, PCR, SCR, OSRW	
Tradewater River	Dripping Springs Branch to Buntin Lake Dam (126.2-133.9)	Christian	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Piney Creek of Tradewater River	Mouth to Headwaters (0.0-2.9)	Caldwell	WAH, PCR, SCR, OSRW	

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Unidentified Tributary of Sandlick Creek of Tradewater River	Mouth to Headwaters (0.0-1.4)	Christian	WAH, PCR, SCR, OSRW	
LOWER CUMBERLAND RIVER BASIN				
Casey Creek	Mouth to headwaters (0.0-10.5)	Trigg	CAH, PCR, SCR	
Crooked Creek of Cumberland River	Energy Lake Backwaters to Headwaters (3.0-9.1)	Trigg	WAH, PCR, SCR, OSRW	
Cumberland River	0.2 Mile Downstream of Hickory Creek to 0.6 mile Upstream of Sugar Creek (10.2-11.9)	Livingston	WAH, PCR, SCR, OSRW	
Donaldson Creek of Cumberland River	Barkley Lake Backwaters to Unnamed Tributary (4.0-7.2)	Trigg	WAH, PCR, SCR, OSRW	
Elk Fork of Red River of Cumberland River	Tennessee State Line to Dry Branch (7.5-23.1)	Todd	WAH, PCR, SCR, OSRW	
Skinframe Creek	Livingston Creek to Headwaters (0.0-7.8)	Lyon	CAH, PCR, SCR	
Sugar Creek of Cumberland River	Lick Creek to Unidentified Tributary (2.2-6.9)	Livingston	WAH, PCR, SCR, OSRW	
Sulphur Spring Creek	Red River to Headwaters (0.0-9.1)	Simpson	CAH, PCR, SCR	
West Fork [of] Red River	State Line to River Mile 32.2 (14.75-32.2)	Christian	CAH, PCR, SCR, [OSRW]	
<u>West Fork Red River</u>	<u>State Line to mouth of Montgomery Creek (14.75-26.85)</u>	<u>Christian</u>	<u>CAH, FC, PCR, SCR, OSRW</u>	
Whipporwill Creek	Red River to Headwaters (0.0-45.4)	Logan/Todd	WAH, PCR, SCR, OSRW	
UPPER CUMBERLAND RIVER BASIN				
Acorn Fork of Stinking Creek	Basin above River Mile 1.0	Knox	WAH, PCR, SCR, OSRW	
Adams Branch of Pigeon Roost Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Archers Creek of Cumberland River	Basin (above RM 0.05 mi backwater at mouth)	Whitley	WAH, PCR, SCR, OSRW	
Bad Branch of Poor Fork of Cumberland River	Basin	Letcher	CAH, PCR, SCR, OSRW	
<u>Bain Branch</u>	<u>Basin</u>	<u>Knox</u>	<u>WAH, PCR, SCR, OSRW</u>	
Bark Camp Creek of Cumberland River	Basin (above RM 0.1 backwater at mouth)	Whitley	CAH, PCR, SCR, OSRW	
Barren Fork of Indian Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Beaver Creek of Cumberland River	Basin	McCreary	CAH, PCR, SCR, OSRW	
Bee Lick Creek of Brushy Creek of Buck Creek	Mouth to Warren Branch (0.0-5.7)	Pulaski	WAH, PCR, SCR, OSRW	
Bens Fork of Little Clear Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Big Branch of Marsh Creek	Basin above River Mile 0.8	McCreary	WAH, PCR, SCR, OSRW	
Big Lick Branch of Cumberland River	Basin (above 1.1, Cumberland River backwaters)	Pulaski	WAH, PCR, SCR, OSRW	
Blacksnake Branch of Brownies Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Breedens Creek of Clover Fork of Cumberland River	Basin	Harlan	WAH, PCR, SCR, OSRW	
Brices Creek of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Brownies Creek of Cumberland River	Basin above Blacksnake Branch (river mile [RM] 10.3)	Harlan	WAH, PCR, SCR, OSRW	
Brush Creek of Roundstone Creek	Wolf Creek to Reemergence of Sinking Creek (1.1-7.6)	Rockcastle	WAH, PCR, SCR, OSRW	
Brushy Creek of Buck Creek	Mouth to Headwaters (0.0-16.5)	Pulaski	WAH, PCR, SCR, OSRW	

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Buck Creek of Cumberland River	River Mile 11.7 (Backwaters of Lake Cumberland) to RM 55.0 (0.8 miles[RM] upstream of confluence of Hurricane Creek)	Pulaski	WAH, PCR, SCR, OSRW	
Buck Creek of Clear Fork of Cumberland River	Basin	Whitley	WAH, PCR, SCR, OSRW	
Bucks Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Buffalo Creek of Laurel Fork of Clear Fork of Cumberland River	Basin (including the unidentified tributary to the west) above Kentucky/ Tennessee State Line	Whitley	WAH, PCR, SCR, OSRW	
Bunches Creek of Cumberland River	Basin	Whitley	CAH, PCR, SCR, OSRW	
Campbell Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Cane Creek of Rockcastle River	Mouth to Dam (0.0-11.85)	Laurel	WAH, PCR, SCR, OSRW	
Caney Creek of Left Fork of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Cannon Creek of Yellow Creek	Basin above Cannon Creek Lake (RM 5.1)	Bell	WAH, PCR, SCR, OSRW	
Capuchin Creek of Jellico Creek	Basin from Mouth to Kentucky/Tennessee State Line (0.0-1.25)	McCreary	WAH, PCR, SCR, OSRW	
Clear Creek of Roundstone Creek	Scaffold Cane Branch to Davis Branch (3.45-7.8)	Rockcastle	WAH, PCR, SCR, OSRW	
Clifty Creek of Brushy Creek of Buck Creek	Mouth to Rocky Branch (0.0-2.7)	Pulaski	WAH, PCR, SCR, OSRW	
Clover Bottom Creek	Horse Lick Creek to River Mile 1.4	Jackson	CAH, PCR, SCR	
Cogur Fork of Indian Creek	Basin	McCreary	CAH, PCR, SCR, OSRW	
Coles Branch of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Colliers Creek of Poor Fork of Cumberland River	Basin	Bell	WAH, PCR, SCR, OSRW	
Criscillis Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Cumberland River	River Mile 549.65 (Backwaters Lake Cumberland) to River Mile 566.1 (0.2 mile below Summer Shoals)	McCreary/ Whitley	WAH, PCR, SCR, OSRW	
Cumberland River	Kentucky/Tennessee state line (River Mile 379.8) to River Mile 456.7 (Lake Cumberland Dam)	Clinton, Cumberland, Russell, Monroe	CAH, PCR, SCR	
Davis Branch of Little Yellow Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Dog Slaughter Creek of Cumberland River	Basin	Whitley	CAH, PCR, SCR, OSRW	
Dolen Branch of Rock Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Eagle Creek of Cumberland River	Basin	McCreary	WAH, PCR, SCR, OSRW	
Elisha Branch of Laurel Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
FishTrap Branch	Basin above River Mile 0.5 (Lake Cumberland backwaters)	McCreary	WAH, PCR, SCR, OSRW	
Four Mile Creek of Cumberland River	Basin above River Mile 2.5	Bell	WAH, PCR, SCR, OSRW	
Four Mile Run of Yellow Creek Bypass	Basin above River Mile 1.0	Bell	WAH, PCR, SCR, OSRW	
Fugitt Creek of Clover Fork of Cumberland River	Basin	Harlan	CAH, PCR, SCR, OSRW	
Hale Fork of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Hawk Creek of Rockcastle River	Basin	Laurel	CAH, PCR, SCR	

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Hinkle Branch of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Honeycutt Branch of Turkey Creek of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Horse Lick Creek	Mouth (0.0) at Middle Fork of Rockcastle River to River Mile 12.3 (Clover Bottom Creek)	Jackson/ Rockcastle	WAH, PCR, SCR, OSRW	
Howards Creek of Illwill Creek of Wolf River	Dale Hollow Reservoir Backwaters to Headwaters	Clinton	WAH, PCR, SCR, OSRW	
Hunting Shirt Branch of Richland Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Indian Creek of Cumberland River	Kilburn Fork to Barren Fork (2.4-6.8)	McCreary	WAH, PCR, SCR, OSRW	
Indian Creek of Cumberland River	Basin above and including Barren Fork	McCreary	CAH, PCR, SCR, OSRW	
Jackie Branch of Bark Camp Creek	Mouth to Headwaters (0.0-1.65)	Whitley	CAH, PCR, SCR, OSRW	
Jellico Creek of Cumberland River	River Mile 22.5 (confluence with Capuchin Creek) to River Mile 25.25 (Kentucky/Tennessee State Line)	McCreary	WAH, PCR, SCR, OSRW	
Jellico Creek of Cumberland River	Basin From and Including Capuchin Creek to the Kentucky/Tennessee State Line (22.5 to 25.25)	McCreary	WAH, PCR, SCR, OSRW	
Jennys Branch of Laurel Creek of Marsh Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Kelly Branch of Clover Fork of Cumberland River	Basin	Harlan	WAH, PCR, SCR, OSRW	
Kennedy Creek of Little South Fork of Cumberland River	Little South Fork of Cumberland River to River Mile 1.0	Wayne	WAH, PCR, SCR, OSRW	
Kettle Creek	Kentucky/Tennessee State Line to Wells Creek (1.75-6.1)	Monroe	WAH, PCR, SCR, OSRW	
Kilburn Fork of Indian Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Laurel Creek of Marsh Creek	River Mile 3.1 (Jennys Branch) to River Mile 9.0 (Dam)	McCreary	CAH, PCR, SCR, OSRW	
Laurel Creek of Marsh Creek	Basin above Mouth of Jennys Branch to Laurel Creek Lake Dam (3.2-9.0)	McCreary	WAH, CAH, PCR, SCR, OSRW	
Laurel Fork of Clear Fork of Cumberland River	Basin above River Mile 16.0 (John Partin Road off Hwy 190)	Bell	WAH, PCR, SCR, OSRW	
Laurel Fork of Clear Fork of Cumberland River	River Mile 4.3 (Kentucky/Tennessee state line) to River Mile 16.0 (John Partin Road off Hwy 90)	Whitley	WAH, PCR, SCR, OSRW	
Laurel Fork of Kilburn Fork	Basin	McCreary	WAH, PCR, SCR, OSRW	
Laurel Fork of Middle Fork Rockcastle River	Middle Fork of Rockcastle River to Headwaters (0.0-12.3)	Jackson	WAH, PCR, SCR, OSRW	
Laurel River	River Mile 0.9 to Laurel River Lake Dam (0.9-2.4)	Laurel, Whitley	CAH, PCR, SCR	
Lick Fork of Yellow Creek By-Pass of Yellow Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Little Popular Creek of Cumberland River	Basin above Hubbs Creek (4.4)	Knox	WAH, PCR, SCR, OSRW	
Little South Fork of Cumberland River	River Mile 4.4 (backwaters of Lake Cumberland) to River Mile 35.5 (Confluence with Langham Branch)	Wayne, McCreary	WAH, PCR, SCR, OSRW	
Little White Oak Creek	Mouth to Headwaters (0.0-2.6)	Laurel	WAH, PCR, SCR, OSRW	
Long Branch of Left Fork of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	

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Looney Creek of Poor Fork of Cumberland River	Basin above River Mile 5.9 (Lynch City Limits)	Harlan	CAH, PCR, SCR	
Marsh Creek	Basin above River Mile 24.6 (Confluence with Murphy Creek) to River Mile 26.5 (within Kentucky)	McCreary	WAH, PCR, SCR, OSRW	
Marsh Creek	River Mile 0.05 (confluence with Cumberland River) to River Mile 24.6 (confluence with Murphy Creek)	McCreary	WAH, PCR, SCR, OSRW	
Martins Fork	Basin above River Mile 32.7 (Cumberland Gap National Historical Park Boundary)	Bell	CAH, PCR, SCR	
Martins Fork	River Mile 27.2 to River Mile 32.7 (Cumberland Gap National Historical Park Boundary)	Bell, Harlan	CAH, PCR, SCR, OSRW	
McFarland Creek of Cumberland River	Little McFarland Creek to Spring Branch (0.8-6.2)	Monroe	WAH, PCR, SCR, OSRW	
Meadow Branch of Poor Fork Cumberland River	Mouth to River Mile 1.95 and Basin above the East-Southeast Unnamed Tributary	Harlan	WAH, PCR, SCR, OSRW	
Meadow Fork of Franks Creek	Basin	Letcher	WAH, PCR, SCR, OSRW	
Meshack Creek of Cumberland River	Mouth to Pitcock Branch (0.0-2.8)	Monroe	WAH, PCR, SCR, OSRW	
Middle Fork of Rockcastle River	Confluence of Middle and South Forks of Rockcastle River (River Mile 0.0) to River Mile 7.9 (confluence of Indian Creek and Laurel Fork)	Jackson	WAH, PCR, SCR, OSRW	
Mill Branch of Stinking Creek	Basin above reservoir backwaters (0.8)	Knox	WAH, PCR, SCR, OSRW	
Mill Creek of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Mill Creek of Cumberland River	Basin	McCreary	WAH, PCR, SCR, OSRW	
Moore Creek of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Mud Creek of Clear Fork of Cumberland River	Basin above River Mile 6.5 (0.3 [river]miles above Siler Cemetery Road Bridge)	Whitley	WAH, PCR, SCR, OSRW	
Mud Camp Creek of Cumberland River	Mouth to Collins Branch (0.0-1.2)	Cumberland	WAH, PCR, SCR, OSRW	
Mud Camp Creek of Cumberland River	Unidentified Tributary to Headwaters (3.8-8.8)	Cumberland/ Monroe	WAH, PCR, SCR, OSRW	
Mud Lick of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Ned Branch of Rockcastle River	Basin above backwaters (RM 0.45)	Laurel	WAH, PCR, SCR, OSRW	
Otter Creek of Cumberland River	Lake Cumberland Backwaters to Carpenter Fork (14.0-22.1)	Wayne	WAH, PCR, SCR, OSRW	
Paint Gap Branch of Sinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Patterson Creek of Cumberland River	Basin above River Mile 7.3 (confluence with Rose Creek)	Whitley	WAH, PCR, SCR, OSRW	
Poor Fork of Cumberland River	Franks Creek to Headwaters (41.4-51.7)	Letcher	WAH, PCR, SCR, OSRW	
Poor Fork of Cumberland River	Basin above River Mile 48.1 (at Joseph Road off of Hwy 932)	Letcher	CAH, PCR, SCR, OSRW	
Presley House Branch of Poor Fork of Cumberland River	Mouth to Headwaters (0.0-1.5)	Letcher	WAH, PCR, SCR, OSRW	
Puncheoncamp Branch of Rock Creek of South Fork of Cumberland River	Mouth to Headwaters (0.0-1.85)	McCreary	WAH, PCR, SCR, OSRW	
Richland Creek of Cumberland River	Basin above River Mile 15.8 (0.5 [stream]miles above Hubbard Branch) to River Mile 21.4	Knox	WAH, PCR, SCR, OSRW	

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Roaring Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Rock Creek of South Fork of Cumberland River	Kentucky/Tennessee State Line (River Mile 21.5) to White Oak Creek	McCreary	CAH, PCR, SCR, OSRW	
Rock Creek of Jellico Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Rockcastle River	River Mile 8.95 (backwaters of Lake Cumberland) to River Mile 54.7 (confluence of Middle Fork and South Fork Rockcastle River)	Laurel/ Pulaski	WAH, PCR, SCR, OSRW	
Ross Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Roundstone Creek of Rockcastle River	River Mile 13.5 (confluence of Renfro Creek) to River Mile 26.4 (Interstate -75)	Rockcastle	WAH, PCR, SCR, OSRW	
Ryans Creek of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Sanders Creek of Cumberland River	Basin	Whitley	WAH, PCR, SCR, OSRW	
<u>Seng Branch</u>	<u>Basin</u>	<u>Whitley</u>	<u>WAH, PCR, SCR, OSRW</u>	
Shillalah Creek of Clear Fork of Yellow Creek	Cumberland Gap National Historical Park Boundary to Headwaters (1.5-5.5)	Bell	CAH, PCR, SCR, OSRW	
Shillalah Creek of Clear Fork of Yellow Creek	Mouth to Cumberland Gap National Historical Park Boundary (0.0-1.5)	Bell	WAH, PCR, SCR, OSRW	
Shut-in Branch of Jellico Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Sinking Creek	Headwaters to Rockcastle River (0.0-20.3)	Laurel	WAH, PCR, SCR, OSRW	
Sims Fork of Left Fork of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Smith Creek of Franks Creek	Basin	Letcher	WAH, PCR, SCR, OSRW	
South Fork of Cumberland River	River Mile 44.3 (Blue Heron) to River Mile 54.8 (Kentucky /Tennessee State Line)	McCreary	WAH, PCR, SCR, OSRW	
South Fork of Rockcastle River	River Mile 2.1 to White Oak Creek (River Mile 5.8)	Laurel	WAH, PCR, SCR, OSRW	
South Fork of Rockcastle River	Rockcastle River (River Mile 0.0) to River Mile 2.1	Rockcastle	WAH, PCR, SCR, OSRW	
Stevenson Branch of Bennetts Fork of Yellow Creek	Basin	Bell	WAH, PCR, SCR, OSRW	
Sulphur Creek of Wolf River of Obey River	Dale Hollow Reservoir Backwaters to Headwaters (1.7-5.1)	Clinton	WAH, PCR, SCR, OSRW	
Trace Branch of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Trammel Fork of Marsh Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Turkey Creek of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	
Tyes Fork of Bennetts Fork of Patterson Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Cane Creek of Rockcastle River	Mouth to Headwaters (0.0-1.2)	Laurel	WAH, PCR, SCR, OSRW	
Unidentified Tributary (across from Hemlock Grove at river mile 9.3 of Rock Creek) of Rock Creek of South Fork of Cumberland River	Mouth to Headwaters (0.0-1.2)	McCreary	WAH, PCR, SCR, OSRW	

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Unidentified Tributary (RMI 17.05 of Rock Creek) of Rock Creek of South Fork of Cumberland River	Mouth to Headwaters (0.0- 1.9)	McCreary	WAH, PCR, SCR, OSRW	
Watts Branch of Rock Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
Watts Creek of Cumberland River	Basin above Camp Blanton Lake (2.4)	Harlan	WAH, PCR, SCR, OSRW	
White Oak Creek of Rock Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	
White Oak Creek of Sinking Creek	Basin above River Mile 0.9 (includes Little White Oak Creek)	Laurel	CAH, PCR, SCR	
Wolf Creek of Clear Fork	Basin above Little Wolf Creek (2.0-5.9)	Whitley	WAH, PCR, PSCR, OSRW	
Wood Creek of Little Rockcastle River	Confluence with Hazel Patch Creek (0.0) to River Mile 1.9 (Wood Creek Lake Dam)	Laurel	CAH, PCR, SCR	
Youngs Creek of Cumberland River	Basin	Whitley	WAH, PCR, SCR, OSRW	
LAKES AND RESERVOIRS				
Beulah (=Tyner)	Entire Reservoir	Jackson	WAH, CAH, PCR, SCR	
Cannon Creek	Entire Reservoir	Bell	WAH, CAH, PCR, SCR	
Laurel River	Entire Reservoir	Laurel/ Whitley	WAH, CAH, PCR, SCR	
Wood Creek	Entire Reservoir	Laurel	WAH, CAH, PCR, SCR	
TENNESSEE RIVER BASIN				
Blood River of Kentucky Lake (Tennessee River)	McCullough Fork to Tennessee State Line (15.15-18.7)	Calloway	WAH, PCR, SCR, OSRW	
Clarks River of Tennessee River	Persimmon Slough to Middle Fork Creek (28.6-30.6)	Marshall	WAH, PCR, SCR, OSRW	
Grindstone Creek of Kentucky Lake (Blood River of Tennessee River)	Kentucky Lake Backwaters to Headwaters (0.7-2.9)	Calloway	WAH, PCR, SCR, OSRW	
Panther Creek of Kentucky Lake (Blood River of Tennessee River)	Kentucky Lake Backwaters to Headwaters (0.5-5.7)	Calloway	WAH, PCR, SCR, OSRW	
Soldier Creek of West Fork of Clarks River	Mouth to South Fork of Soldier Creek (0.0-5.7)	Marshall	WAH, PCR, SCR, OSRW	
Sugar Creek of Kentucky Lake (Tennessee River)	Kentucky Lake Backwaters to Buzzard Roost Road (2.5-3.2)	Calloway	WAH, PCR, SCR, OSRW	
Sugar Creek of West Fork Clarks River	Mouth to Unnamed Reservoir (0.0-3.9)	Graves	WAH, PCR, SCR, OSRW	
Tennessee River	<u>0.4 miles upstream of White Oak Creek to 12.0 (approximately 0.4 miles above Mud Creek) (4.2-12.0)</u>	<u>Livingston/Marshall</u>	<u>WAH, PCR, SCR, OSRW</u>	
Tennessee River	River 12.0 (approximately 0.4 miles above Mud Creek) to 22.8 (Kentucky Lake Dam)	Livingston/Marshall	WAH, PCR, SCR, OSRW	
Tennessee River	River Mile 23.1 (Kentucky Lake Dam) to River Mile 12.4 (12.4-23.1)	Livingston/ McCracken/ Marshall	WAH, PCR, SCR, OSRW	
Trace Creek of West Fork of Clarks River	Mouth to Neeley Branch (0.0-3.35)	Graves	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Unidentified Tributary of Panther Creek of West Fork of Clarks River	Mouth to Headwaters (0.0-1.7)	Graves	WAH, PCR, SCR, OSRW	
West Fork of Clarks River	Soldier Creek to Duncan Creek (20.1-23.5)	Graves	WAH, PCR, SCR, OSRW	
Wildcat Creek of Kentucky Lake (Blood River of Tennessee River)	Ralph Wright Road Crossing to Headwaters (3.6 -6.8)	Calloway	WAH, PCR, SCR, OSRW	

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OHIO RIVER BASIN (Main Stem and Minor Tributaries)				
Ashbys Fork	Mouth to Petersburg Road (SR 20) (0.0-3.7)	Boone	WAH, PCR, SCR, OSRW	
Crooked Creek	Rush Creek to City Lake Dam (17.9-26.2)	Crittenden	WAH, PCR, SCR, OSRW	
Doe Run Creek	Hwy 1638 to Headwaters (5.2-8.3)	Meade	CAH, PCR, SCR	
Double Lick Creek of Woolper Creek	Mouth to Headwaters (0.0-3.5)	Boone	WAH, PCR, SCR, OSRW	
Garrison Creek	Mouth to Headwaters (0.0-4.85)	Boone	WAH, PCR, SCR, OSRW	
Kinniconick Creek	McDowell Creek to Headwaters (5.05-50.9)	Lewis	WAH, PCR, SCR, OSRW	
Little South Fork of Big South Fork	Land Use Change to Headwaters (1.2-5.9)	Boone	WAH, PCR, SCR, OSRW	
Middle Fork of Massac Creek	Hines Road to Headwaters (3.1-6.4)	McCracken	WAH, PCR, SCR, OSRW	
<u>Ohio River</u>	<u>River Mile 341.3 to 343.3</u>	<u>Greenup</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 436.25 to 438.0</u>	<u>Bracken</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 459.6 to 461.7</u>	<u>Campbell</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 559.7 to 562.0</u>	<u>Trimble</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 725.2 to 727.1</u>	<u>Hancock</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 732.9 to 734.9</u>	<u>Hancock</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 758.7 to 760.7</u>	<u>Daviess</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 784.7 to 786.6</u>	<u>Henderson</u>	<u>WAH, PCR, SCR, OSRW</u>	
Ohio River	River Mile 848.0 to River Mile 850.0	Union	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 856.4-852.0	Union	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 859.0 to River Mile 861.0	Union	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 865.0 to River Mile 867.0	Union	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 923.5 to River Mile 926.0	Livingston	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 927.0 to River Mile 930.0	Livingston	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 933.0 to 937.0	McCracken	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 937.0 to River Mile 939.8	McCracken	WAH, PCR, SCR, OSRW	
<u>Ohio River</u>	<u>River Mile 933.1 to 943.4</u>	<u>McCracken</u>	<u>WAH, PCR, SCR, OSRW</u>	
Ohio River	River Mile 948.2 to River Mile 949.5	McCracken	WAH, PCR, SCR, OSRW	
<u>Ohio River</u>	<u>River Mile 946.8 to 949.1</u>	<u>McCracken</u>	<u>WAH, PCR, SCR, OSRW</u>	
<u>Ohio River</u>	<u>River Mile 952.7 to 956.1</u>	<u>McCracken</u>	<u>WAH, PCR, SCR, OSRW</u>	
Ohio River	River Mile 960.0 to River Mile 962.7 (above Lock and Dam 53)	Ballard	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 966.3 to River Mile 969.5	Ballard	WAH, PCR, SCR, OSRW	
Ohio River	River Mile 922.0 to River Mile 923.5 (Channel East of Towhead Island)	Livingston	WAH, PCR, SCR, OSRW	
<u>Ohio River</u>	<u>River Mile 956.1 to 974.1</u>	<u>Ballard/McCracken</u>	<u>WAH, PCR, SCR, OSRW</u>	
Otter Creek	Ohio River to River Mile 9.7	Meade	CAH, PCR, SCR	
Second Creek	Ohio River Backwaters to Headwaters (0.2-2.7)	Boone	WAH, PCR, SCR, OSRW	

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Sinking Creek	Hwy 259 to Headwaters (includes Blue & Stony Forks)	Breckinridge	CAH, PCR, SCR	
Unidentified Tributary of Big Sugar Creek	I-71 to Headwaters (1.0-3.4)	Gallatin	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Corn Creek	Mouth to Headwaters (0.0-2.3)	Trimble	WAH, PCR, SCR, OSRW	
Unidentified Tributary of Massac Creek	Mouth to Headwaters (0.0-1.7)	McCracken	WAH, PCR, SCR, OSRW	
West Fork of Massac Creek	SR 724 to Little Massac Creek (1.0-6.2)	McCracken	WAH, PCR, SCR, OSRW	
White Oak Creek	Mouth (Ohio River) to River Mile 1.08	Greenup	SCR	401 KAR 10:031, Section 2(1)(d) and 2(2) do not apply.
Yellowbank Creek	Ohio River Backwaters to Headwaters (1.5-11.8)	Breckinridge	WAH, PCR, SCR, OSRW	
LAKES AND RESERVOIRS				
Metropolis	Entire Lake	McCracken	WAH, PCR, SCR, OSRW	
MISSISSIPPI RIVER BASIN (Main Stem and Minor Tributaries)				
Bayou de Chien	River Mile 15.4 to Headwaters (River Mile 32.9)	Hickman/ Graves	WAH, PCR, SCR, OSRW	
Cane Creek of Bayou de Chien	Basin	Graves	WAH, PCR, SCR, OSRW	
Jackson Creek of Bayou de Chein	Basin	Graves	WAH, PCR, SCR, OSRW	
Jackson Creek	Mouth to Headwaters	Graves	WAH, PCR, SCR, OSRW	
Mississippi River	River Mile 947.0 to River Mile 942.3	Hickman	WAH, PCR, SCR, OSRW	
Mississippi River	River Mile 959.1 to River Mile 957.1	Carlisle	WAH, PCR, SCR, OSRW	
Obion Creek	Hurricane Creek to Little Creek (26.35-36.55)	Hickman	WAH, PCR, SCR, OSRW	
Sand Creek of Bayou de Chein	Basin	Graves	WAH, PCR, SCR, OSRW	
South Fork of Bayou de Chien	Basin	Graves	WAH, PCR, SCR, OSRW	
Terrapin Creek	Tennessee State Line to Headwaters (2.7-6.0)	Graves	WAH, PCR, SCR, OSRW	
LAKES AND RESERVOIRS				
Murphy's Pond	Entire Pond and Preserve Area	Hickman	WAH, PCR, SCR, OSRW	
Swan Pond	Entire Lake	Ballard	WAH, PCR, SCR, OSRW	

Section 6. Incorporation by Reference. (1) "Interim Economic Guidance for Water Quality Standards Workbook", EPA, March 1995 Publication EPA-823-B-95-002. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., is incorporated by reference.

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LEONARD K. PETERS, Secretary

APPROVED BY AGENCY: August 6, 2015

FILED WITH LRC: August 10, 2015 at 2 p.m.

CONTACT PERSON: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 200 Fair Oaks Lane, 4th Floor, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003.

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water
(As Amended at ARRS, December 9, 2015)**

401 KAR 10:030. Antidegradation policy implementation methodology.

RELATES TO: KRS 146.200-146.360, 146.410-146.535, 146.550-146.570, 146.600-146.619, 146.990, 176.430, 224.1-010[224.01-040], 224.1-400[224.01-400], 224.16-050, 224.16-070, 224.70-100-224.70-140, 224.71-100-224.71-145, 224.73-100-224.73-120, 30 U.S.C. 1201 -1328

STATUTORY AUTHORITY: KRS 146.220, 146.241, 146.270, 146.410, 146.450, 146.460, 146.465, 224.10-100, 224.16-050, 224.16-060, 224.70-100, 224.70-110, 40 C.F.R. 130, 131, 16 U.S.C. 1271-1287, 1531-1544, 33 U.S.C. 1311, 1313, 1314, 1315, 1316, 1341, 1342, 1344

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the cabinet to develop and conduct a comprehensive program for the management of water resources and to provide for

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the prevention, abatement, and control of all water pollution. KRS 224.70-100 ~~authorizes~~~~declares that~~ the policy of the commonwealth ~~[is]to~~ conserve its waters for legitimate uses, safeguard from pollution the uncontaminated waters of the commonwealth, prevent the creation of any new pollution in the waters of the commonwealth, and abate any existing pollution. This administrative regulation and 401 KAR 10:001, 10:026, 10:029, and 10:031 establish procedures to protect the surface waters of the Commonwealth, and thus protect water resources. This administrative regulation establishes a methodology to implement the antidegradation policy contained in 401 KAR 10:029 by establishing procedures to control water pollution in waters affected by that policy.

antidegradation procedures established in this administrative regulation shall not preempt the power or authority of a local government to provide by ordinance for a higher level of protection through antidegradation implementation for a discharger located within that local government's jurisdiction to a surface water of the commonwealth. The ~~[following]procedures established in this section~~ shall govern implementation of the antidegradation policy of 401 KAR 10:029, Section 1, for a point source discharge. Surface waters shall be placed into one (1) of four (4) categories listed in this section and each category shall have a corresponding implementation procedure.~~[procedures as follows:]~~

(1) Outstanding national resource water. Surface waters of the commonwealth categorized as outstanding national resource waters are listed in Table 1 of this subsection.

Section 1. Categorization and Implementation. ~~The~~~~[These]~~

Table 1 SURFACE WATERS CATEGORIZED AS OUTSTANDING NATIONAL RESOURCE WATER			
Stream	Segment	River Miles	County
Red River	Upstream to Island off SR 1067 to Downstream Wild River Boundary at SR 746	49.2 to 68.6	Menifee/Wolfe
Underground River System	Within Mammoth Cave National Park Boundary		Edmonson/Hart/Barren
Big South Fork Cumberland River	Downstream Wild River Boundary to Tennessee State line	44.3 to 54.8	McCreary
Surface Waters within Reelfoot Lake National Wildlife Refuge	Reelfoot Lake National Wildlife Refuge Proclamation Boundary in Kentucky	2040 Acres	Fulton
War Fork [of] Station Camp Creek	Basin above South Fork of Station Camp Creek to Steer Fork	0.0 to 13.8	Jackson
Marsh Creek	Mouth to 1.9 miles upstream of Kentucky 478	0.0 to 15.0	McCreary
Rock Creek	State border to White Oak Creek	4.1 to 21.9	McCreary
Rockcastle River	Lower end of Narrows to 0.2 miles downstream of Kentucky 80 bridge	8.95 to 22.4	Laurel/Pulaski

(a) Categorization criteria. A surface water shall be categorized as an outstanding national resource water if:

1. The surface water meets, at a minimum, the requirements for an outstanding state resource water as provided in 401 KAR 10:031, Section 8; and

2. The surface water demonstrates national ecological or recreational significance.

(b) Implementation procedure.

1. Water quality shall be maintained and protected in an outstanding national resource water.

2. A new discharger or expanded discharge that may result in permanent or long-term changes in water quality shall be prohibited.

3. The cabinet may approve temporary or short-term changes in water quality if the changes to the outstanding national resource water do not have a demonstrable impact on the ability of the water to support the designated uses.

(2) Exceptional water. Surface waters of the commonwealth categorized as an exceptional water are listed in Table 2 of this subsection.

Table 2 SURFACE WATERS CATEGORIZED AS EXCEPTIONAL WATER			
Stream	Segment	River Miles	County
BIG SANDY RIVER BASIN			
Hobbs Fork of Pigeonroost Fork of Wolf Creek	Mouth to Headwaters	0.0-3.9	Martin
Lower Pigeon Branch of Elkhorn Creek	Left Fork to Headwaters	0.6-1.9	Pike
Russell Fork of Levisa Fork of Big Sandy River	Clinch Field RR Yard off HWY 80 to Virginia State Line	15.0-16.5	Pike
Thompson Fork of Souders Branch	<u>Mouth to Headwaters</u>	<u>0.0-1.0</u>	<u>Floyd</u>
Toms Branch of Elkhorn Creek	Mouth to Headwaters	0.0-1.6	Pike
Unidentified Tributary of Hobbs Fork	Hobbs Fork of Pigeonroost Fork to Headwaters	0.0-0.6	Martin

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Unidentified Tributary of Open Fork Paint Creek	Mouth to Headwaters	0.0-0.8	Morgan
LITTLE SANDY RIVER BASIN			
Arabs Fork of Big Sinking Creek	Clay Fork to Headwaters	0.0-5.1	Elliott
Big Caney Creek	Grayson Lake to Headwaters	1.8-15.3	Elliott, Rowan
Big Sinking Creek of Little Sandy River	SR 986 to Clay Fork and Arab Fork	6.1-15.8	Carter, Elliott
Meadow Branch of Little [Fork of Little]Sandy River	Mouth to Headwaters	0.0-1.4	Elliott
Middle Fork [of] Little Sandy River	Mouth to Sheepskin Branch	0.0-3.4	Elliott
Nichols Fork of Little [Fork of Little]Sandy River	Green Branch to Headwaters	0.0-2.0	Elliott
Laurel Creek of Little Sandy River	Carter School Rd Bridge to Headwaters	7.6-14.7	Elliott, Rowan
LICKING RIVER BASIN			
Blackwater Creek of Licking River	Eaton Creek to Greasy Fork	3.8-11.7	Morgan
Blanket Creek of Licking River	Mouth to Unidentified Tributary	0.0-1.9	Pendleton
Botts Fork of Brushy Fork of Licking River	Mouth to Landuse Change	0.0-2.1	Menifee
Bowman Creek of Licking River	Mouth to Unidentified Tributary	0.0-6.0	Kenton
Brushy Fork of Meyers Creek	Cave Run Lake Backwaters to Headwaters	0.7-5.6	Menifee
Brushy Fork of South Fork of Grassy Creek	Mouth to Headwaters	0.0-5.8	Pendleton
Bucket Branch of North Fork [of]Licking River	Mouth to Headwaters	0.0-1.9	Morgan
Cedar Creek of Licking River	Mouth to North Branch of Cedar Creek	0.0-1.7	Robertson
Craney Creek of Licking River	Mouth to Headwaters	0.0-11.2	Morgan, Rowan
Devils Fork of North Fork [of]Licking River	Mouth to Headwaters	0.0-8.5	Elliott, Morgan
Flour Creek of Licking River	Mouth to Unidentified Tributary	0.0-2.2	Pendleton
Grovers Creek of Kincaid Creek	Kincaid Lake Backwaters to Unidentified Tributary	0.5-3.4	Bracken, Pendleton
Licking River	SR 211 to unnamed Rd off Slatey Point Rd	159.5- 170.6	Bath, Rowan
North Fork [of]Licking River	Cave Run Lake Backwaters to Devils Fork	8.4-13.4	Morgan
Sawyers Fork of Cruises Creek	Mouth to Headwaters	0.0-3.3	Kenton
Slabcamp Creek of Craney Creek of Licking River	Mouth to Headwaters	0.0-3.7	Rowan
Slate Creek of Licking River	Mouth to Mill Creek	0.0-13.6	Bath
South Fork Grassy Creek of Grassy Creek of Licking River	Mouth to Greasy Creek	0.0-19.8	Kenton, Pendleton
Unidentified Tributary of Shannon Creek of North Fork	Mouth to Headwaters	0.0-2.2	Mason

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[ef]Licking River			
Welch Fork of Brushy Fork [ef]Licking River	Mouth to First Road Crossing	0.0-1.0	Menifee
West Creek of Licking River	Mouth to Headwaters	0.0-9.8	Harrison, Robertson
KENTUCKY RIVER BASIN			
Backbone Creek of Sixmile Creek of Kentucky River*	Mouth to Scrabble Creek	0.0-1.65	Franklin, Henry, Shelby
Bear Branch of North Fork [ef]Kentucky River	Above Sediment Pond to Headwaters	0.3-1.2	Perry
Big Double Creek of Red Bird River	Mouth to confluence of Left and Right Forks of Big Double Creek	0.0-4.4	Clay
Bill Branch of Laurel Fork [ef]Greasy Creek	Mouth to Right Fork and Left Fork Creek	0.0-0.3	Leslie
Billey Fork of Millers Creek	Land Use Change to Headwaters	2.6-8.8	Lee, Elliott
Boyd Run of North Elkhorn Creek	Mouth to Cherry Run	0.0-0.9	Scott
Bill Oak Branch of Left Fork [ef]Buffalo Creek	Mouth to Headwaters	0.0-0.6	Owsley
Buffalo Creek of South Fork [ef]Kentucky River	Mouth to Right Fork and Left Fork	0.0-1.6	Owsley
<u>Bullskin Creek of Redbird River</u>	<u>Mouth to Headwaters</u>	<u>0.0–14.6</u>	<u>Clay</u>
Cavanaugh Creek	South Fork [ef]Station Camp Creek to Foxtown Rd	0.0-8.3	Jackson
Chester Creek of Middle Fork [ef]Red River	Mouth to Headwaters	0.0-2.8	Wolfe
Clear Creek of Kentucky River	Mouth to East Fork Clear Creek	0.0-9.0	Woodford
Clemons Fork of Buckhorn Creek	Mouth to Headwaters	0.0-4.8	Breathitt
Coles Fork of Buckhorn Creek	Mouth to Headwaters	0.0-6.2	Breathitt
Craig Creek of Kentucky River	Mouth to Unidentified Tributary	0.5-2.7	Woodford
Deep Ford Branch of Cutshin Creek	Above Pond to Headwaters	0.3-1.3	Leslie
Drennon Creek of Kentucky River	Fivemile Creek to Town Branch	8.7-12.2	Henry
East Fork [ef]Indian Creek of Indian Creek of Red River	West Fork [ef]Indian Creek to Headwaters	0.0-9.0	Menifee
Elisha Creek of Red Bird River	Land Use Change (Residential) to the confluence of Right Fork and Middle Fork Elisha Creek	0.8-1.8	Leslie
Emily Run of Drennon Creek	Mouth to Unidentified Tributary	0.0-4.0	Henry
Evans Fork of Billey Fork of Millers Creek	Mouth to Headwaters	0.0-3.0	Estill
Falling Rock Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters	0.0-0.7	Breathitt
Gilberts Creek of Kentucky River	Mouth to Unidentified Tributary	0.0 to 2.6	Anderson
Gladie Creek of Red River	Land Use Change to Long Branch	0.35 to 7.3	Menifee
Goose Creek of	Mouth to Laurel Creek	0.0-9.1	Clay, Leslie

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South Fork [øf]Kentucky River			
Griers Creek of Kentucky River*	Kentucky River Backwaters to Unidentified Tributary	0.1 to 3.5	Woodford
Grindstone Creek of Kentucky River*	Kentucky River Backwaters to Headwaters	0.1 to 1.9	Franklin
Hardwick Creek of Red River	Mouth to Little Hardwick Creek	0.0-3.25	Powell
Hell For Certain of Middle Fork [øf] Red River	Mouth to Big Fork	0.0-2.1	Leslie
Hines Creek of Kentucky River*	Kentucky River Backwaters to confluence with Unidentified Tributary	0.1 to 1.9	Madison
Honey Branch of Greasy Creek of Middle Fork [øf]Kentucky River*	Mouth to Headwaters	0.0-1.35	Leslie
Hopper Cave Branch of Cavanaugh Creek*	Mouth to Headwaters	0.0-1.8	Jackson
Indian Creek of Eagle Creek*	Mouth to Headwaters	0.0 to 5.4	Carroll
Indian Fork of Sixmile Creek of Kentucky River*	Mouth to Headwaters	0.0-3.3	Shelby
John Carpenter Fork of Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-1.2	Breathitt
Joyce Fork of Cortland Fork	<u>Mouth to Headwaters</u>	<u>0.0-1.2</u>	<u>Owsley</u>
Katies Creek of Red Bird River	Mouth to Headwaters	0.0-4.0	Clay
Laurel Fork of Left Fork Buffalo Creek of Buffalo Creek*	Cortland Fork to Big Branch	0.0-3.75	Owsley
Left Fork [øf] Big Double Creek of Kentucky River*	Mouth to Headwaters	0.0-1.5	Clay
Line Fork of North Fork of Kentucky River*	Defeated Creek to Headwaters	12.2-28.6	Letcher
Little Middle Fork of Elisha Creek of Red Bird River*	Mouth to Headwaters	0.0-0.75	Clay
Little Millseat Branch of Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-1.2	Breathitt
Little Sixmile Creek of Sixmile Creek of Kentucky River*	Mouth to Headwaters	0.0-5.3	Henry
<u>Little Sturgeon</u> <u>Creek of Sturgeon</u> <u>Creek</u>	<u>Mouth to Headwaters</u>	<u>0.0-3.0</u>	<u>Owsley</u>
<u>Low Gap Branch of</u> <u>Elk Creek</u>	<u>Mouth to Headwaters</u>	<u>0.0-0.8</u>	<u>Letcher</u>
<u>Lower Devil Creek</u> <u>of North Fork</u> <u>Kentucky River</u>	<u>Mouth to Headwaters</u>	<u>0.0-4.65</u>	<u>Lee</u>
Lower Howard Creek of Kentucky River	Mouth to West Fork	0.0-2.7	Clark
Lulbegrud Creek of Red River	Mouth to Falls Branch	0.0-7.3	Clark, Powell
Middle Fork [øf] Kentucky River	Mouth to Upper Twin Creek	0.0-12.7	Lee, Owsley
Middle Fork [øf] Kentucky River*	Hurts Creek to Greasy Creek	75.6-85.8	Leslie

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Middle Fork [ef]Red River	South Fork of Red River to Natural Bridge State Park Lake	1.8-8.5[7.2]	Powell
Mikes Branch of Laurel Fork of Left Fork [ef]Buffalo Creek	Mouth to Headwaters	0.0-0.7	Owsley
Mill Creek of Kentucky River	Upstream of Mouth to Headwaters	0.5-8.3	Owen
Millseat Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters	0.0-1.85	Breathitt
Muddy Creek of Kentucky River	Elliston, Kentucky to Viney Creek	13.8-20.65	Madison
Musselman Creek of Eagle Creek	Mouth to Headwaters	0.0-9.0	Grant
Red Bird River of South Fork [ef] Kentucky River	Mouth to Big Creek	0.0-15.3	Clay
Right Fork [ef]Buffalo Creek of Kentucky River	Mouth to Headwaters	0.0-11.75	Owsley
Right Fork [ef]Elisha Creek of Redbird River	Mouth to Headwaters	0.0-3.3	Leslie
Roaring Fork of Lewis Fork of Buckhorn Creek	Mouth to Headwaters	0.0-0.9	Breathitt
Rock Lick Creek of South Fork of Station Camp Creek	Mouth to Headwaters	0.0-9.6	Jackson
Sand Ripple Creek of Kentucky River	Kentucky River Backwaters to Headwaters	0.1-3.9	Henry
Severn Creek of Kentucky River	Kentucky River Backwaters to North Fork [ef]Severn Creek	1.35-3.0	Owen
Shaker Creek of Kentucky River	Near Mouth to Shawnee Run	0.1-1.4	Mercer
Shelly Rock Fork of Millseat Branch of Clemons Fork	Mouth to Headwaters	0.0-0.6	Breathitt
Sixmile Creek of Kentucky River	Little Sixmile Creek to Dam	7.1-15.3	Henry
South Fork [ef]Kentucky River	Mouth to Sexton Creek	0.0-27.8	Owsley
South Fork [ef]Red River	Mouth to Sandlick Fork	0.0-4.2	Powell
South Fork [ef]Station Camp Creek of Kentucky River	Mouth to Rock Lick Creek	0.0-9.7	Jackson
Spruce Branch of Redbird River	Mouth to Headwaters	0.0-1.0	Clay
Station Camp Creek of Kentucky River	Landuse Change to South Fork [ef]Station Camp Creek	18.0-22.8	Estill
Steeles Run of Elkhorn Creek	Mouth to Unidentified Tributary	0.0-4.2	Fayette
Steer Fork of War Fork of Station Camp Creek	Mouth to Headwaters	0.0-2.7	Jackson
Sturgeon Creek of Kentucky River	Duck Fork to Little Sturgeon Creek	1.3-13.7	Lee, Owsley
Sugar Creek of Redbird River	Landuse Change to Headwaters	0.6-5.4	Leslie
Sulphur Lick Creek of Elkhorn Creek	Mouth to Headwaters	0.0-5.2	Franklin
Unidentified Tributary of Cawood	Mouth to Headwaters	0.0-2.1	Leslie

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Branch of Beech Fork*			
Unidentified Tributary of Cedar Creek of Kentucky River*	Mouth to Headwaters	0.0-1.4	Owen
Unidentified Tributary of Glens Creek of Kentucky River*	Mouth to Headwaters	0.0 to 1.9	Woodford
Unidentified Tributary of Jacks Creek of Kentucky River*	Mouth to Headwaters	0.0-1.15	Madison
Unidentified Tributary of Kentucky River*	Land Use Change to Headwaters	0.1-1.4	Franklin
Unidentified Tributary of Line Fork of North Fork [ef] Kentucky River* (LCW)	Mouth to Headwaters	0.0-0.6	Letcher
War Fork of Station Camp Creek*	Mouth to Headwaters	0.0-13.8	Jackson
Watches Fork of Laurel Fork of Left Fork [ef] Buffalo Creek	Mouth to Headwaters	0.0-1.0	Owsley
Wolfpen Creek of Red River*	Mouth to Headwaters	0.0-3.6	Menifee
SALT RIVER BASIN			
Brashears Creek of Salt River	Guist Creek to Bullskin and Clear Creek	13.0-25.9	Shelby, Spencer
Cedar Creek of Salt River*	Mouth to Greens Branch	0.0-5.2	Bullitt
Chaplin River of Salt River*	Thompson Creek to Cornishville, KY	40.9-54.2	Washington
Doctors Fork of Chaplin River	Mouth to Begley Branch	0.0-3.8	Boyle
Guist Creek of Brashears Creek	Mouth to Jeptha Creek	0.0-15.7	Spencer
Harts Run of Wilson Creek of Rolling Fork [ef] Salt River*	Mouth to Headwaters	0.0-1.8	Bullitt
Indian Creek of Thompson Creek of Chaplin River of Salt River	Mouth to Unidentified Tributary	0.0-0.9	Mercer
Lick Creek of Long Lick Creek of Beech Fork of Salt River*	Mouth to 0.1miles below Dam	0.0-4.0 [0.0-4.1]	Washington
Otter Creek of Rolling Fork of Salt River*	Landuse Change to confluence of East Fork and Middle Fork Otter Creek	1.7-2.9	Larue
Overalls Creek of Wilson Creek of Rolling Fork of Salt River*	Mouth to Headwaters of Middle Fork [ef] Overalls Creek	0.0-3.2	Bullitt
Salt Lick Creek of Rolling Fork of Salt River*	Mouth to Headwaters	0.0-8.6	Larue, Marion
Sulphur Creek of Chaplin River*	Mouth to confluence of Cheese Lick and Brush Creek	0.0-10.0	Anderson, Mercer, Washington
Unidentified Tributary of Glens Creek of Chaplin River	Mouth to Headwaters	0.0-2.3	Washington
West Fork [ef] Otter Creek of Rolling	Mouth to Headwaters	0.0-5.1	Larue

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Fork of Salt River*			
Wilson Creek of Rolling Fork of Salt River*	Mouth to Headwaters	0.0-18.4	Bullitt, Nelson
GREEN RIVER BASIN			
Beaverdam Creek of Green River*	Mouth to Headwaters	0.0-14.5	Edmonson
Big Brush Creek of Green River	Brush Creek to Poplar Grove Branch	13.0-17.3	Green
Cane Run of Nolin River*	Nolin River Lake Backwaters to Headwaters	0.8-6.5	Hart
Caney Fork of Peter Creek*	Mouth to Headwaters	0.0-6.7	Barren
Clifty Creek of Rough River*	Barton Run to Western Kentucky Parkway	7.3-17.2	Grayson
Clifty Creek of Wolf Lick Creek*	Little Clifty Creek to Sulphur Lick	7.6-13.4	Todd
East Fork [of] Little Barren River	Red Lick Creek to Flat Creek	18.9-20.7	Metcalf
Elk Lick Creek	Duck Lick Creek to Barren Fork Creek and Edger Creek	3.6 to 11.8	Allen
Ellis Fork of Damron Creek*	Mouth to Headwaters	0.0-3.2	Adair, Russell
Falling Timber Creek of Skaggs Creek*	Landuse Change to Headwaters	10.8-15.2	Barren, Metcalf
Fiddlers Creek of North Fork [of] Rough River*	Mouth to Headwaters	0.0-5.9	Breckinridge
Forbes Creek of Buck Creek of East Fork [of] Pond River*	Mouth to Unidentified Tributary	0.0-4.1	Christian
Gaspar River of Barren River*	Clear Fork to Wiggington Creek	17.2-35.6	Logan, Warren
Goose Creek of Green River*	Mouth to Little Goose Creek	0.0-8.5	Casey, Russell
Green River	Downstream Mammoth Cave National Park Boundary to Lynn Camp Creek	185.0-250.3	Edmonson, Hart
Halls Creek of Rough River*	Unidentified Tributary to Headwaters	7.15-9.6	Ohio
Lick Creek of West Fork [of] Drakes Creek*	Mouth to Headwaters	0.0-10.2	Simpson
Linders Creek of Rough River*	Mouth to Sutzer Creek	0.0-7.9	Hardin
Little Beaverdam Creek of Green River*	Mouth to SR 743	0.0-11.65	Edmonson, Warren
Little Short Creek of Rough River*	Mouth to Headwaters	0.0-3.1	Grayson
Lynn Camp Creek of Green River*	Mouth to Lindy Creek	0.0-8.5	Hart
McFarland Creek of West Fork [of] Pond River*	Grays Branch to Unidentified Tributary	1.5-5.0	Christian
Meeting Creek of Rough River*	Little Meeting Creek to Petty Branch	5.2-14.0	Grayson, Hardin
Muddy Creek of Caney Creek of Rough River*	Landuse Change to Headwaters	13.0-15.5	Ohio
North Fork [of] Rough River*	Buffalo Creek to Reservoir Dam	22.1-26.9	Breckinridge
Peter Creek of Barren River*	Caney Fork to Dry Fork	11.6-18.5	Barren
Pond Run of Rough River*	Landuse Change to Headwaters	1.4-6.8	Breckinridge, Ohio

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Puncheon Creek	Mouth to Tennessee State Line	0.0-3.8	Logan
Rough River	Linders Creek to Vertrees Creek	138.0-149.4	Hardin
Russell Creek of Green River	Mouth to Columbia WWTP	0.0-40.0	Green, Adair
Russell Creek of Green River	Reynolds Creek to confluence with Hudson Creek and Mount Olive Creek	56.9-66.3	Adair, Russell
Sixes Creek of Indian Camp Creek	Wild Branch to Headwaters	2.0-7.5	Ohio
Sulphur Branch of Alexander Creek	Mouth to Headwaters	0.0-3.0	Edmonson
Thompson Branch of West Fork [ef]Drakes Creek	Webb Branch to Tennessee State Line	0.3-1.5	Simpson
Trammel Creek of Drakes Creek	Mouth to Tennessee State Line	0.0-30.6	Allen, Warren
Unidentified Tributary of Green River	Landuse Change to Headwaters	1.7-3.2	Adair
Unidentified Tributary of White Oak Creek	Hovious Rd Crossing to SR 76	0.4-2.9	Adair
West Fork [ef]Pond River	Unidentified Tributary to East Branch [ef]Pond River	12.45-22.5	Christian
LOWER CUMBERLAND RIVER BASIN			
Crooked Creek of Cumberland River	Energy Lake Backwaters to Headwaters	3.0-9.4	Trigg
Donaldson Creek of Cumberland River	Craig Branch to Unidentified Tributary	3.2-7.2	Trigg
Elk Fork [ef] Red River of Cumberland River	Tennessee State Line to Dry Branch	7.5-23.1	Todd
Sugar Creek of Cumberland River	Lick Creek to Unidentified Tributary	2.2-6.9	Livingston
West Fork [ef] Red River of Cumberland River	Tennessee State Line to Montgomery Creek	16.1-26.5	Christian
West Fork Red River	Tennessee State Line to Montgomery Creek	14.75-26.85	Christian
Whippoorwill Creek of Red River of Cumberland River	Mouth to Vicks Branch	0.0-13.2	Logan
TENNESSEE RIVER BASIN			
Blood River of Kentucky Lake (Tennessee River)	McCullough Fork to Tennessee State Line	15.15-18.7	Calloway
Clarks River of Tennessee River	Persimmon Slough to Middle Fork Creek	28.7-30.7	Marshall
Grindstone Creek of Kentucky Lake (Blood River of Tennessee River)	Kentucky Lake Backwaters to Headwaters	0.7-2.9	Calloway
Panther Creek of Kentucky Lake (Blood River of Tennessee River)	Kentucky Lake Backwaters to Headwaters	0.5-5.7	Calloway
Soldier Creek of West Fork [ef] Clarks River	Mouth to South Fork of Soldier Creek	0.0-5.7	Marshall
Sugar Creek of Kentucky Lake (Tennessee River)	Kentucky Lake Backwaters to Buzzard Roost Road	2.5-3.2	Calloway
Sugar Creek of West Fork Clarks River	Mouth to Unnamed Reservoir	0.0-3.9	Graves
Trace Creek of	Mouth to Neeley Branch	0.0-3.35	Graves

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West Fork [ef]Clarks River*			
Unidentified Tributary of Unidentified Tributary of Panther Creek of West Fork [ef]Clarks River*	Mouth to Headwaters	0.0-1.7	Graves
West Fork [ef]Clarks River*	Soldier Creek to Duncan Creek	20.1-23.5	Graves
Wildcat Creek of Kentucky Lake (Blood River of Tennessee River)*	Ralph Wright Road Crossing to Headwaters	2.8-6.8	Calloway
TRADEWATER RIVER BASIN			
East Fork of Flynn Fork of Tradewater River*	Landuse Change to Headwaters	2.15-4.6	Caldwell
Piney Creek of Tradewater River*	Lake Beshear Backwaters to Headwaters	4.5-10.2	Caldwell, Christian
Sandlick Creek of Tradewater River*	Camp Creek to Headwaters	4.5-8.6	Christian
Tradewater River*	Dripping Springs Branch to Buntin Lake Dam	126.2-133.9	Christian
Unidentified Tributary of Piney Creek of Tradewater River*	Mouth to Headwaters	0.0-2.9	Caldwell
Unidentified Tributary of Sandlick Creek of Tradewater River*	Mouth to Headwaters	0.0-1.4	Christian
OHIO RIVER BASIN (Minor Tributaries)			
Ashbys Fork of Woolper Creek	Mouth to SR 20	0.0-3.7	Boone
Crooked Creek*	Rush Creek to City Lake Dam	18.1-26.4	Crittenden
Double Lick Creek of Woolper Creek*	Mouth to Headwaters	0.0-3.5	Boone
Garrison Creek*	Mouth to Headwaters	0.0-4.85	Boone
Kinniconick Creek*	McDowell Creek to Headwaters	5.2-50.9	Lewis
Little South Fork of Big South Fork	Land Use Change to Headwaters	1.2-5.8	Boone
Middle Fork of Massac Creek*	Hines Road to Headwaters (Pond)	3.1-6.4	McCracken
Second Creek*	Ohio River Backwaters to Headwaters	0.4-2.9	Boone
Unidentified Tributary of Big Sugar Creek*	I-71 to Headwaters	1.0-1.8	Gallatin
Unidentified Tributary of Corn Creek*	Mouth to Headwaters	0.0-2.3	Trimble
Unidentified Tributary of Massac Creek*	Mouth to Headwaters	0.0-1.7	McCracken
West Fork [ef]Massac Creek*	SR 724 to Little Massac Creek	3.6-6.2	McCracken
Yellowbank Creek*	Ohio River Backwaters to Headwaters	2.0-12.0	Breckinridge
LAKE			
Metropolis	Entire Lake		McCracken
MISSISSIPPI RIVER BASIN (Main Stem and Minor Tributaries)			
Jackson Creek*	Mouth to Headwaters	0.0-3.0	Graves
Obion Creek*	Hurricane Creek to Little	26.7-37.1	Hickman

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	Creek		
Terrapin Creek*	Tennessee State Line to Confluence of East and West Forks	2.7-6.0	Graves
LAKES			
Murphy's Pond	Entire Pond and Preserve Area		Hickman
Swan	Entire Lake		Ballard
UPPER CUMBERLAND RIVER BASIN			
Bad Branch of Poor Fork [ef]Cumberland River*	Mouth to Headwaters	0.0-3.0	Letcher
Bark Camp Creek of Cumberland River*	Mouth to Martins Fork	0.0-4.0	Whitley
Beaver Creek of Cumberland River*	Lake Cumberland Backwaters to confluence of Freeman Fork and Middle Fork	2.4-7.1	McCreary
Bee Lick Creek of Brushy Creek of Buck Creek	Mouth to Warren Branch	0.0-5.7	Pulaski
Brownies Creek of Cumberland River*	Blacksnake Branch to Headwaters	9.3-16.75	Bell, Harlan
Brush Creek of Roundstone Creek*	Wolf Creek to Reemergence of Sinking Creek	1.1-7.6	Rockcastle
Brushy Creek of Buck Creek*	Mouth to Headwaters	0.0-16.5	Pulaski
Buck Creek of Cumberland River*	0.8 river mile upstream of confluence of Hurricane Creek to Lake Cumberland Backwaters	11.7-55.0	Lincoln, Pulaski
Bunches Creek of Cumberland River*	Mouth to confluence of Amos Falls Branch and Seminary Branch	0.0-3.3	Whitley
Cane Creek of Rockcastle River*	Mouth to Headwaters	0.0-11.85	Laurel
Clear Creek of Roundstone Creek	Scaffold Cane Branch to Davis Branch	3.45-7.8	Rockcastle
Clifty Creek of Brushy Creek of Buck Creek	Mouth to Rocky Branch	0.0-2.7	Pulaski
Cogur Fork of Indian Creek*	Mouth to Headwaters	0.0-7.95	McCreary
Cumberland River	Wild River Boundaries	549.65-566.1	McCreary, Whitley
Dog Slaughter Creek of Cumberland River*	Mouth to confluence of North Fork and South Fork [ef]Dog Slaughter Creek	0.05-1.15	Whitley
Eagle Creek of Cumberland River*	Mouth to Headwaters	0.05-6.75	McCreary
Fugitt Creek of Clover Fork [ef]Cumberland River*	Landuse Change to Headwaters	0.5-4.6	Harlan
Horse Lick Creek of Rockcastle River*	Mouth to Clover Bottom	0.0-12.3	Jackson, Rockcastle
Howards Creek of Illwill Creek of Wolf River*	Dale Hollow Reservoir Backwaters to Headwaters	0.6-4.6	Clinton
Indian Creek of Cumberland River*	Laurel Fork to Barren Fork	2.4-6.8	McCreary
Jackie Branch of Bark Camp Creek*	Mouth to Headwaters	0.0-1.65	Whitley
Kettle Creek of Cumberland River	State line to Wells Creek	1.75-6.1	Monroe
Kilburn Fork of Indian Creek	Mouth to Headwaters	0.0-7.2	McCreary

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Laurel Creek of Marsh Creek	Mouth to Laurel Creek Dam	0.0-9.0	McCreary
Laurel Fork of Clear Fork of Cumberland River	Tennessee State Line to Tiny Branch	4.3-13.1	Whitley
Laurel Fork of Middle Fork of Rockcastle River	Mouth to Headwaters	0.0-12.3	Jackson
Left Fork of Fugitt Creek of Clover Fork [ef]Cumberland River	Mouth to Headwaters	0.0-1.5	Harlan
Little South Fork [ef]Cumberland River	Lake Cumberland Backwaters to Langham Branch	4.4-35.5	McCreary, Wayne
Little White Oak Creek of White Oak Creek	Mouth to Headwaters	0.0-2.6	Laurel
Marsh Creek of Cumberland River	Laurel Creek to Kentucky/Tennessee State Line	8.8-26.5	McCreary
Martins Fork [ef]Cumberland River	Rough Branch to Headwaters	27.2-32.7	Harlan
McFarland Creek of Cumberland River	Little McFarland Creek to Spring Branch	0.8-6.2	Monroe
Meshack Creek of Cumberland River	Mouth to Pitcock Branch	0.0-2.8	Monroe
Middle Fork [ef]Rockcastle River	Mouth to confluence of Indian Creek and Laurel Fork	0.0-7.9	Jackson
Mud Camp Creek of Cumberland River	Mouth to Collins Branch	0.0-1.2	Cumberland
Mud Camp Creek of Cumberland River	Unidentified Tributary to Headwaters	3.8-8.8	Cumberland, Monroe
Otter Creek of Cumberland River	Lake Cumberland Backwaters to Carpenter Fork	14.0-22.1	Wayne
Poor Fork [ef]Cumberland River	Franks Creek to Headwaters	42.1-52.4	Letcher
Presley House Branch of Poor Fork [ef]Cumberland River	Mouth to Headwaters	0.0-1.5	Letcher
Puncheoncamp Branch of Rock Creek of Big South Fork [ef]Cumberland River	Mouth to Headwaters	0.0-1.85	McCreary
Rock Creek of Big South Fork [ef]Cumberland River	White Oak Creek to Tennessee State Line	4.0-21.5	McCreary
Rockcastle River	Wild River Boundaries	8.95-54.7	Laurel, Pulaski
Shillalah Creek of Clear Fork of Yellow Creek	Mouth to Headwaters	0.0-5.5	Bell
Sinking Creek of Rockcastle River	Mouth to White Oak Creek	0.0-9.9	Laurel
Sulphur Creek of Wolf River of Obey River	Dale Hollow Reservoir Backwaters to Headwaters	1.7-5.1	Clinton
South Fork of Dog Slaughter Creek of Cumberland River	Mouth to Headwaters	0.0-4.6	Whitley
South Fork [ef]Rockcastle River	Mouth to White Oak Creek	0.0-5.8	Laurel
Unidentified Tributary of Cane	Mouth to Headwaters	0.0-1.2	Laurel

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Creek of Rockcastle River			
Unidentified Tributary (across from Hemlock Grove) of Rock Creek of Big South Fork [ef]Cumberland River	Mouth to Headwaters	0.0-1.3	McCreary
Unidentified Tributary (RMI 17.0 of Rock Creek) of Rock Creek of Big South Fork [ef]Cumberland River	Mouth to Headwaters	0.0-1.2	McCreary
Watts Branch of Rock Creek of South Fork [ef]Cumberland River	Mouth to Headwaters	0.0-2.6	McCreary
Watts Creek of Cumberland River	Camp Blanton Reservoir to Headwaters	2.4-4.4	Harlan

*Waterbodies in the cabinet's reference reach network

(a) Categorization criteria. A surface water shall be categorized as an exceptional water if the surface water[any of the following criteria are met]:

1. [Surface water]Is designated as a Kentucky Wild River and is not categorized as an outstanding national resource water;
2. [Surface water]Is designated as an outstanding state resource water as established in 401 KAR 10:031, Section 8(1)(a)1, and[-] 2[-] and 3 and Section 8(1)(b);
3. [Surface water]Contains a[either of the following]:
 - a. [A]Fish community that is rated "excellent" by the use of the Index of Biotic Integrity included in Development and Application of the Kentucky Index of Biotic Integrity (KIBI), 2003; or
 - b. [A]Macroinvertebrate community that is rated "excellent" by the Macroinvertebrate Bioassessment Index included in "The Kentucky Macroinvertebrate Bioassessment Index," 2003; or
4. Is[Surface water] in the cabinet's reference reach network.

(b) Implementation procedure. The implementation procedure for exceptional water shall be as established in subsection (3)(b) of this section.

(3) High quality water.

(a) Categorization criteria.

1. A surface water shall be categorized as high quality water if the surface water is not listed as an outstanding national resource water or an exceptional water in Table 1 or 2 of this section and if the surface water does not meet the criteria for impaired water as established[provided for] in subsection (4)(a) of this section.

2. A surface water shall be categorized as a high quality water if the surface water is listed as an outstanding state resource water in 401 KAR 10:026 and is not listed as an outstanding national resource water in Table 1 or an exceptional water in Table 2 of this section.

(b) Implementation procedure. Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. A KPDES permit application for a new or expanded discharge into a high quality or exceptional water shall be subject to the provisions of this paragraph, except[-] Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.]

1. a. [The activities identified in this subparagraph shall not be subject to the antidegradation implementation procedures in paragraph (b) of this subsection. a.]The renewal of a KPDES permit that does not authorize pollutant loading to the receiving stream in excess of that previously authorized;

b. [2.]b. An increase in pollutant loading within the limits previously approved by the KPDES permit; or

c. [3.]e. A new or expanded discharge that the applicant demonstrates;

(i) [a.] Shall not consume more than ten (10) percent of the available assimilative capacity of the receiving stream outside of a designated mixing zone or zone of initial dilution for each new or increased pollutant in the discharge; and

(ii) [b.] The cumulative impact of this category of discharges shall not consume more than ten (10) percent of the available assimilative capacity of the receiving stream outside of a designated mixing zone or zone of initial dilution.

2. [4.] The activities identified in clauses a. through d. of this subparagraph shall constitute compliance with the alternatives and socioeconomic analysis requirements if addressed in the manner established in this subparagraph rather than as established in subparagraph 1.c. [3.] of this paragraph, unless the permittee chooses to satisfy applicable antidegradation requirements pursuant to subparagraph 3. of this paragraph.

a. The cabinet may, upon receipt of a notice of intent to be covered under a general permit, require additional analyses or other information if necessary to comply with antidegradation requirements. A general permit issued pursuant to 401 KAR 5:050 through 5:080 shall be [is] compliant with the alternatives and socioeconomic analysis requirements if:

(i) The activity permitted by the general permit may result in a lowering of water quality, the cabinet shall describe [describes] in the Fact Sheet how the general permit complies with the alternatives analysis, and socioeconomic demonstration requirements of subparagraph 1.c. [3.a. and b.] of this paragraph upon each general permit issuance. [The cabinet may, upon receipt of a notice of intent to be covered under a general permit, require additional analyses or other information if necessary to comply with antidegradation requirements] [.]

(ii) The requirements and conditions in a general permit will prevent a lowering of water quality, the cabinet shall describe [describes] in the Fact Sheet how the general permit complies with the antidegradation policy established in 401 KAR 10:029, Section 1; and [If the activity permitted by the general permit may result in a lowering of water quality, the cabinet shall describe in the Fact Sheet how the general permit complies with the alternatives analysis and socioeconomic demonstration requirements of subparagraph 3.a. and b. of this paragraph upon each general permit issuance.]

(iii) The cabinet notifies the public of an activity granted coverage under a general permit on the cabinet's Web page, which shall include the facility name, location, and receiving water [If the requirements and conditions in a general permit will prevent a lowering of water quality, the cabinet shall describe in the Fact

Sheet that the general permit complies with the antidegradation policy established in 401 KAR 10:029, Section 1. (iv) The public shall be notified of an activity granted coverage under a general permit on the cabinet's Web page, which shall include the facility name, location, and receiving water].

b. The approval of a POTW's regional facility plan pursuant to 401 KAR 5:006 shall constitute compliance with the alternatives analysis and socioeconomic demonstration for a regional facility.

c. ~~An antidegradation review shall not be required for maintenance of an existing highway facility.~~ A new or expanded discharge associated with a project identified in the Kentucky Transportation Cabinet's six (6) year road plan, as established in KRS 176.430 shall satisfy the: [-]

(i) ~~[The] Alternatives analysis for lowering water quality requirement [shall be satisfied] if an alternatives analysis for the project has been submitted; and [-]~~

(ii) ~~[The] Socioeconomic demonstration requirement [shall be satisfied] if the project has been approved by the General Assembly and included in the Kentucky Transportation Cabinet's six (6) year road plan and evaluated pursuant to the provisions of KRS 176.430(4)(i). [The] An antidegradation review shall not be required for maintenance of existing highway facilities.]~~

d. An individual MS4 permit issued pursuant to 401 KAR 5:050 through 5:080 shall be compliant with the alternatives and socioeconomic analysis requirements if the: [-]

(i) ~~[If the] Activity permitted by the MS4 permit may result in a lowering of water quality, the cabinet shall describe [shall describe] in the Fact Sheet how the MS4 permit complies with the alternatives analysis and socioeconomic demonstration requirements of subparagraph 3.a. and b. of this paragraph; and [-]~~

(ii) ~~[If the] Requirements and conditions in the MS4 permit will prevent a lowering of water quality, the cabinet shall describe [shall describe] in the Fact Sheet how [that] the MS4 permit complies with the antidegradation policy established in 401 KAR 10:029, Section 1. [-]~~

3. An application for a KPDES permit subject to this paragraph shall contain information demonstrating that the lowering of water quality is necessary to accommodate important economic or social development in the area in which the water is located.

a. The socioeconomic demonstration shall consider [the following factors]:

(i) The boundaries of the affected community;

(ii) The potential effect on employment, including a comparison of local unemployment rates and state and national unemployment rates;

(iii) The potential effect on median household income levels, including a comparison of the present median household income level, projected median household income level, and number of households affected in the defined community;

(iv) The potential effect on tax revenues, including current tax revenues in the affected community compared to projected increase in tax revenues generated by the permitted project;

(v) The potential effect of the facility on the environment and public health; and

(vi) Other potential economic or social effect to the community that the applicant includes in the application.

b. The alternatives analysis shall consider [the following factors]:

(i) Pollution prevention measures, such as changes in plant processes, source reductions, or substitution with less toxic substances;

(ii) The use of best management practices to minimize impacts;

(iii) Recycle or reuse of wastewater, waste by-products, or production materials and fluids;

(iv) Application of water conservation methods;

(v) Alternative or enhanced treatment technology;

(vi) Improved operation and maintenance of existing treatment systems;

(vii) Seasonal or controlled discharge options;

(viii) Land application or infiltration to capture pollutants and reduce surface runoff, on-site treatment, or alternative discharge

locations; and

(ix) Discharge to other treatment facilities.

c. Information required pursuant to this subparagraph shall be submitted on the Socioeconomic Demonstration and Alternatives Analysis form.

4. A permit applicant who has failed to demonstrate the necessity and social or economic development importance for lowering water quality shall not receive a permit unless:

a. The applicant demonstrates, through a revised submission, the necessity for lowering revised water quality in accordance with subparagraph 3. of this paragraph; or

b. The applicant demonstrates that the discharge can meet the requirements established in subparagraph 1.c. of this paragraph.

5. A permit applicant who demonstrates the necessity and social or economic development importance for lowering water quality shall meet the requirements of the KPDES program, 401 KAR 5:050 through 5:080.

6. The cabinet's determination shall be documented in the permit Fact Sheet and included in the administrative record for the permit or action.

(4) Impaired water.

(a) Categorization criteria. A surface water categorized as impaired for applicable designated uses shall be a water identified pursuant to 33 U.S.C. 1315(b).

1. Surface water categorized as impaired shall be assessed by the cabinet as not fully supporting any applicable designated uses.

2. A surface water shall not be categorized as impaired water if the surface water is listed as an outstanding state resource water in 401 KAR 10:026.

3. A surface water shall not be categorized as impaired for the purposes of this administrative regulation if the surface water is listed only as mercury impaired for fish consumption.

(b) Implementation procedure.

1. All existing uses shall be protected and the level of water quality necessary to protect those existing uses shall be assured in impaired water.

2. The process to allow a discharge into an impaired water and to assure protection of the water shall be regulated by the requirements in the Kentucky Pollution Discharge Elimination System Program, 401 KAR 5:050-5:080.

Section 2. Procedure for Recategorizing Water. This section shall apply to the recategorization of surface water to outstanding national resource water and exceptional water. The redesignation of water to outstanding state resource water shall be governed by the procedures in 401 KAR 10:026. (1) The cabinet may propose to recategorize certain water to outstanding national resource water and exceptional water if the water meets the criteria set forth in Section 1(1)(a) or (2)(a) of this administrative regulation.

(a) If the cabinet proposes to recategorize these waters, it shall provide notice and an opportunity for public hearing.

(b) The cabinet shall provide the documentation requirements of this section for those surface waters it proposes to recategorize.

(2) A person may request recategorization of a surface water to an outstanding national resource water or exceptional water by filing a petition with the cabinet.

(a) The petition shall include the name and address of the petitioner and the information and documentation necessary to recategorize the particular water as required by subsection (4) of this section.

(b) The petitioner shall have the burden of proof that the recategorization is appropriate.

(c) The cabinet shall provide notice of the petition and an opportunity for a public hearing.

(d) The cabinet shall review the petition, supporting documentation, and any comments received from the public to determine if the proposed water qualifies for recategorization.

(e) The cabinet shall document the determination to grant or deny recategorization as a result of a petition, and shall provide a copy of the decision to the petitioner and other interested parties.

(3) If a water is to be recategorized, the cabinet shall publish notice of the recategorization.

(a) A permit issued after the date of publication shall be issued

with limitations based on the new category.

(b) When the cabinet reviews its water quality standards pursuant to the provisions of Section 303 of the Clean Water Act, 33 U.S.C. 1313, the cabinet shall propose to have all recategorized water promulgated as an amendment to this administrative regulation.

(4) The following information, documentation, and data shall support a petition for recategorization:

(a) A petition for outstanding national resource water shall include:

1. A USGS 7.5 minute topographic map or its equivalent showing those surface waters to be recategorized including a description consisting of a river mile index with any existing and proposed discharge points;

2. Existing uses and water quality data for the surface water for which the recategorization is proposed. If adequate data are unavailable, additional studies shall be required by the cabinet;

3. Descriptions of general land uses and specific land uses adjacent to the surface water for which the recategorization is proposed;

4. The existing and designated uses of the water upstream and downstream of the proposed recategorized water;

5. General physical characteristics of the surface water including width, depth, bottom composition, and slope;

6. The frequency of occasions when there is no natural flow in the surface water and the 7Q₁₀ and harmonic mean flow values for the surface water and adjacent surface waters;

7. An assessment of the existing and potential aquatic life habitat in the surface water under consideration and the adjacent upstream surface waters. The existing aquatic life shall be documented including the occurrence of individuals or populations, indices of diversity and well-being, and abundance of species of any unique native biota;

8. A documented rationale as to why the water qualify for the recategorization; and

9. The rationale used to support the national significance of the water.

(b) A petition for exceptional water shall include[the following]:

1. A United States Geological Survey 7.5 minute topographic map or its equivalent showing the surface water to be recategorized including a description consisting of a river mile index with existing and proposed discharge points;

2. Descriptions of general land uses, including:

- a. Mining;
- b. Agriculture;
- c. Recreation;

d. Low, medium, and high density residential, commercial, or industrial uses; and

e. Specific land uses adjacent to the surface water for which the recategorization is proposed;

3. The frequency of occasions when there is no natural flow in the surface water and the 7Q₁₀ and annual mean flow values for the surface water; and

4. Fish or benthic macroinvertebrate collection data and an Index of Biotic Integrity or Macroinvertebrate Bioassessment Index calculation from a waterbody if criteria specified in Section 1(2)(a)3 of this administrative regulation are utilized.

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

(a) "Development and Application of the Kentucky Index of Biotic Integrity (KIBI)", 2003, Kentucky Division of Water, Environmental and Public Protection Cabinet;

(b) "The Kentucky Macroinvertebrate Bioassessment Index", 2003, Kentucky Division of Water, Environmental and Public Protection Cabinet; and

(c) "Socioeconomic Demonstration and Alternative Analysis", KPDES Form SDAA, April 2009.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

LEONARD K. PETERS, Secretary

APPROVED BY AGENCY: August 6, 2015

FILED WITH LRC: August 10, 2015 at 2 p.m.

CONTACT PERSON: Carole J. Catafo, Internal Policy Analyst, RPPS, Division of Water, 200 Fair Oaks Lane, 4th Floor, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, December 9, 2015)**

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," December 9[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[9/13/14])
- NTC 02-12-01 Inmate Accounts (Amended 12/9/15[9/28/15][7/14/14])
- NTC 03-03-01 Tobacco Products and Nicotine Procedures (Amended 12/9/15[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 12/9/15[9/28/15][7/14/14])
- NTC 10-01-01 Special Management Unit (Amended 12/9/15[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 12/9/15[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

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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 12/9/15[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 12/9/15[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) (Amended 12/9/15[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 (Amended 12/9/15[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 12/9/15[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

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.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department of Workforce Investment Office of Vocational Rehabilitation (As Amended at ARRS, December 9, 2015)

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), **34 C.F.R. 361.36, 361.54**

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. **34 C.F.R. 361.54(b) authorizes the office to consider an individual's financial need for vocational rehabilitation services.** 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 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.

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.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, December 9, 2015)

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(4)~~ of 815 KAR 15:025:

(a) Section I, rules for construction of power boilers;

(b) Section II, material specifications; ~~and~~

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) ~~[(14)]~~ "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~~[classified]~~ as a boiler.

(22) ~~[(23)]~~ "Heat recovery boiler" means~~[see]~~ "process steam generator" as defined by this administrative regulation~~]].~~

(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."

(34) "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 Association's 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").

~~(34)/(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.

~~(35)/(36)~~ ~~(39)~~ "Nuclear power plant" means a nuclear power plant consisting of one (1) or more nuclear power systems and containment systems.

~~(36)/(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.

~~(37)/(38)~~ ~~(44)~~ "Nuclear vessel" means a pressure vessel designed and constructed in accordance with Section III of ASME Boiler and Pressure Vessel Code.

~~(38)/(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).

~~(39)/(40)~~ "Owner's piping inspector" is defined by KRS 236.010(25).

~~(40)/(41)~~ ~~(42)~~ "Owner or user" means any person, firm, or corporation owning or operating a boiler or pressure vessel within this commonwealth.

~~(41)/(42)~~ ~~(43)~~ "Power boiler" is[means as] defined by KRS 236.010(1)(a).

~~(42)/(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 1, 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].

~~(43)/(44)~~ ~~(45)~~ "Pressure vessel" is[as] defined by KRS 236.010(2).

~~(44)/(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.

~~(45)/(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.

~~(46)/(47)~~ "PSI (psi)" means pounds per square inch.

~~(47)/(48)~~ "PSIG (psig)" means pounds per square inch gauge.

~~(48)/(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.

~~(49)/(50)~~ "Repair" means the work necessary to restore pressure-retaining items to a safe and satisfactory operating condition to comply with the National Board Inspection Code incorporated by reference in 815 KAR 15:026.

~~(50)/(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.

~~(51)/(52)~~ ~~(54)~~ "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].

~~(52)/(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[(4)].

~~(53)/(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.

~~(54)/(55)~~ ~~(54)~~ "V-R stamp holder" means the holder of a certificate issued by the National Board to repair pressure relief valves.

~~(55)/(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.

~~(56)/(57)~~ ~~(56)~~ "Waste heat boiler" means[see] "unfired steam boiler" as defined by this administrative regulation[)].

GARY A. FECK, Commissioner

AMBROSE WILSON, IV, Secretary

APPROVED BY AGENCY: October 1, 2015

FILED WITH LRC: October 7, 2015 at 10 a.m.

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.

PUBLIC PROTECTION CABINET

Department of Housing, Buildings and Construction

Division of Plumbing

(As Amended at ARRS, December 9, 2015)

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.~~

4-] 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 ~~established in subparagraphs 1. and 2. of this paragraph~~^[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 may[shall be permitted to] inspect B31.3 piping systems. The inspector shall notify the department as established in subsection (4) of this section 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[ef 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 established in paragraphs (a) and (b) of this subsection.[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)[4(3)(e)] 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 requirements of this section[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.

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.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, December 9, 2015)

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~~[these]~~ 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 test~~[pressure]~~ shall conform to the procedures and the pressure shall conform to the 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)(i)~~[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 (V-R)~~(VR)~~ Stamp and the valve shall be stamped with the V-R~~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~~ 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.

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.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, December 9, 2015)

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 off[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 V-R[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.

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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. [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.

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PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction Division of Plumbing (As Amended at ARRS, December 9, 2015)

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 4(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).^[1]

(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 (i)^[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 value 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 be based on the values given for a hand-fired boiler in the table established in this subparagraph 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 paragraphs (b) through (f) of this subsection, a boiler 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 shall have a feed supply that allows the boiler to be fed at any time while under pressure.

(b) A boiler that is fired with solid fuel not in suspension or a boiler that 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 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 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 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 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 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 employed, it is recommended that the minimum feed water temperature shall be no less than 215 degrees Fahrenheit so that dissolved gases will be thoroughly released.

(9) Fusible plugs. A fire-actuated fusible plug, 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, except for a damper regulator, feed water regulator, low-water fuel cutout, drain, steam gauge, 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 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 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 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 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 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

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PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, December 9, 2015)

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[4. 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 (h)(1) of this subsection. The additional valves required may be installed on the outlet piping if there is no intervening valve.

(h)(1) 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

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PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS, December 9, 2015)

820 KAR 1:044. Bingo equipment.

RELATES TO: KRS 238.515(2), (9), 238.530, 238.545

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.545(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(9) authorizes the department to promulgate administrative regulations necessary to carry out the purposes and intent of KRS Chapter 238. KRS 238.515(2) authorizes the department to establish charitable gaming standards. KRS 238.545(1)(b) requires the department to promulgate an administrative regulation concerning use and control of card-minding devices. This administrative regulation establishes standards for the construction and distribution of bingo equipment including standards relative to card-minding devices.

Section 1. Selection and Display Devices. (1) Bingo ball machines and other selection devices, flashboards and other display devices, and other bingo equipment used in the selection and display of game numbers shall be made available for inspection or testing by the department at any reasonable time.

(2) Equipment referenced in subsection (1) of this section shall be designed to produce randomness and be free of any defects when used in a bingo game.

(3) An organization shall not use a selection or display device with a defect that was apparent at the beginning of the session. All bingo balls used in the machine or other device shall:

- (a) Be of the same size, shape, weight, and balance;
- (b) Have all other characteristics that control their selection the same; and
- (c) Be clean and free of defects.

Section 2. Card-minding Devices. (1) **A card-minding device site system 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 card-minding 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.**

(2) The card-minding device site system may include the following components:

- (a) A caller verification system;**
- (b) Required printers;**
- (c) Modem;**
- (d) Proprietary executable software;**
- (e) Report generation software; and**
- (f) An accounting system or database.**

(2)(a) A card-minding device and associated site system shall not be sold, leased, or otherwise furnished to any person for use in the conduct of bingo until it has first been tested and ~~certified~~approved by an independent testing facility accepted by the department, demonstrated to the department by the manufacturer if requested, and approved by the department.

(b) For a hand-held card-minding device, a device and software which is identical to the device and software intended to be sold, leased, or otherwise furnished to any person for use in the conduct of bingo shall be tested and approved.

(c) For a fixed-base card-minding device, a device which contains identical software to the fixed-based card-minding device intended to be sold, leased, or otherwise furnished shall be tested and approved.

(3)(2) The cost of testing and certification shall be the responsibility of the manufacturer~~[device and software shall be submitted at the manufacturer's expense]~~.

(4)(3) The independent testing facility shall certify in ~~writing~~ensure that the device and proprietary software conform to the restrictions and conditions set forth in this administrative regulation.

(5)(4)(3) Any modifications to a hand-held card-minding device~~[or the software in]~~ a fixed base card-minding device, or software, except as provided in subsection (8) of this section, shall be tested and ~~certified~~approved by an independent testing facility, demonstrated to the department by the manufacturer if requested, and approved by the department in the same manner as a new device or new software. Testing and certification shall be at the manufacturer's expense.

(6)(5)(4)(a) The department, in consultation with the independent testing facility, shall determine if all proprietary software and card-minding devices required to be tested by this administrative regulation, as well as other components of card-minding device systems, conform to the requirements and restrictions contained in this administrative regulation 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 card-minding device and software. The department shall~~[submission and]~~ inform the manufacturer of its decision~~[the results]~~ 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.

(7)(6)(5) A manufacturer may conduct routine maintenance activities and replace secondary components of a card-minding device system without prior department approval or additional testing as long as this activity does not affect the operation of any proprietary software or the manner in which a bingo game is played, the integrity of any critical or controlled software, or the outcome of a bingo game. A record of all~~[such]~~ activities shall be maintained and provided to the department within ten (10) days of the maintenance or replacement.

(8)(7)(a) If a manufacturer, distributor, or charitable organization detects or discovers any defect, malfunction, or problem with a card-minding device system, card-minding device or software that affects the security or the integrity of the bingo game or the card-minding device or system, 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 a card-minding device system, card-minding device, or software that affects the security or the integrity of the bingo game or the card-minding device or system, the department shall direct the manufacturer, distributor, and charitable organization to immediately cease the sale, lease, or use of the affected card-minding device system, card-minding device, or software 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 card-minding device systems, card-minding devices, or software, 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 bingo faces;
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 card-minding devices and software 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[they] 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 card-minding device system, devices, or software may be reoffered for sale, lease, or use.

(f) If a recall is necessary, the department, in consultation with the manufacturer, shall determine a specific date for the recall of any affected card-minding device system, card-minding device, or software to be completed and whether the manufacturer is required to reimburse the organization or distributor. ~~(6)(a) If the department detects or discovers any problem with a card-minding device system that affects the security or the integrity of the bingo game or the card-minding device system, the department shall direct the manufacturer, distributor, or charitable organization to cease the sale, lease, or use of the card-minding device system until the problem is corrected.~~

~~(b) The department shall require the manufacturer to correct the problem or recall the card-minding device system immediately upon notification by the department to the manufacturer.~~

~~(c) If the manufacturer, distributor, or charitable organization detects or discovers any defect, malfunction, or problem with the card-minding device system that affects the security or the integrity of the bingo game or card-minding device system, the manufacturer, distributor, or charitable organization shall immediately notify the department.~~

~~(9)(8)(7)(a) A distributor or charitable organization shall not add or remove any software programs to an approved card-minding device system without the permission of the manufacturer and the department.~~

(b) If the department detects or discovers a card-minding device system at a playing location that is using components or software that were required to have been approved by the manufacturer and the department but have not been approved, the card-minding device system shall be determined to have an unauthorized modification and the use of the system shall cease immediately.

Section 3. Requirements for the Manufacturer of Card-minding Device Systems. (1) A manufacturer of a card-minding device system shall manufacture each site system to include a point of sale station and an internal accounting system that is capable of recording the charitable organization's sale of all charitable gaming supplies.

(2)(a) A manufacturer of a card-minding device system shall ensure that the site system has internet capability, so that the department has the ability to remotely verify the operation, compliance, and internal accounting systems of the site system at any time. The department shall have real time and complete read-only access to all data for all systems and devices~~[be given distributor-level access to the machine]~~.

(b) The manufacturer shall provide to the department all current protocols, passwords, and any other required information needed to access the system prior to the operation of the system within Kentucky.

(c) The department 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)[ten (10)] days prior to[of] the change.

(d) Any reports maintained or generated by the card-minding

device system shall be capable of being downloaded or otherwise accessed via the internet by the department.

(3) A manufacturer of a card-minding device system shall manufacture each site system to ensure that an internal accounting system is capable of recording and retaining for a period of not less than twelve (12) months:

(a) The serial number of each bingo face sold for card-minding device use;

(b) The price of each face or package sold;

(c) The total amount of the card-minding device sales for each session;

(d) The total number of faces sold for use with card-minding devices for each session;

(e) The serial number of each hand-held card-minding device sold; and

(f) The terminal number or account number associated with each fixed base card-minding device sold.

(4)(a) The information referenced in subsection (3) of this section shall be secure and shall not be accessible for alteration during the session.

(b) The site system shall have report generation software with the capability to print all information required to be maintained on the site system's active or archived databases. The total sales activity report shall be completed in the format of Form CG-CMD.

(5) A manufacturer of a card-minding device system shall manufacture each site system to ensure that the applicable point of sale station is capable of printing a receipt for each sale or void of a card-minding device. The receipt shall include the following information:

(a) The date and time of the transaction;

(b) The dollar value of the transaction and quantity of associated products;

(c) The sequential and consecutive transaction number;

(d) The session in which the product was sold;

(e) The serial number of each hand-held card-minding device sold; and

(f) The terminal number or account number for each fixed base card-minding device sold.

(6) A card-minding device system 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.

(7) A manufacturer of a card-minding device system shall manufacture each associated site system to include a caller station verifier that is able to verify winning cards and to print the cards for posting. The caller station verifier shall be capable of posting all balls called for verification purposes and printing an ordered list of the called balls.

(8)(a) Each card-minding device system shall employ sufficient security safeguards to allow verification that all proprietary software components are authentic copies of the approved software components and all functioning components of the card-minding device system are operating with identical copies of approved software programs.

(b) The system shall have sufficient security safeguards to ensure that any restrictions or requirements authorized by the department or any approved proprietary software are protected from alteration by unauthorized personnel.

(c) Examples of security measures that may be employed to comply with these provisions include the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and key and callback password systems.

(9) A manufacturer of a card-minding device system shall ensure that a card-minding device shall not allow any bingo cards or faces other than those verifiably purchased by the patron to be available for play.

(10) A manufacturer shall not display, use, or otherwise furnish a card-minding device which has in any manner been marked, defaced, or tampered with, or which is otherwise intended to deceive the public or affect a person's chances of winning.

(11) If the card-minding device system is capable of using radio frequency, it shall not be dual frequency.

(12) The card-minding device system shall provide password protection for each organization.

(13) The card-minding device system shall erase, deactivate, or render unplayable the electronic faces on each card-minding device prior to the next scheduled bingo occasion:

(a) Upon turning off the device after the last bingo game of the occasion has been played or upon placing the device into a charging unit; and

(b) By a secondary timing method established by the manufacturer.

(14) The card-minding device system shall ensure that the patron shall purchase additional electronic bingo faces at the site system and that additional faces shall not be purchased from the floor.

Section 4. Tracking by Manufacturer of Card-minding Device Systems. (1) Each manufacturer selling, leasing, or otherwise furnishing card-minding device systems shall maintain a single log or other record showing the following:

(a) The date of the transaction with the distributor;

(b) The model, version, and serial number of each hand-held card-minding device;

(c) The account number or terminal number of each fixed base card-minding device;

(d) The model and version number of the site system software; and

(e) The name and license number of the distributor to whom the card-minding device system was sold, leased, or otherwise furnished.

(2) A manufacturer selling, leasing, or otherwise providing a card-minding device system to a distributor shall provide the distributor with an invoice or other documentation that contains, at a minimum, the following information:

(a) The date of sale and the time period covered by the invoice;

(b) The quantity sold or leased; and

(c) The total invoice amount.

(3) The manufacturer shall maintain physical or electronic copies of the documentation required by this section for a period of thirty-six (36) months.

Section 5. Distributor Requirements for Card-minding Device Systems. (1) Before initial use by a charitable organization, the distributor shall ascertain that the particular device and associated software version are approved by the department for use in Kentucky.

(2) If the card-minding devices are used at multiple locations, each location shall have its own separate site system.

(3) Before the complete removal of any card-minding device system, the distributor shall supply a copy of the data files to each charitable organization which used the card-minding device system and to the department.

(4) A distributor shall not display, use, or otherwise furnish a card-minding device which has in any manner been marked, defaced, tampered with, or which is otherwise intended to deceive the public or affect a person's chances of winning.

(5) Each distributor selling, leasing, or otherwise furnishing card-minding device systems shall maintain a single log or other record showing the following information:

(a) The playing location name, physical address, telephone number, and facility license number, if applicable, where the card-minding device system is located;

(b) The model number and quantity of card-minding devices at each playing location;

(c) The date the card-minding device system was installed or removed;

(d) The model, version, and serial numbers or terminal numbers of the card-minding devices and site system equipment;

(e) The name and license number of the charitable organization or distributor to whom the card-minding device system was sold, leased, or otherwise furnished;

(f) The name and license number of the manufacturer or distributor from whom the card-minding device system was purchased, leased, or otherwise obtained;

(g) Each contract, lease, or purchase agreement between a distributor of a card-minding device and the charitable organization or other distributor to which the devices are furnished; and

(h) The total dollar amount of card-minding device sales or lease transactions regarding each charitable organization to which card-minding devices were furnished during each calendar quarter.

(6) A distributor selling, leasing, or otherwise providing a card-minding device system to a charitable organization or distributor shall provide the charitable organization or distributor with an invoice or other documentation that contains, at a minimum, the following information:

(a) The date of sale and the time period covered by the invoice;

(b) The quantity sold or leased; and

(c) The total invoice amount.

(7) The distributor shall maintain physical or electronic copies of the documentation required by this section for a period of thirty-six (36) months.

Section 6. Requirements for Charitable Organizations Using Card-minding Device Systems. (1) Before initial use of a card-minding device system by a charitable organization, the organization shall ascertain that the particular device and associated software version have been approved by the department for use in Kentucky.

(2) A licensed charitable organization shall not display, use, or otherwise furnish a card-minding device which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a player's chances of winning.

(3) If a player's card-minding device malfunctions during a bingo game, it may be repaired or the faces transferred to another card-minding device if it will not interrupt the game.

(4) ~~[Each player shall be limited to the use of one (1) card-minding device at a time.]~~ Each card-minding device shall be limited to offering for play a maximum of ~~seventy-two (72)~~ seventy-two (72) ~~seventy-two (72)]~~ card faces during any one (1) game of a session.

(5) The charitable organization shall ensure that the card-minding device system does not allow a card-minding device to be used to obtain a bingo prize for any bingo game other than for a game within the bingo session for which the card-minding device was sold.

(6) The department may examine and inspect any card-minding device and site system. The department shall be granted reasonable access to the card-minding devices and unlimited inspection of all parts of the site system.

(7) The organization shall provide the player with a receipt printed on a receipt printer for each sale detailing the transaction. The receipt shall contain, at a minimum, the following information:

(a) A unique nonresettable transaction number that is printed in continuous, consecutive order;

(b) The serial number of the card-minding device issued;

(c) The date and time the receipt was issued;

(d) The name of the charitable organization and license number; and

(e) A description, quantity, purchase price, and total dollar amount of each item purchased.

(8) The organization shall void the original transaction and issue a new receipt if a player requests a partial or full refund. Additional purchases shall not require voiding of the original transaction.

(9) A voided transaction shall be treated in the manner established by this section.

(a) A voided transaction shall be processed immediately.

(b) If a voided transaction involves a card-minding device, the card-minding device shall be connected to the site system to ensure all electronic bingo cards are erased or deactivated.

(c) The player shall possess the receipt issued at the time of the purchase of the card minding device before the purchase is voided.

(d) The word "void" shall be clearly printed on the receipt.
 (e) The player shall write his or her name, address, telephone number, signature, and amount of refund on the back of the receipt before a partial or full refund may be issued.

(f) All voided receipts shall be attached to the Total Sales Activity Report printed at the end of each bingo occasion and maintained with the gaming records.

(10) If the organization loads the card-minding devices prior to selling them, all unsold card-minding devices shall be voided by the start of the second game.

(11) If the receipt printer malfunctions or printed receipts are not legible, manual receipts shall be issued that contain the same information required by subsection (7) of this section.

(12) If the department or any player requests verification of a winning card face played on a card-minding device, the session chairperson shall print the winning card face and post it in a conspicuous location where it may be viewed in detail. Winning card faces requested for posting shall remain posted for at least thirty (30) minutes after the completion of the last bingo game at that particular session.

(13) The organization shall reasonably ensure that the internet connection to the site system is operational at all times.

(14) If the organization sells card-minding devices for a discounted price, or gives them away as a promotion, the site system shall be programmed to account for the discounted item and price separately from those sold at the regular price. A generic discount key shall not be allowed.

(15) The organization shall print a Total Sales Activity Report from the point of sale at the end of each bingo session and maintain it with the occasion records.

(16) A manufacturer's representative or distributor's representative may be present during a bingo session only to consult, demonstrate, and train on the operation of the card-minding device system.

Section 7. Incorporation by Reference. (1) Form CG-CMD, "Total Sales Activity Report", 2/06, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department 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: August 12, 2015

FILED WITH LRC: August 14, 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.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Health Policy

(As Amended at ARRS, December 9, 2015)

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).~~

~~(2)](3)] "Cabinet" is defined by KRS 216.2920(2).~~

~~(3)](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.~~

~~(4)](5)] "Hospital" is defined by KRS 216.2920(6).~~

~~(5)](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.~~

~~(6)](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.~~

~~(7)](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.~~

~~(8)](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.~~

~~(9)](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.~~

~~(10)](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[payer] for billing purposes, regardless of whether the record has actually been submitted to a payer[payer].

(b) Finalized data shall not be withheld from submission to the cabinet on grounds that it remains subject to adjudication by a payer[payer].

(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

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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 [Payer] Identification – Payer [Payer] 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

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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 [Payer] Name
Yes	**Secondary Payer [Payer] 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.

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

CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Health Care (As Amended at ARRS, December 9, 2015)

902 KAR 20:180. Psychiatric hospitals; operation and services.

RELATES TO: KRS 17.500, 198B.260, 200.503, [Chapter] 202A, [Chapter] 202B, 209.032, 210.005, 211.842-211.852, 216.380(7) and (8), 216B.010-216B.131, 216B.175, 216B.990, 309.080, 309.130 311.560[(3), (4)], 311.571, 311.840 – 311.862, 314.011(8), 314.042, 319.050, 319.056, 319.064, 319C.010, 320.240(14), 335.080, 335.100, 335.300, [335.080,] 335.500, 439.3401, 42 C.F.R. Part 2, 45 C.F.R. 160, 164, 20 U.S.C. 1400, 29 U.S.C. 701, 42 U.S.C. 290ee-3, 42 U.S.C. 1320d-2 – 1320d-8, 42 U.S.C. 290ee-3

STATUTORY AUTHORITY: KRS [202B.060,] 216B.042[(4)(a)], 216B.175(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services[require the Kentucky Cabinet for Health Services] to promulgate administrative regulations to govern[regulate] health facilities and health services. KRS 216B.175(4) requires the cabinet to promulgate administrative regulations to establish requirements for the history and physical examination performed in an acute or psychiatric hospital. This administrative regulation establishes minimum licensure requirements for the operation and services of psychiatric hospitals and for the provision of psychiatric services in general acute care hospitals or critical access hospitals which have a psychiatric unit. In addition, this administrative regulation establishes requirements for psychiatric hospitals and general acute care hospitals or critical access hospitals that have a psychiatric unit and elect to provide outpatient behavioral health services.

Section 1. Definitions. (1) "Behavioral health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy or a medical officer of the government of the United States while engaged in the performance of official duties who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A physician assistant licensed under KRS 311.840 to 311.862;

(h) A marriage and family therapist licensed and practicing in accordance with KRS 335.300;

(i) A professional clinical counselor licensed and practicing in accordance with KRS 335.500; or

(j) A licensed professional art therapist as defined by KRS 309.130(2).

(2) "Behavioral health professional under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) Marriage and family therapist associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by

KRS 335.500(4); or

(f) Licensed professional art therapist associate as defined by KRS 309.130(3).

(3) "Cabinet" means the Cabinet for Health and Family Services.

(4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(5) "Chemical restraint" means the use of a drug that:

(a) Is administered to manage a patient's behavior in a way that reduces the safety risk to the patient or others;

(b) Has the temporary effect of restricting the patient's freedom of movement; and

(c) Is not a standard treatment for the patient's medical or psychiatric condition.

(6) "Child with a severe emotional disability" is defined by KRS 200.503(3).

(7) "Community support associate" means a paraprofessional who meets the application, training, and supervision requirements of 908 KAR 2:250.

(8) "Governing authority" means the individual, agency, partnership, or corporation in which the ultimate responsibility and authority for the conduct of the hospital[institution] is vested.

(9) "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

(10) "Licensed behavior analyst" is defined by KRS 319C.010(6).

(11) **"Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).**

"Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

(13) "Mechanical restraint" means any device attached or adjacent to a patient's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

~~(14)~~**(12)** "Peer support specialist" means a paraprofessional who meets the application, training, examination, and supervision requirements of 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240.

~~(15)~~**(13)** "Personal restraint" means the application of physical force without the use of any device for the purpose of restraining the free movement of a patient's body, **except for briefly holding a patient, without undue force, [and does not include briefly holding without undue force a patient]** in order to calm or comfort him or her or holding a patient's hand to safely escort him or her from one (1) area to another.

~~(16)~~**(14)** "Professional staff" means psychiatrists and other physicians, psychologists, psychiatric nurses and other nurses, social workers, and other professionals with special education or experience in the care of persons with mental illness and who are involved in the diagnosis and treatment of patients with mental illness.

~~(17)~~**(15)**~~(3)~~ "Psychiatric unit" means a department of a critical access hospital with a maximum of ten (10) psychiatric beds or general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

~~(18)~~**(16)** "Seclusion" means the involuntary confinement of a patient alone in a room or in an area from which the patient is physically prevented from leaving.

~~(19)~~**(17)** "Severe mental illness" means the conditions defined by KRS 210.005(2) and (3). ~~[(4) "Restraint" means the application of a physical device, the application of physical body pressure by another person in such a way as to control or limit physical activity, or the intravenous, intramuscular, or subcutaneous administration of a pharmacologic or chemical agent to a patient with a mental illness, with the sole or primary purpose of controlling or limiting the physical activities of the patient.~~

~~(5) "Seclusion" means the confinement of a patient with a mental illness or mental retardation alone in a locked room.]~~

Section 2. Applicability. (1)(a) A general acute care hospital or a critical access hospital with a psychiatric unit shall:

1. Designate the location and number of beds for which

licensure is sought;

2. Meet the requirements of 902 KAR 20:016; and

3. Meet the requirements of this administrative regulation.

(b) A facility requesting licensure~~[as an]~~ exclusively as a psychiatric hospital ~~shall be~~is subject to the requirements of this administrative regulation.

~~(2)~~**(a)** A facility shall not be licensed as, or be called, a psychiatric hospital unless the facility:

~~(a)~~**(i)** Provides the full range of services required by Section 5 of this administrative regulation; and

~~(b)~~ Provides for the treatment of a variety of mental illnesses.

~~(3)~~ A psychiatric hospital and a general acute care hospital or critical access hospital with a psychiatric unit~~(b)1. A facility with a certificate of need that is licensed after the effective date of this administrative regulation and] that has a mean daily census of patients whose primary diagnosis[illness] is chemical dependency exceeding ten (10) percent of the licensed bed capacity shall:~~

~~(a)~~ Apply for a certificate of need in order to convert the necessary number of beds to chemical dependency services;

~~(b)~~ Meet ~~the~~~~[-2-]~~ licensure requirements~~[are]~~ established in 902 KAR 20:160; and

~~(c)~~ Report ~~the~~~~[-3-]~~ mean daily census~~[shall be as reported]~~ in the~~[last]~~ Annual Hospital Utilization Report.

~~(4)~~ If a psychiatric hospital or a general acute care hospital or a critical access hospital with a psychiatric unit provides outpatient behavioral health services as described in Section 6 of this administrative regulation:

~~(a)~~ The outpatient behavioral health services shall be provided:

1. On a separate floor, in a separate wing, or in a separate building on the hospital's campus; or

2. At an extension off the campus of the hospital;

~~(b)~~ The hospital shall pay a fee in the amount of \$250 per off-campus extension providing outpatient behavioral health services, submitted to the Office of Inspector General at the time of:

1. Initial licensure, if applicable;

2. The addition of a new outpatient behavioral health services extension to the hospital's license; and

3. Renewal;

~~(c)~~ Each off-campus extension or on-campus program of outpatient behavioral health services shall:

1. Be listed on the hospital's license;

2. Have a program director who shall be a:

a. Psychiatrist;

b. Physician;

c. Certified or licensed psychologist;

d. Licensed psychological practitioner;

e. Psychiatric nurse;

f. Advanced practice registered nurse;

g. Licensed professional clinical counselor;

h. Licensed marriage and family therapist;

i. Licensed professional art therapist;

j. Licensed board certified behavioral analyst; or

k. Licensed clinical social worker; and

3. Employ directly or by contract a sufficient number of personnel to provide outpatient behavioral health services; and

~~(d)~~ An off-campus extension or a separate building on the campus of the hospital where outpatient behavioral health services are provided shall comply with the physical environment requirements of Section 7 of this administrative regulation and be approved by the State Fire Marshal's office prior to:

1. Initial licensure;

2. The addition of the extension or on-campus program of outpatient behavioral health services in a separate building; or

3. A change of location.

Section 3. Administration and Operation. (1) General requirements. A psychiatric hospital and a general acute care hospital or critical access hospital with a psychiatric unit shall comply with:

(a) This section;

(b) 902 KAR 20:016, Section 3; and

(c) KRS Chapters 202A and 202B.

(2) Professional staff. A facility requesting licensure~~[as an]~~

exclusively as a psychiatric hospital~~[that operates with an organized professional staff]~~ shall comply with the following staffing requirements~~[in this subsection]~~ rather than those in 902 KAR 20:016, Section 3(8):

(a) The psychiatric~~[A]~~ hospital shall have a professional staff:

1. Organized under bylaws approved by the governing authority;

2. Responsible to the governing authority for the quality of clinical care provided to patients;~~and]~~

3. Responsible for the ethical conduct and professional practice of its members; and

4. Responsible for developing and adopting~~[(b) The professional staff shall develop and adopt]~~ bylaws, subject to the approval of the governing authority, which shall:

a.[1.] Require that a licensed physician be responsible for admission, diagnosis, all medical care and treatment, and discharge;

b.[2.] State the necessary qualifications for professional staff membership;

c.[3.] Define and describe the responsibilities and duties of each category of professional staff, such as whether staff is~~[is (e.g.,)]~~ active, associate, courtesy, consulting, or honorary~~[/]~~;

d.[.] Delineate the clinical privileges of staff members;

e.[.]~~and]~~ Establish a procedure for granting and withdrawing staff privileges, including~~[to include]~~ credentials review;

f.[4.] Provide a mechanism for appeal of decisions regarding staff membership and privileges;

g.[5.] Provide a method for the selection of officers of the professional staff;

h.[6.] Establish requirements regarding the frequency of, and attendance at, general staff and department or service meetings of the professional staff;

i.[7.] Provide for the appointment of standing and special committees, which may include the following:

(i) Executive committee;

(ii) Credential committee;

(iii) Medicaid audit committee;

(iv) Medical records committee;

(v) Infections control committee;

(vi) Pharmacy and therapeutic committee;

(vii) Utilization review committee;

(viii) Quality assurance committee; and

(ix) Behavioral health committee;

j. Establish the~~and include requirements for]~~ composition and organization of the standing and special committees, and assure that the committees' minutes and reports~~[which]~~ shall be part of the permanent records of the hospital; and

k.[.] Committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, pharmacy and therapeutic committee, utilization review committee, and quality assurance committee; and

8.[.] Establish a policy requiring a physician, or other member of the professional staff permitted to order diagnostic testing and treatment, to sign telephone orders for diagnostic testing and treatment within seventy-two (72) hours of the time the order was given.

(b) A psychiatric~~(e)–A]~~ hospital shall develop a process of appointment to the professional staff which shall ensure that the individual~~[will assure that the person]~~ requesting staff membership is appropriately licensed, certified, registered, or experienced, and qualified for the privileges and responsibilities sought.

(3) Background checks.

(a) All personnel of a state-owned and operated psychiatric hospital and all personnel of a privately operated psychiatric center under contract with the Department for Behavioral Health, Developmental and Intellectual Disabilities who are hired after the effective date of this administrative regulation and have duties that involve or may involve one-on-one contact with a patient or client shall:

1. Have a criminal record check performed upon initial hire through the Administrative Office of the Courts or the Kentucky State Police;

2. Not have a criminal conviction, or plea of guilty, to a:

a. Sex crime as specified in KRS 17.500;

b. Violent crime as specified in KRS 439.3401;

c. Criminal offense against a minor as specified in KRS 17.500;

or

d. Class A felony; and

3. Not be listed on the following:

a. Central registry established by 922 KAR 1:470;

b. Nurse aide or home health aide abuse registry established by 906 KAR 1:100; or

c. Caregiver misconduct registry required by KRS 209.032 and established by 922 KAR 5:120.

(b) A state-owned and operated psychiatric hospital, or a privately operated psychiatric center under contract with the Department for Behavioral Health, Developmental and Intellectual Disabilities, may use Kentucky's national background check system established by 906 KAR 1:190 to satisfy the background check requirements of paragraph (a) of this subsection.

(c) A state-owned and operated psychiatric hospital and a privately operated psychiatric center under contract with the Department for Behavioral Health, Developmental and Intellectual Disabilities shall perform annual criminal record and registry checks as described in paragraph (a) of this subsection on a random sample of at least fifteen (15) percent of all personnel.

(4) Policies for psychiatric hospitals and general acute care hospitals or critical access hospitals with a psychiatric unit.

(a)[A hospital's] Written admission and discharge policies shall be consistent with the requirements of KRS Chapters 202A and 202B.

(b)[A hospital shall have] Written policies pertaining to patient rights and the use of restraints and seclusion shall be~~[-]~~ consistent with KRS Chapters 202A and 202B.

(c)[A hospital shall have] Written policies concerning the use of special treatment procedures as described in Section 4(3) of this administrative regulation~~[that may have abuse potential, or be life-threatening, and]~~ shall specify the qualifications required for professional staff using special treatment procedures.

(5)[(4)] Patient rights. A psychiatric hospital and a general acute care hospital or critical access hospital with a psychiatric unit shall assure that patient rights are provided for pursuant to KRS Chapters 202A and 202B.

(6)[(5)] Medical records.

(a) Ownership.

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

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

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

(b) Confidentiality and security: use and disclosure.

1. The psychiatric hospital and general acute care hospital or critical access hospital with a psychiatric unit shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law, including 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

2. The psychiatric hospital and general acute care hospital or critical access hospital with a psychiatric unit may use and disclose medical records. Use and disclosure shall be as established or required by:

a. HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164; or

b. 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

3. This administrative regulation shall not be construed to forbid the hospital from establishing higher levels of confidentiality and security than required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(c) Patient information ~~shall be released only on written consent of the patient or the patient's authorized representative, or as otherwise authorized by law. The written consent shall contain the following information:~~

1. The name of the person, agency or organization to which the information is to be disclosed;
2. The specific information to be disclosed;
3. The purpose of disclosure; and
4. The date the consent was signed and the signature of the individual witnessing the consent.

(b) In addition to the requirements of 902 KAR 20:016, Section 3(11)(d)] The medical record shall contain:

1. Appropriate court order or consent of patient, authorized family member or guardian for admission, evaluation, and treatment;
2. A provisional or admitting diagnosis which includes a physical diagnosis, if applicable, and a psychiatric diagnosis of mental health disorder, substance use disorder, or co-occurring disorder;
3. Results of the psychiatric evaluation;
4. A complete social history;
5. An individualized comprehensive treatment plan;
6. Progress notes, dated and signed by physician, nurse, social worker, psychologist, or other individuals involved in treatment of patient. Progress notes shall document services and treatments provided and the patient's progress in response to the services and treatments;
7. A record of the patient's weight;
8. Special clinical justification for the use of special treatment procedures described in Section 4(3) ~~specified in Section 5(3)]~~ of this administrative regulation;
9. A discharge summary which includes a:
 - a. Recapitulation of the patient's hospitalization and recommendations from appropriate services concerning follow-up or after care; ~~and~~
 - b. a Brief summary of the patient's condition on discharge;
10. If a patient dies, a summation statement in the form of a discharge summary, including events leading to the death, signed by the attending physician; and
11. If an autopsy is performed, a provisional anatomic diagnosis shall be included in the patient's record within seventy-two (72) hours ~~with the complete summary and pathology report, including cause of death, recorded within three (3) months.~~

Section 4. Patient Management. (1) Assessment. A psychiatric hospital and a general acute care hospital or critical access hospital with a psychiatric unit shall be responsible for conducting a complete assessment of each patient.

(a) A provisional or admitting diagnosis, which includes the diagnosis of physical diseases, if applicable, and the psychiatric diagnosis, shall be made for each patient at the time of admission.

(b) A history and physical examination shall be conducted according to the requirements of KRS 216B.175(2).

1. The history and physical examination shall include:
 - a. A description of the patient's chief complaint, the major reason for hospitalization;
 - b. A history of the patient's:
 - (i) Present illness;
 - (ii) Past illnesses;
 - (iii) Surgeries;
 - (iv) Medications;
 - (v) Allergies;
 - (vi) Social history; and
 - (vii) Immunizations;
 - c. A review of the patient's anatomical systems and level of function at the time of the exam;
 - d. A patient's vital signs; and
 - e. A general observation of the patient's:
 - (i) Alertness;
 - (ii) Debilities; and
 - (iii) Emotional behavior.
2. The results of the history and physical examination shall be recorded, reviewed for accuracy, and signed by the practitioner

conducting the examination.

(c) A psychiatric evaluation for each patient shall:

1. Be completed within seventy-two (72) hours of admission; and

2. ~~It shall~~ Include the following:

- a. A medical history;
- b. A record of mental status;
- c. Details regarding onset of illness and circumstances leading to admission;
- d. A description of attitudes and behavior;
- e. An estimate of intellectual functioning, memory functioning, and orientation; and
- f. An inventory of the patient's assets in a descriptive, not interpretative, fashion.

(d) A social assessment of each patient shall be recorded.

(e) An activities assessment of each patient shall be prepared and shall include information relating to the patient's current skills, talents, aptitudes, and interest.

(f) 1. ~~If~~ When appropriate, nutritional, vocational, and legal assessments shall be conducted.

2. The legal assessment shall be used to determine the extent to which the patient's legal status will influence progress in treatment.

(2) Treatment plans.

(a) Each patient shall have a written individualized treatment plan that is based on assessments of the patient's ~~his~~ clinical needs and approved by the patient's attending physician.

(b) Overall development and implementation of the treatment plan shall be assigned to appropriate members of the professional staff.

(c) ~~(a)~~ Within seventy-two (72) hours following admission, a designated member of the professional staff shall develop an initial treatment plan that is based on an assessment of the patient's:

1. Presenting problems;
2. ~~Physical health;~~
3. ~~Emotional and behavioral status;~~ and
4. Other relevant factors.

(d) Appropriate therapeutic efforts shall begin before a master treatment plan is finalized. ~~(b)~~ A master treatment plan shall:

1. Be developed by a multidisciplinary team within ten (10) days for any patient remaining in treatment beyond the initial evaluation;

2. ~~It shall~~ Be based on a comprehensive assessment of the patient's needs; and

3. Include a substantiated diagnosis;

4. Include ~~and the~~ short-term and long-range treatment needs; and

5. Address the specific treatment modalities required to meet the patient's needs;

6. ~~1. The treatment plan shall~~ Include referrals for services not provided directly by the facility;

7. ~~2. The treatment plan shall~~ Contain specific and measurable goals for the patient to achieve;

8. ~~3. The treatment plan shall~~ Describe the services, activities, and programs to be provided to the patient;

9. ~~and shall~~ Specify staff members assigned to work with the patient and also the time and frequency for each treatment procedure;

10. ~~4. The treatment plan shall~~ Specify criteria to be met for termination of treatment;

11. ~~5. The~~ Include participation by the patient ~~shall participate~~ to the maximum extent feasible in the development of the patient's ~~his~~ treatment plan; and document patient ~~such~~ participation ~~shall be documented~~ in the patient's record;

12. ~~6. Include~~ a specific plan for involving the patient's family or significant others ~~shall be included~~ in development of the treatment plan if ~~when~~ indicated; and

13. ~~7. The treatment plan shall~~ Be reviewed and updated through multidisciplinary case conferences as frequently as clinically indicated and in accordance with the following:

a. The ~~but in no case shall this~~ review and update shall be completed;

(i) No later than thirty (30) days following the first ten (10) days

of treatment; and

(ii) Every sixty (60) days thereafter for the first year of treatment; and[.]

b.[8.] Following one (1) year of continuous treatment, the review and update may be conducted at three (3) month intervals.

(3) Special treatment procedures.

(a) Special documentation shall be included in the patient's medical record concerning the use of chemical, personal, or mechanical restraints or[.] seclusion~~[and other special treatment procedures which may have abuse potential or be life threatening].~~

(b) The documentation shall include:

1. The written order of a physician, advanced practice registered nurse, or physician's assistant;

2. Justification for the use of the restraint or seclusion~~[procedure]~~;

3. The required consent forms;

4. A description of procedures employed to protect the patient's safety and rights; and

5. A description of the procedure used.

(c) The use of chemical, personal, or mechanical~~[physical]~~ restraints and seclusion shall be governed by the following:

1. Restraint or seclusion shall be used only to prevent:

a. A patient from injuring himself, herself, or others;[.] or

b.~~[to prevent]~~ Serious disruption of the therapeutic program;

2. A written, time-limited order from a physician, advanced practice registered nurse, or physician assistant shall be required for the use of restraint or seclusion;

3. The head of the medical staff shall give written approval when restraint or seclusion is utilized for longer than twenty-four (24) hours;

4. PRN orders shall not be used to authorize the use of restraint or seclusion;

5. The head of the medical staff or his or her designee shall:

a. Review daily all uses of restraint or seclusion; and

b.~~[shall]~~ Investigate unusual or possibly unwarranted patterns of utilization;

6. Restraint or seclusion shall not be used in a manner that causes undue physical discomfort, harm, or pain to the patient;

7.a. Appropriate attention shall be paid every fifteen (15) minutes to a patient in restraint or seclusion, including attention~~[especially]~~ in regard to regular meals, bathing, and use of the toilet; and

b. Staff shall document in the patient's record that the attention was given to the patient.

(d) Locking mechanical restraints may be used pursuant to~~in the circumstances outlined in]~~ subparagraph 5 of this paragraph[.] if the cabinet has previously found that the facility has instituted policies which comply with the provisions of paragraph (c) of this subsection and the following requirements:

1. Keys. A facility's direct care nursing staff shall:

a. Have in their possession at least two (2) keys to a locking restraint so that the restraint can be removed immediately in the case of an emergency;

b. Have a plan which designates~~[designating]~~ nursing staff responsible for the keys; and

c. Follow written policy which explains~~[An explanation of]~~ how the keys are to be used.

2. An order for a locking mechanical restraint~~[Orders for the locking restraints]~~ shall be time-limited as follows:

a. Four (4) hours for adults eighteen (18) years of age or older up to a maximum of twenty-four (24) hours, during which time the continued need for the restraint shall be evaluated at fifteen (15) minute intervals until the maximum time is reached;

b. Two (2) hours for children and adolescents ages nine (9) to seventeen (17) up to a maximum of twenty-four (24) hours, during which time the continued need for the restraint shall be evaluated at fifteen (15) minute intervals until the maximum time is reached;

c. One (1) hour for patients under the age of nine (9) up to a maximum of twenty-four (24) hours, during which time the continued need for the restraint shall be evaluated at fifteen (15) minute intervals until the maximum time is reached; and

d. Orders pursuant to this paragraph shall specify the restraint type and criteria for release in the patient's medical record.

3.a. If, after twenty-four (24) hours, a patient still appears to need restraint, the patient shall receive a face-to-face reassessment by a licensed physician.

b. If the physician determines that continued restraint is necessary, the physician shall write a time-limited order according to the time frames set out in subparagraph 2 of this paragraph~~[subsection (2) of this section]~~;

4. A facility may reinstitute the use of a restraint that has been discontinued if the time frame limited order for the restraint has not expired; and

5. A facility found to be in compliance with this section may use locking mechanical restraints only under the following circumstances:

a. For the transport of forensic or other impulsively violent patients;

b. For the crisis situation stabilization of forensic and other impulsively violent patients;

c. To prevent a patient who has demonstrated the ability to escape from a nonlocking mechanical restraint on one (1) or more occasions; or

d. For a patient requiring ambulatory restraints as approved by a behavioral health management team.

Section 5. Provision of Services. (1) Psychiatric and general medical services.

(a) Psychiatric services shall be under the supervision of a clinical director, service chief, or equivalent, who is qualified as follows to provide the leadership required for an intensive treatment program;[.]

1. The clinical director, or equivalent, shall be certified by the American Board of Psychiatry and Neurology, or shall meet the training and experience requirements for examination by the board.

2. If the psychiatrist in charge of the clinical program is not board certified, there shall be evidence that consultation is given to the clinical program on a continuing basis by a psychiatrist certified by the American Board of Psychiatry and Neurology.

(b) General medical services provided in the psychiatric hospital or general acute care hospital or a critical access hospital with a psychiatric unit shall be under the direction of a physician member of the professional staff in accordance with staff privileges granted by the governing authority.

1.a. The attending physician shall assume full responsibility for diagnosis and care of his or her patient.

b. Services provided by a physician assistant or advanced practice registered nurse shall be provided within the practitioner's~~[Physician assistants and advanced practice registered nurses may provide services in accordance with their]~~ scope of practice and the hospital's protocols and bylaws.

2.a. Incidental medical services necessary for the care and support of patients shall be provided by in-house staff or through agreement with outside resources.

b. If a patient's condition requires services not available in the hospital, the patient, on physician's orders, shall be transferred promptly to an appropriate level of care.

c. A physician's order is not necessary in the case of an emergency.

3. There shall be a written plan delineating the manner in which emergency services are provided by the hospital or through clearly defined arrangements with another facility. The plan shall clearly specify the following:

a. The arrangement~~[arrangements]~~ the hospital has made to assure that the patient being transferred for emergency services to a nonpsychiatric facility will continue to receive further evaluation or treatment of the psychiatric problem, as needed;

b. The policy for referring a patient in need of~~[needing]~~ continued psychiatric care after emergency services back to the referring facility; and

c. The policy for notifying a patient's family of an emergency and~~[of]~~ arrangements that have been made for referring or transferring the patient to another facility for emergency service.

(c) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(d) There shall be sufficient physician staff coverage for all

psychiatric and medical services of the hospital, in keeping with their size and scope of activity.

(e) The attending physician shall state the final diagnosis, complete the discharge summary, and sign the records within fifteen (15) days following the patient's discharge.

(2) Nursing services.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice.

(b) The psychiatric nursing service shall be under the direction of a registered nurse who:

1. Has a master's degree in psychiatric or mental health nursing, or its equivalent, from a school of nursing accredited by the National League for Nursing; or

2. Has a baccalaureate degree in nursing with two (2) years' experience in nursing administration or supervision and experience in psychiatric nursing.

(c) There shall be a registered nurse on duty twenty-four (24) hours a day.

(d) There shall be an adequate number of registered nurses, licensed practical nurses, and other nursing personnel to provide the nursing care necessary under each patient's active treatment program.

(e) There shall be continuing in-service and staff development programs to prepare nursing personnel for active participation in interdisciplinary meetings affecting the planning or implementation of nursing care plans for patients.

(3) Psychological services.

(a) The hospital shall provide psychological services to meet the needs of patients.

(b) Psychological services shall be provided under the direction of a licensed psychologist.

(c) There shall be an adequate number of psychologists, consultants, and supporting personnel to:

1. Assist in essential diagnostic formulations;

2. ~~[- and to]~~ Participate in program development;

3. Participate in the ~~[and]~~ evaluation of program effectiveness; ~~and~~

4. Participate ~~[-]~~ in training activities and in therapeutic interventions.

(4) Therapeutic activities.

(a) The hospital shall provide a therapeutic activities program that shall:

1. Be appropriate to the needs and interests of the patients; and

2. Directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

(b) The number of qualified therapists, support personnel, and consultants shall be adequate to provide comprehensive therapeutic activities, including ~~[such as]~~ occupational, recreational, and physical therapy, consistent with each patient's active treatment program.

(5) Pharmaceutical services. The hospital shall comply with requirements of 902 KAR 20:016, Section 4(5), and the following requirements:

(a) Medication shall be administered by one (1) of the following:

1. [a] Registered nurse;

2. ~~[-a]~~ Physician;

3. ~~[-a]~~ Dentist;

4. ~~[-a]~~ Physician ~~[Physician's]~~ assistant; ~~[-]~~ or

5. [an] Advanced practice registered nurse, except in the case of a licensed practical nurse under the supervision of a registered nurse.

(b) 1. Medication shall be given only by written order signed within seventy-two (72) hours by one (1) of the following:

a. [a] Physician;

b. ~~[-]~~ Dentist;

c. ~~[-]~~ Advanced practice registered nurse;

d. ~~[-]~~ Therapeutically-certified optometrist; ~~[-]~~ or

e. Physician assistant.

2. A telephone order for medication shall be given to only a:

a. Licensed practical nurse;

b. ~~[or]~~ Registered nurse; ~~[-]~~ or

c. [a] Pharmacist.

~~3. [The order shall be signed by the ordering physician, dentist, advanced registered nurse practitioner, therapeutically-certified optometrist, or physician assistant within seventy-two (72) hours from the time the order is given.]~~ A telephone order may be given to a licensed physical, occupational, speech, or respiratory therapist in accordance with the therapist's scope of practice and the hospital's protocol.

(6) Laboratory services. A hospital shall comply with 902 KAR 20:016, Section 4(4), concerning the provision of laboratory and pathology services.

(7) Social services.

(a) A hospital shall provide social services to meet the need of the patients.

(b) There shall be a director of social services who has a master's degree from an accredited school of social work.

(c) There shall be an adequate number of social workers, consultants, and other assistants or case aides to perform the following functions:

1. Secure information about a patient's development and current life situation in order to provide psychosocial data for diagnosis and treatment planning and for direct therapeutic services to a patient, patient group, or family;

2. Identify or develop community resources including family or foster care programs;

3. Participate in interdisciplinary conferences and meetings concerning diagnostic formulation, treatment planning and progress reviews; and

4. Participate in discharge planning, arrange for follow-up care, and develop a mechanism for exchange of appropriate information with a source outside the hospital.

(8) Dietary services. A hospital shall comply with 902 KAR 20:016, Section 4(3), pertaining to the provision of dietary services, and requirements contained in this subsection.

(a) Dietary service personnel who have personal contact with the patients shall be made aware that emotional factors may cause patients to change their food habits and shall inform appropriate members of the professional staff of any change.

(b) Meals shall be provided in central dining areas for ambulatory patients.

(9) Radiology services.

(a) If radiology services are provided within the facility, the hospital shall comply with 902 KAR 20:016, Section 4(6), concerning the provision of radiology services.

(b) 1. If radiology services are not provided within the facility, the hospital shall have an arrangement with an outside source.

2. The arrangement shall be outlined in a written plan.

3. The outside radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and relevant administrative regulations.

(10) Other services. If surgery, anesthesia, physical therapy or outpatient services are provided within the facility, the hospital shall comply with the applicable sections of 902 KAR 20:016.

(11) Chemical dependency treatment services. A psychiatric hospital providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:160, Sections 3 and 4, and shall designate the location and number of beds to be used for this purpose.

Section 6. Outpatient behavioral health services. (1) A psychiatric hospital or general acute care or critical access hospital with a psychiatric unit may provide one (1) or more of the following outpatient behavioral health services on the campus of the hospital if provided on a separate floor, in a separate wing, in a separate building on the hospital's campus, or at an off-site extension location:

(a) Screening which shall be provided by a behavioral health professional, behavioral health professional under clinical supervision, ~~[or]~~ certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice to determine the:

1. Likelihood that an individual has a mental health, substance use, or co-occurring disorder; and

2. Need for an assessment;

(b) Assessment which shall:

1. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, ~~or~~ a certified alcohol and drug counselor, **licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice** who gathers information and engages in a process with the client, thereby enabling the professional to:

a. Establish the presence or absence of a mental health, substance use, or co-occurring disorder;

b. Determine the client's readiness for change;

c. Identify the client's strengths or problem areas which may affect the treatment and recovery processes; and

d. Engage the client in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the client to develop a plan of care if a clinical disorder or service need is assessed; and

4. Not include psychological or psychiatric evaluations or assessments;

(c) Psychological testing which shall:

1. Be performed by a licensed psychologist, licensed psychological associate, or licensed psychological practitioner; and

2. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities and interpretation and written report of testing results;

(d) Crisis intervention which:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to the client or another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities;

3. Shall be provided:

a. On-site at the facility;

b. As an immediate relief to the presenting problem or threat;

and

c. In a face-to-face, one (1) on one (1) encounter;

4. May include verbal de-escalation, risk assessment, or cognitive therapy;

5. Shall be provided by **one (1) or more of the following practicing within his or her scope of practice[a]**:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision; ~~or~~

c. Certified alcohol and drug counselor;

d. Licensed clinical alcohol and drug counselor; or

e. Licensed clinical alcohol and drug counselor associate;

6. Shall be followed by a referral to noncrisis services, if applicable; and

7. May include:

a. Further service prevention planning, including:

(i) Lethal means reduction for suicide risk; or

(ii) Substance use disorder relapse prevention; or

b. Verbal de-escalation, risk assessment, or cognitive therapy;

(e) Mobile crisis services which shall:

1. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year;

2. Be provided for a duration of less than twenty-four (24) hours;

3. Not be an overnight service; and

4. Be a multi-disciplinary team based intervention that ensures access to acute mental health and substance use services and supports to:

a. Reduce symptoms or harm; or

b. Safely transition an individual in an acute crisis to the appropriate, least restrictive level of care;

5. Involve all services and supports necessary to provide:

a. Integrated crisis prevention;

b. Assessment and disposition;

c. Intervention;

d. Continuity of care recommendations; and

e. Follow-up services;

6. Be provided face-to-face in a home or community setting by **one (1) or more of the following practicing within his or her scope of practice[a]**:

a. Behavioral health professional;

b. Behavioral health professional under clinical supervision; ~~or~~

c. Certified alcohol and drug counselor;

d. Licensed clinical alcohol and drug counselor; or

e. Licensed clinical alcohol and drug counselor associate;

and

7. Ensure access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;

(f) Day treatment which shall:

1. Be a nonresidential, intensive treatment program designed for children who:

a. Have a substance use disorder, mental health disorder, or co-occurring disorder;

b. Are under twenty-one (21) years of age; and

c. Are at high risk of out-of-home placement due to a behavioral health issue;

2. Consist of an organized behavioral health program of treatment and rehabilitative services for substance use disorder, mental health disorder, or a co-occurring disorder;

3. Have unified policies and procedures that address the organization's philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning;

4. Include the following:

a. Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

b. Behavior management and social skill training;

c. Independent living skills that correlate to the age and development stage of the client; and

d. Services designed to explore and link with community resources before discharge and to assist the client and family with transition to community services after discharge;

5. Be provided as follows:

a. In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

b. On school days and during scheduled school breaks;

c. In coordination with the child's individual educational plan or Section 504 plan if the child has an individual educational plan or Section 504 plan;

d. By personnel that includes a behavioral health professional, a behavioral health professional under clinical supervision, a certified alcohol and drug counselor, **a licensed clinical alcohol and drug counselor, a licensed clinical alcohol and drug counselor associate, or a peer support specialist practicing within his or her scope of practice; and**

e. According to a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider; and

6. Not include a therapeutic clinical service that is included in a child's individualized education plan;

(g) Peer support which shall:

1. Be provided by a peer support specialist;

2. Be structured and scheduled nonclinical therapeutic activity with a client or group of clients;

3. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills; and

4. Be identified in the client's plan of care;

(h) Intensive outpatient program services which shall:

1. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

2. Be provided at least three (3) hours per day at least three (3)

days per week;

3. Include the following:

- a. Individual outpatient therapy;
- b. Group outpatient therapy;
- c. Family outpatient therapy unless contraindicated;
- d. Crisis intervention; or
- e. Psycho-education during which the client or client's family

member shall be:

(i) Provided with knowledge regarding the client's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

(ii) Taught how to cope with the client's diagnosis or condition in a successful manner;

4. Include a treatment plan which shall:

- a. Be individualized; and
- b. Focus on stabilization and transition to a lower level of care;

5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, ~~for a~~ **certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice.**

6. Include access to a board-certified or board-eligible psychiatrist for consultation;

7. Include access to a psychiatrist, other physician, or advanced practice registered nurse for medication prescribing and monitoring; and

8. Be provided in a setting with a minimum client-to-staff ratio of ten (10) clients to one (1) staff person;

(i) Individual outpatient therapy which shall:

- 1. Be provided to promote the:
 - a. Health and wellbeing of the client; or
 - b. Recovery from a substance related disorder;
- 2. Consist of:

- a. A face-to-face encounter with the client; and
- b. A behavioral health therapeutic intervention provided in

accordance with the client's plan of care;

3. Be aimed at:

- a. Reducing adverse symptoms;
- b. Reducing or eliminating the presenting problem of the client;

and

c. Improving functioning;

4. Not exceed three (3) hours per day; and

5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, ~~for a~~ **certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice.**

(j) Group outpatient therapy which shall:

- 1. Be provided to promote the:
 - a. Health and wellbeing of the client; or
 - b. Recovery from a substance related disorder;
- 2. Consist of a face-to-face behavioral health therapeutic

intervention provided in accordance with the client's plan of care;

3. Excluding multi-family group therapy, be provided in a group setting of nonrelated individuals, not to exceed twelve (12) individuals in size. For group outpatient therapy, a nonrelated individual means any individual who is not a spouse, significant other, parent or person with custodial control, child, sibling, stepparent, stepchild, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild;

4. Focus on the psychological needs of the client as evidenced in the client's plan of care;

5. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

6. Not include physical exercise, a recreational activity, an educational activity, or a social activity; 7. Not exceed three (3) hours per day per client unless additional time is medically necessary in accordance with 907 KAR 3:130;

8. Ensure that the group has a deliberate focus and defined

course of treatment;

9. Ensure that the subject of group outpatient therapy shall be related to each client participating in the group; and

10. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, ~~for a~~ **certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice** who shall maintain individual notes regarding each client within the group in the client's record;

(k) Family outpatient therapy which shall:

1. Consist of a face-to-face behavioral health therapeutic intervention provided through scheduled therapeutic visits between the therapist, at least one (1) member of the client's family, and the client unless the client's presence is not required in his or her plan of care;

2. Address issues interfering with the relational functioning of the family;

3. Seek to improve interpersonal relationships within the client's home environment;

4. Be provided to promote the health and wellbeing of the client or recovery from a substance use disorder;

5. Not exceed three (3) hours per day per client unless additional time is medically necessary in accordance with 907 KAR 3:130; and

6. Be provided by a behavioral health professional, a behavioral health professional under clinical supervision, ~~for a~~ **certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice.**

(l) Collateral outpatient therapy which shall consist of a face-to-face behavioral health consultation on behalf of a client under the age of twenty-one (21):

1. With a parent, caregiver, person who has custodial control, household member, legal representative, school personnel, or treating professional;

2. Provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, ~~for a~~ **certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice;** and

3. Provided upon the written consent of a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21). Documentation of written consent shall be signed and maintained in the client's record;

(m) Service planning which shall be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, or licensed assistant behavior analyst to:

1. Assist a client in creating an individualized plan for services needed for maximum reduction of the effects of a mental health disorder;

2. Restore a client's functional level to the client's best possible functional level; and

3. Develop a service plan which:

- a. Shall be directed by the client; and
- b. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan;

(n) Screening, brief intervention, and referral to treatment for substance use disorders which shall:

1. Be an evidence-based early intervention approach for an individual with non-dependent substance use prior to the need for more extensive or specialized treatment;

2. Consist of:

a. Using a standardized screening tool to assess the individual for risky substance use behavior;

b. Engaging a client who demonstrates risky substance use behavior in a short conversation, providing feedback and advice; **and**

c. Referring the client to therapy or other services that address substance use if the client is determined to need additional services; and

3. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, ~~for a~~ **certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice;**

(o) Assertive community treatment for mental health disorders which shall:

1. Include assessment, treatment planning, case management, psychiatric services, medication prescribing and monitoring, individual and group therapy, peer support, mobile crisis services, mental health consultation, family support, and basic living skills;
2. Be provided by a multidisciplinary team of at least four (4) professionals, including a psychiatrist, nurse, case manager, peer support specialist and any other behavioral health professional or behavioral health professional under clinical supervision; and
3. Have adequate staffing to ensure that no caseload size exceeds ten (10) participants per team member;

(p) Comprehensive community support services which shall:

1. Consist of activities needed to allow an individual with a mental health disorder to live with maximum independence in the community through the use of skills training as identified in the client's treatment plan;
2. Consist of using a variety of psychiatric rehabilitation techniques to:
 - a. Improve daily living skills;
 - b. Improve self-monitoring of symptoms and side effects;
 - c. Improve emotional regulation skills;
 - d. Improve crisis coping skills;
 - e. Develop and enhance interpersonal skills; and
 - f. Be provided by a:
 - (i) Behavioral health professional;
 - (ii) Behavioral health professional under clinical supervision;
 - (iii) Community support associate;
 - (iv) Licensed behavior analyst; or
 - (v) Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;
- (q) Therapeutic rehabilitation program for an adult with a severe mental illness or child with a severe emotional disability which shall:
 1. Include services designed to maximize the reduction of mental illness or emotional disability and restoration of the client's functional level to the individual's best possible functioning;
 2. Establish the client's own rehabilitative goals within the person-centered plan of care;
 3. Be delivered using a variety of psychiatric rehabilitation techniques focused on:
 - a. Improving daily living skills;
 - b. Self-monitoring of symptoms and side effects;
 - c. Emotional regulation skills;
 - d. Crisis coping skills; and
 - e. Interpersonal skills; and
 4. Be provided individually or in a group by a:
 - a. Behavioral health professional;
 - b. Behavioral health professional under clinical supervision; or
 - c. Peer support specialist;
- (r) Targeted case management services which shall:
 1. Include services to one (1) or more of the following target groups:
 - a. An adult or a child with substance use disorder;
 - b. An adult or child with co-occurring mental health or substance use disorder and chronic or complex physical health issues;
 - c. A child with a severe emotional disability; or
 - d. An adult with severe mental illness;
 2. Be provided by a case manager as described in subsection

(2), (3), or (4) of this section; and

3. Include the following assistance:

- a. Comprehensive assessment and reassessment of client needs to determine the need for medical, educational, social, or other services. The reassessment shall be conducted annually or more often if needed based on changes in the client's condition;
- b. Development of a specific care plan which shall be based on information collected during the assessment and revised if needed upon reassessment;
- c. Referral and related activities, which may include:
 - (i) Scheduling appointments for the client to help the individual obtain needed services; or
 - (ii) Activities that help link the client with medical, social, or educational providers or other programs and services which address identified needs and achieve goals specified in the care plan;
- d. Monitoring which shall be face-to-face and occur no less than once every three (3) months to determine that:
 - (i) Services are furnished according to the client's care plan;
 - (ii) Services in the care plan are adequate; and
 - (iii) Changes in the needs or status of the client are reflected in the care plan; and
- e. Contacts with the client, family members, service providers, or others are conducted as frequently as needed to help the client:
 - (i) Access services;
 - (ii) Identify needs and supports to assist the client in obtaining services; and
 - (iii) Identify changes in the client's needs; or
- (s) Partial hospitalization which shall:
 1. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, professional equivalent, mental health associate, or certified alcohol and drug counselor;
 2. Be a short-term (average of four (4) to six (6) weeks), less than twenty-four (24)-hour, intensive treatment program for an individual who is experiencing significant impairment to daily functioning due to substance use disorder, mental health disorder, or co-occurring disorder;
 3. Be provided to an adult or a child;
 4. Ensure that admission criteria for partial hospitalization is based on an inability to adequately treat the individual through community-based therapies or intensive outpatient services;
 5. Consist of individual outpatient therapy, group outpatient therapy, family outpatient therapy, or medication management;
 6. Typically be provided for at least four (4) hours per day and focused on one (1) primary presenting problem, which may include substance use, sexual reactivity, or another problem; and
 7. Include the following personnel for the purpose of providing medical care, if necessary:
 - a. An advanced practice registered nurse;
 - b. A physician assistant or physician available on site; and
 - c. A board-certified or board-eligible psychiatrist available for consultation.
 - (2) A case manager who provides targeted case management services pursuant to subsection (1)(r) of this section to clients with a substance use disorder shall:
 - (a) Be a certified alcohol and drug counselor, meet the grandfather requirements of 907 KAR 15:040, Section 4(1)(a)3, or have a bachelor's degree in a human services field, including:
 1. Psychology;
 2. Sociology;
 3. Social work;
 4. Family studies;
 5. Human services;
 6. Counseling;
 7. Nursing;
 8. Behavioral analysis;
 9. Public health;
 10. Special education;
 11. Gerontology;
 12. Recreational therapy;
 13. Education;
 14. Occupational therapy;

15. Physical therapy;

16. Speech-language pathology;

17. Rehabilitation counseling; or

18. Faith-based education;

(b)1. Have a minimum of one (1) year of full-time employment working directly with adolescents or adults in a human service setting after completion of a bachelor's degree as described in paragraph (a) of this subsection; or

2. Have a master's degree in a human services field as described in paragraph (a) of this subsection;

(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and

2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and

(d) Be supervised by a behavioral health professional who:

1. Has completed case management training in accordance with 908 KAR 2:260; and

2. Has supervisory contact at least two (2) times per month with at least one (1) of the contacts on an individual, in person basis.

(3) A case manager who provides targeted case management services pursuant to subsection (1)(r) of this section to clients with a mental health or substance use disorder and chronic or complex physical health issues shall:

(a) Meet the requirements of subsection (2)(a) of this section;

(b)1. After completion of a bachelor's degree, have a minimum of five (5) years of experience providing service coordination or referring clients with complex behavioral health needs and co-occurring disorders or multi-agency involvement to community based services; or

2. After completion of a master's degree in a human services field as described in subsection (2)(a) of this section, have a minimum of two (2) years of experience providing service coordination or referring clients with complex behavioral health needs and co-occurring disorders or multi-agency involvement to community based services;

(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and

2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and

(d) For a bachelor's level case manager, be supervised by a behavioral health professional who:

1. Has completed case management training in accordance with 908 KAR 2:260; and

2. Has supervisory contact at least three (3) times per month with at least two (2) of the contacts on an individual, in person basis.

(4) A case manager who provides targeted case management services pursuant to subsection (1)(r) of this section to children with a severe emotional disability or clients with a severe mental illness shall:

(a) Meet the requirements of subsection (2)(a) of this section;

(b)1. Have a minimum of one (1) year of full-time employment working directly with individuals with behavioral health needs after completion of a bachelor's degree in a behavioral science field as described in subsection (2)(a) of this section; or

2. Have a master's degree in a human services field as described in subsection (2)(a) of this section;

(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and

2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and

(d) Be supervised by a behavioral health professional who:

1. Has completed case management training in accordance with 908 KAR 2:260; and

2. Has supervisory contact at least two (2) times per month with at least one (1) of the contacts on an individual, in person basis.

(5) Plan of care.

(a) Each client receiving outpatient behavioral health services from a psychiatric hospital or general acute care or critical access hospital with a psychiatric unit shall have an individual plan of care signed by a behavioral health professional.

(b) A plan of care shall:

1. Describe the services to be provided to the client, including the frequency of services;

2. Contain measurable goals for the client to achieve, including the expected date of achievement for each goal;

3. Describe the client's functional abilities and limitations or diagnosis listed in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders;

4. Specify each staff member assigned to work with the client;

5. Identify methods of involving the client's family or significant others if indicated;

6. Specify criteria to be met for termination of treatment;

7. Include any referrals necessary for services not provided directly by the chemical dependency treatment program; and

8. State the date scheduled for review of the plan.

(c) The client shall participate to the maximum extent feasible in the development of his or her plan of care, and the participation shall be documented in the client's record.

(d)1. The initial plan of care shall be developed through multidisciplinary team conferences at least thirty (30) days following the first ten (10) days of treatment.

2. The plan of care for individuals receiving intensive outpatient program services shall be reviewed every thirty (30) days thereafter and updated every sixty (60) days or earlier if clinically indicated.

3. Except for intensive outpatient program services, the plan of care for individuals receiving any other outpatient behavioral health service described in subsection (1) of this section shall be reviewed and updated every six (6) months or earlier if clinically indicated.

4. The plan of care and each review and update shall be signed by the participants in the multidisciplinary team conference that developed it.

(6) Client Records.

(a) A client record shall be maintained for each individual receiving outpatient behavioral health services.

(b) Each entry shall be current, dated, signed, and indexed according to the service received.

(c) Each client record shall contain:

1. An identification sheet, including the client's name, address, age, gender, marital status, expected source of payment, and referral source;

2. Information on the purpose for seeking a service;

3. If applicable, consent of appropriate family members or guardians for admission, evaluation, and treatment;

4. Screening information pertaining to the mental health or substance use disorder;

5. If applicable, a psychosocial history;

6. If applicable, staff notes on services provided;

7. If applicable, the client's plan of care;

8. If applicable, disposition;

9. If applicable, assigned status;

10. If applicable, assigned therapists; and

11. If applicable, a termination study recapitulating findings and events during treatment, clinical impressions, and condition on termination.

Section 7. Physical environment of an off-campus extension or separate building on the campus of the hospital where outpatient behavioral health services are provided. (1) Accessibility. The off-campus extension or separate building on the campus of the hospital shall meet requirements for making buildings and facilities accessible to and usable by individuals with physical disabilities pursuant to KRS 198B.260 and 815 KAR 7:120.

(2) Physical location and overall environment.

(a) The program shall:

1. Comply with building codes, ordinances, and administrative regulations which are enforced by city, county, or state jurisdictions;

2. Display a sign that can be viewed by the public that contains the facility name, hours of operation, and a street address;

3. Have a publicly listed telephone number and a dedicated phone number to send and receive faxes with a fax machine that

shall be operational twenty-four (24) hours per day:

4. Have a reception and waiting area;
5. Provide a restroom; and
6. Have an administrative area.

(b) The condition of the physical location and the overall environment shall be maintained in such a manner that the safety and well-being of clients, personnel, and visitors are assured.

(3) Prior to occupancy, the facility shall have final approval from appropriate agencies.

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

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CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(As Amended at ARRS, December 9, 2015)

902 KAR 20:260. Special health clinics.

RELATES TO: KRS 198B.260, 216B.010-216B.131, 216B.990, 218A.175, 218A.205, 311, 313, 314, 29 C.F.R. 1910.1030(d)(2)(viii), 45 C.F.R. 160, 164, 42 U.S.C. 1320d-2 - 1320d-8

STATUTORY AUTHORITY: KRS 13A.100, 216B.040, 216B.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040 and 216B.105 require[mandate that] the Cabinet for Health and Family Services[Human Resources] to promulgate administrative regulations governing[regulate] health facilities and health services. This administrative regulation provides minimum licensure requirements for the operation of special health clinics.

Section 1. Definitions. (1) "Diagnostic services" means services that are performed to ascertain and assess an individual's physical health condition.

(2) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the clinic is vested.

(3)(2) "Commission" means the Commission for Health Economics Control in Kentucky.

(3) "License" means an authorization issued by the cabinet for the purpose of operating a special health clinic.

(4) "Licensure agency" means the Office of the Inspector General, Cabinet for Health and Family Services.

(5)(3)(4) "Certified radiation operator" means a person who has been certified pursuant to KRS 214.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

(5) "Diagnostic services" means [those] services which are performed to ascertain and assess an individual's physical health condition.

(4)(6) "Treatment services" means [those] services provided to an individual who, because of a physical health condition, is in need of medical assistance for the attainment of the individual's [their] maximum level of physical function.

(5)(7) "Qualified registered nurse" means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041.

(8) "Licensure agency" means the [Division for Licensing and Regulation in the] Office of the Inspector General, Cabinet for Health and Family Services [Human Resources].

Section 2. Scope of Operations and Services. (1) Special health clinics are institutions which provide [the type of] diagnostic services or a low, limited level of treatment [services like those allowed to be provided in a private practitioner's office or

clinic operated by a group of practitioners] [limited health services.] on an outpatient basis.

(2) A special health clinic shall[does] not include the following:

(a) Any entity exempt from licensure pursuant to KRS 216B.020(2), including an office or clinic that is exempt from Certificate of Need pursuant to 900 KAR 6:130, Section 3;

(b) A home-based hospice program that provides treatment for pain using controlled substances or a residential hospice facility licensed pursuant to 902 KAR 20:140;

(c) [and shall not include] The provision of surgical services like those allowed to be performed by ambulatory surgical centers licensed pursuant to 902 KAR 20:106; or

(d) The provision of procedures that are invasive or result in continued, prolonged follow-up care or treatment.

(3)(2) Services licensed as a special health clinic may[, if not exempt from licensure pursuant to KRS 216B.020(2) or otherwise licensed in a separate category under 902 KAR Chapter 20,] include:

(a) [These services include:] Family planning clinics;

(b) [Pulmonary care clinics;

(c) [Disability determination clinics;

(d) [Weight loss clinics;

(e) [Speech and hearing clinics;

(f) [Wellness centers;

(g) [Counseling centers;

(h) [Occupational health clinics;

(i) [Sports medicine clinics;

(j) [Dental clinics; or

(k) [Pediatric, internal medicine, oncology, neurology, cardiology, family practice, and] Other medical specialty clinics.

(4)(3) An entity excluded from the definition of pain management facility pursuant to KRS 218A.175(1)(b) shall obtain separate licensure as a special health clinic [license] for any outpatient [a] clinic owned and operated by the entity if:

(a) The majority of the patients of the practitioners at the clinic are provided treatment for pain that includes the use of controlled substances; and

(b) The clinic is located off-campus[, and any clinic which only provides diagnostic services].

Section 3. Administration. (1) Licensee.

(a) A [The] licensee shall be legally responsible for the service and for compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the service, limited to the scope of the service's certificate of need.

(b) A [The] licensee shall establish lines of authority and designate an administrator who shall be principally responsible for the daily operation of the clinic.

(2) Policies. A [The] clinic shall establish and follow written administrative policies covering all aspects of operation, including:

(a) A description of organizational structure, staffing, and allocation of responsibility and accountability;

(b) A description of linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performances;

(d) A written program narrative describing in detail the:

1. Services [service(s)] offered;

2. [Methods and protocols for service delivery;

3. [Qualifications of personnel involved in the delivery of the services; and

4. [and] Goals of the services [service(s)];

(e) A description of the administrative and patient care records and reports; [and]

(f) Procedures to be followed if an individual seeks or is in need of care and treatment that is beyond the scope of services offered by clinic, which may include:

1. Advising the individual to seek services elsewhere;

2. Making a referral on behalf of the individual; or

3. Contacting emergency medical services; and

(g) Procedures to be followed if [in the event] the clinic performs any functions related to the storage, handling, and administration

of drugs and biologicals.

(3) Patient care policies. Patient care policies shall be developed by the medical director in collaboration with a group of the clinic's other professionals to address all medical aspects of the clinic's program, including:

1. A description of the services the clinic provides directly and those provided through agreement;

2. Guidelines for the medical management of health problems, which include the conditions requiring medical consultation or patient referral;

3. Guidelines for the maintenance of medical records in accordance with subsection (6) of this section; and

4. Procedures for review and evaluation of the services provided by the clinic at least annually.

(4) Personnel.

(a) Clinical/Medical director. A[The] clinic shall have a clinical/medical director who:

1. Shall be/is/a[.];

a. A[Licensed] physician having a full and active license to practice in Kentucky and who is responsible for all medical aspects of the clinic except those clinics which provide only **speech or audiological services;fer**

b. **Except for a clinic that provides only speech or audiological services, an advanced practice registered nurse practitioner having a full and active license to practice in Kentucky and who is responsible for the clinical activities of the clinic if the clinic provides services that do not exceed the scope of services allowed under KRS Chapter 314; or**

c. A dentist having a full and active license to practice in Kentucky if the clinic provides only dental services;

2. Shall provide direct services, supervision, and consultation to the clinic's staff;

3. Shall participate with a group made up of clinic professionals, including at least one (1) nurse, or one (1) dental hygienist if the clinic provides only dental services, in the development of:

a. Execution and periodic review of the clinic's written policies and services as described in subsection (3) of this section; and

b. Written protocols signed by the **clinical/medical** director which include standing orders, rules of practice, and medical directives that apply to services provided by the clinic and direct the step-by-step collection of subjective and objective data from the patient, direct data analysis, direct medical action depending on the data collected, and include the rationale for each decision made;

4. Shall periodically review the clinic's patient records, provide medical orders, and provide medical care services to patients of the clinic;

5. Shall be present for consultation weekly and be available within one (1) hour through direct telecommunication for consultation, assistance with medical emergencies, or patient referral; and

6. May serve as both the clinic's administrator and **clinical/medical** director.

(b) The clinic shall:

1. Employ, directly or by contract, a sufficient number of qualified personnel (e.g., physicians, nurses, therapists, and technicians, or dental hygienists) to provide effective patient care and all other related services; and

2. Maintain[–There shall be] written personnel policies which are made available to all employees.

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) Current personnel records shall be maintained for each employee and[which] include the following:

1. Name, address, and Social Security number;

2. Evidence of current registration, certification, or licensure of personnel;

3. Records of training and experience; and

4. Records of performance evaluation.

(5)(4) In-service training. All personnel shall participate in annual[ongoing] in-service training programs relating to their respective job activities, including thorough job orientation for new

employees.

(6)(5) Medical records.

(a) The clinic shall maintain accurate, readily accessible, and complete medical records, which contain at least the following:

1. Medical or social history relevant to the services provided, including data obtainable from other providers;

2. Name[Names] of the patient, referring **practitioner[physician]**, if any, and **practitioner's[physicians]** orders for special diagnostic services;

3. Date and description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment, diagnosis, services provided, names of personnel who provided the services, medications and treatments prescribed, and disposition made;

4. Reports of all physical examinations and[.] laboratory and other test findings relevant to the services provided; and

5. Documentation of all referrals made, including reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Medical records shall be the property of the clinic.

(c) The original medical record shall not be removed from the clinic except in compliance with a court order or subpoena.

(d) Copies of a medical record or portions of the record may be used and disclosed, **in accordance with[Use and disclosure shall be as established in]** this administrative regulation.

(e) Confidentiality/Security: Use and Disclosure.

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

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

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

(f) Confidentiality of all patient records shall be maintained at all times.

(g) Transfer of records. The clinic shall:

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

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

(h) Retention of records. After the patient's death or discharge, the completed medical record shall be placed in an inactive file and retained for:

1. Six (6)[five (5)] years; or

2. If [In case of] a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(i) The clinic shall:

1. Make provisions[(e) Provision shall be made] for the written designation of a specific location for the storage of medical records if[in the event] the special health clinic ceases to operate because of disaster[.] or for any other reason; and

2. [The licensee shall] Safeguard the record and its content against loss, defacement, and tampering.

(7) Kentucky Health Information Exchange (KHIE).

(a) A clinic shall participate in the KHIE pursuant to the requirements of 900 KAR 9:010.

(b) **If a clinic has not implemented a certified electronic health record, the clinic may meet the requirement of paragraph (a) of this subsection by participating in the direct secure messaging service provided by KHIE.**

(8) The clinic shall:

(a) Carry out or arrange for an annual evaluation of its total program;

(b) Consider the findings of the evaluation; and

(c) Take corrective action, if necessary.

(9) The evaluation required by subsection (8) of this section

shall include:

- (a) The utilization of clinic services, including at least the number of patients served and the volume of services;
- (b) A representative sample of both active and closed clinical records; and
- (c) The clinic's health care policies[(f) A specific location shall be designated by the special health clinic for the storage and maintenance of the clinic's medical records].

Section 4. Provision of Services. A licensed special health clinic shall comply with the requirements listed in Sections 3 and 5 of this administrative regulation, the clinic's program narrative, and the additional requirements of this section which relate to the particular services[service(s)] offered by the licensee. (1) Equipment used for direct patient care by a special health clinic shall comply with the following:

- (a) The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative and properly calibrated;
- (b) All personnel engaged in the operation of[diagnostic] equipment shall have adequate training and be currently licensed, registered, or certified in accordance with applicable state statutes and administrative regulations; and
- (c) There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

(2) Diagnostic services shall be performed in accordance with the special health clinic's[clinics] protocol.

(3)[(a) Diagnostic services includes family planning clinics, disability determination clinics, counseling centers, wellness centers and other clinics providing diagnostic services only. (b)] Diagnostic services shall be provided under the supervision of a physician, **advanced practice registered nurse if the clinic provides services that do not exceed the scope of services allowed under KRS Chapter 314, or a dentist if the clinic provides only dental services,** who is qualified by advanced training and experience in the use of the specific technique utilized for diagnostic purposes[, **except for a family planning clinic**].**[or a wellness center].**

(4)[(c) The clinic shall prepare a record for each patient to include the date of the procedure, name of the patient, description of the procedures ordered and performed, the referring physician, the name of the person performing the procedure, and the date and name of the physician, if any, to whom the results were sent; (d)] Physical examination services shall be nonabusive and provided in a manner which ensures the greatest amount of safety and security for the patient.

(5)[1. Protocols for diagnostic examinations shall be developed by the medical director. 2.] Personnel performing a physical examination shall:

- (a) Have adequate training and be currently licensed, registered, or certified in accordance with applicable Kentucky statutes and administrative regulations; and
- (b)[3. Personnel performing physical examinations shall] Be limited by the relevant scope of practice of state licensure.

(6)[4.] A wellness center shall[must] have at least one (1) person on staff, employed full time, who has current advanced cardiac life support certification.

(7)[(3) Treatment services includes pulmonary care clinics, weight loss clinics, and speech and hearing clinics.(a) Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physicians and one (1) or more registered nurses. At least one (1) member shall not be a member of the clinic staff. The policies shall include:

- 1. A description of the services the clinic provides directly and those provided through agreement.
- 2. Guidelines for the medical management of health problems which include the conditions requiring medical consultation and/or patient referral, and the maintenance of health records; and
- 3. Procedures for review and evaluation of the services provided by the clinic at least annually.

(b)] Personnel. **Unless exempt pursuant to subsection (8) of**

this section, a[The] clinic shall have a staff that includes at least:

- (a) 1. One (1) physician;
- 2. One (1) advanced practice registered nurse; or**
- 3. or One (1) dentist if the clinic provides only dental services;**

(b)[and at least] One (1) licensed nurse, or one (1) dental hygienist if the clinic provides only dental services; and

(c)[The clinic shall employ such] Other staff or ancillary personnel that are necessary to provide the services essential to the clinic's operation.

(8) A physician practice that is acquired by a hospital and obtains licensure as a special health clinic shall have at least:

- (a) One (1) physician; and**
- (b) Other staff or ancillary personnel that are necessary to provide services essential to the clinic's operation.**

(9)[1. The physician shall:

- a. Be responsible for all medical aspects of the clinic and shall provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311. In addition, the physician shall provide medical direction, supervision, and consultation to the staff;
- b. In conjunction with the licensed nurse(s) participate in the development, execution and periodic review of the clinic's written policies and services;
- c. Periodically review the clinic's patient records, provide medical orders, and provide medical care services to patient of the clinic; and
- d. Be present for consultation weekly, and be available within one (1) hour through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

2.] The licensed nurse, or dental hygienist if applicable, shall:

(a)[a.] Participate in the development, execution, and periodic review of the written policies governing and the services the clinic provides;

(b)[b.] Participate with the **clinical**[medical] director[physician] in periodic review of patient health records;

(c)[c.] Provide services in accordance with clinic policies, established protocols, the Nurse Practice Act (KRS Chapter 314), or KRS Chapter 313 if the individual is a dental hygienist, and with administrative regulations promulgated thereunder;

(d)[(i)] Arrange for, or refer patients to, needed services that cannot be provided at the clinic; and

(e)[(ii)] Assure that adequate patient health records are maintained and transferred **if a patient is**[when patients are] referred.

(c) The clinic shall carry out, or arrange for an annual evaluation of its total program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

- 1. The utilization of clinic services including at least the number of patients served and the volume of services;
- 2. A representative sample of both active and closed clinical records; and
- 3. The clinic's health care policies.

(d) The clinic shall develop and maintain written protocols (i.e., standing orders, rules of practice, and medical directives) which apply to services provided by the center and which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall further direct data analysis, direct explicit medical action depending upon the data collected, and include rationale for each decision made. The protocols shall be signed by the staff physician.

(e) A pulmonary care clinic shall have linkage agreements or arrangements with each of the following:

- 1. Inpatient hospital care;
- 2. Physician services in a hospital, patient's home, or long term care facility;
- 3. Additional and specialized diagnostic and laboratory services that are not available at the clinic;
- 4. Home health agency;
- 5. Emergency medical services; and
- 6. Pharmacy services.]

Section 5. Physical environment. (1) Accessibility. The clinic

shall meet requirements for making buildings and facilities accessible to and usable by persons with a disability[the physically handicapped] pursuant to KRS 198B.260 and administrative regulations promulgated thereunder.[All clinics shall comply with this requirement by July 1, 1989.]

(2) Fire safety. An initial license to operate a special health clinic or a new license to operate a clinic upon approval of a change of location shall not be issued before the clinic obtains approval from the State Fire Marshal's office[The clinic shall be approved by the Fire Marshal's office before licensure and relicensure is granted by the licensure agency].

(3) Housekeeping and maintenance services.

(a) Housekeeping.

1. The clinic shall maintain a clean and safe facility free of unpleasant odors.

2. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other sources.

(b) Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

1. The clinic shall ensure[insure] that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair;

2. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures shall be in good repair. Windows and doors which can be opened for ventilation shall be screened;

3. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly; and

4. A pest control program shall be in operation in the clinic. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(4) The clinic shall develop written infection control policies that are consistent with Centers for Disease Control guidelines and include the:

(a) Prevention of disease transmission to and from patients, visitors, and employees, including:

1. Universal blood and body fluid precautions;

2. Precautions against airborne transmittal of infections;

3. Work restrictions for employees with infectious diseases;

and

4. Cleaning, disinfection, and sterilization methods used for equipment and the environment; and

(b) Provision of in-service education programs annually on the cause, effect, transmission, prevention, and elimination of infections.

(5) Hazardous cleaning solutions, compounds, and substances shall be:

(a) Labeled;

(b) Stored in closed metal containers;

(c) Kept separate from other cleaning materials; and

(d) Kept in a locked storage area apart from the exam room.

(6) The facility shall be kept free from insects and rodents and their nesting places.

(7) Garbage and trash:

(a) Shall be removed from the premises regularly; and

(b) Containers shall be cleaned daily.

(8) A clinic shall establish and maintain a written policy for the handling and disposal of wastes, including any infectious, pathological, or contaminated wastes, which shall include the requirements established in this subsection.

(a) [- 5-] Sharp wastes, including[such as] broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and placed in puncture-resistant[aggregated in rigid disposable] containers immediately after use.

(b) A needle or other contaminated sharp waste shall not be recapped, purposely bent, broken, or otherwise manipulated by hand as a means of disposal except as permitted by the Centers for Disease Control and the Occupational Safety and Health Administration guidelines at 29 C.F.R. 1910.1030(d)(2)(vii).

(c) A sharp waste container shall be incinerated on or off-site or rendered nonhazardous.

(d) Any nondisposable sharp waste shall be placed in a hard walled container for transport to a processing area for decontamination.

(9)(a) Disposable waste shall be:

1. Placed in a suitable bag or closed container so as to prevent leakage or spillage; and

2. Handled, stored, and disposed of in a way that minimizes direct exposure of personnel or patients to waste materials.

(b) The clinic shall establish specific written policies regarding handling and disposal of waste material.

(10) A licensee owned or operated incinerator used for the disposal of waste shall be in compliance with all applicable Kentucky statutes and administrative regulations.

Section 6. Standards for prescribing and dispensing controlled substances in a special health clinic. (1) All licensed prescribers of a special health clinic authorized to prescribe or dispense controlled substances shall comply with the professional standards relating to the prescribing and dispensing of controlled substances established by their professional licensing boards, including 201 KAR 9:260 and 201 KAR 20:057.

(2) A representative from the Office of Inspector General shall review the special health clinic's records, including the clinic's patient records, to verify facility compliance with administrative regulations promulgated by professional licensing boards pursuant to KRS 218A.205 which establish standards for licensees authorized to prescribe or dispense controlled substances.

(3) A special health clinic described by Section 2(3) of this administrative regulation in which the majority of the patients of the practitioners at the clinic are provided treatment for pain that includes the use of controlled substances shall comply with the requirements established in this subsection.

(a) The clinic shall not contract with or employ a physician or prescribing practitioner:

1. Whose Drug Enforcement Administration number has ever been revoked;

2. Whose application for a license to prescribe, dispense, or administer a controlled substance has been denied by any jurisdiction;

3. Who has had any disciplinary limitation placed on his or her license by:

a. The Kentucky Board of Medical Licensure;

b. The Kentucky Board of Nursing;

c. The Kentucky Board of Dentistry;

d. The Kentucky Board of Optometric Examiners;

e. The State Board of Podiatry;

f. Any other board that licenses or regulates a person who is entitled to prescribe or dispense controlled substances to humans;

or

g. A licensing board of another state if the disciplinary action resulted from illegal or improper prescribing or dispensing of controlled substances; or

4. Who has been convicted of or pleaded guilty or nolo contendere to, regardless of adjudication, an offense that constitutes a felony for receipt of illicit and diverted drugs, including a controlled substance listed as Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V in this state or the United States.

(b) The clinic's medical director shall:

1. Be board certified and have a full, active, and unencumbered license to practice medicine in the commonwealth issued under KRS Chapter 311;

2. Be physically present practicing medicine in the clinic for at least fifty (50) percent of the time that patients are present in the clinic;

3. Within ten (10) days after the clinic hires a prescriber of controlled substances or ten (10) days after termination of a prescriber of controlled substances, notify the cabinet in writing and report the name of the prescriber; and

4. Meet one (1) of the following:

a. Hold a current subspecialty certification in pain management by a member board of the American Board of Medical Specialties.

or hold a current certificate of added qualification in pain management by the American Osteopathic Association Bureau of Osteopathic Specialists;

b. Hold a current subspecialty certification in hospice and palliative medicine by a member board of the American Board of Medical Specialties or hold a current certificate of added qualification in hospice and palliative medicine by the American Osteopathic Association Bureau of Osteopathic Specialists;

c. ~~4~~ Hold a current board certification by the American Board of Pain Medicine;

d. Hold a current board certification by the American Board of Interventional Pain Physicians; or

e. Have completed a fellowship in pain management or an accredited residency program that included a rotation of at least five (5) months in pain management.

(c) The clinic shall, within ten calendar (10) days after termination of the medical director, notify the cabinet of the identity of the individual designated as medical director, including the identity of any interim medical director until a permanent director is secured for the clinic.

(d) Each licensed physician who prescribes or dispenses a controlled substance to a patient in the clinic as part of his or her employment agreement with the clinic shall successfully complete a minimum of ten (10) hours of Category I continuing medical education in pain management during each registration period throughout his or her employment agreement with the clinic.

Section 7. Denial and Revocation. (1) The cabinet shall deny an Application for License to Operate a Renal Dialysis Facility, Mobile Health Service, Special Health Clinic, or Specialized Medical Technology Service, incorporated by reference in 902 KAR 20:008, Section 8(1)(e), if:

(a) Any person with ownership interest in the special health clinic has had previous ownership interest in a health care facility that had its license revoked or voluntarily relinquished its license as the result of an investigation or pending disciplinary action;

(b) Any person with ownership interest in the clinic has been discontinued from participation in the Medicaid Program due to fraud or abuse of the program;

(c) An administrative sanction or criminal conviction relating to controlled substances has been imposed on the clinic or any owner or individual under contract or employed directly by the clinic for an act or omission done within the scope of the clinic's license or the individual's employment; or

(d) The applicant fails, after the initial inspection, to submit an acceptable plan of correction or fails to submit an acceptable amended plan of correction within the timeframes required by 902 KAR 20:008, Section 2(5).

(2) If, during the initial inspection of the special health clinic, the cabinet has probable cause to believe that a physician or other prescriber practicing at the facility may be engaged in the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance, the cabinet shall:

(a) Refer the physician or other prescriber practicing at the clinic to the appropriate professional licensing board and appropriate law enforcement agency; and

(b) Withhold issuing a license to the clinic pending resolution of any investigation into the matter by a licensing board or law enforcement agency, and resolution of the appeals process, if applicable.

(3) The cabinet shall revoke a special health clinic's license if it finds that:

(a) In accordance with KRS 216B.105(2), there has been a substantial failure by the clinic to comply with the provisions of this administrative regulation;

(b) An administrative sanction or criminal conviction relating to controlled substances is imposed on the clinic or any individual employed by the clinic for an act or omission done within the scope of the clinic's license or the individual's employment;

(c) The clinic fails to submit an acceptable plan of correction or fails to submit an acceptable amended plan of correction within the timeframes required by 902 KAR 20:008, Section 2(5); or

(d) The clinic is terminated from participation in the Medicaid

program pursuant to 907 KAR 1:671.

(4)(a) The denial or revocation of a special health clinic's license shall be mailed to the applicant or licensee by certified mail, return receipt requested, or by personal service.

(b) Notice of the denial or revocation shall set forth the particular reasons for the action.

(5) The denial or revocation shall become final and conclusive thirty (30) days after notice is given unless the applicant or licensee, within the thirty (30) day period, files a request in writing for a hearing with the cabinet.

(6) Urgent action to suspend a license.

(a) The cabinet shall take urgent action to suspend a special health clinic's license if the cabinet has probable cause to believe that:

1. The continued operation of the clinic would constitute a danger to the health, welfare, or safety of the facility's patients; or

2. A physician or other prescriber practicing at the clinic may be engaged in the improper or inappropriate prescribing or dispensing of a controlled substance.

(b) 1. The special health clinic shall be served with notice of the hearing on the urgent suspension to be held no sooner than twenty (20) days from the delivery of the notice.

2. Notice of the urgent suspension shall set forth the particular reasons for the action.

(c) If the cabinet issues an urgent suspension of the clinic's license pursuant to paragraph (a)2 of this subsection, the cabinet shall refer the physician or other prescriber practicing at the special health clinic to the appropriate professional licensing board and appropriate law enforcement agency.

(7) Notice of a hearing on an urgent suspension shall be served on the clinic by certified mail, return receipt requested, or by personal service.

(8)(a) Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the urgent suspension.

(b) The urgent suspension shall be affirmed if there is substantial evidence of an immediate danger to the public health, safety, or welfare.

(9) The decision rendered under subsection (8) of this section shall be a final order of the agency on the matter, and any party aggrieved by the decision may appeal to circuit court.

(10) If the cabinet issues an urgent suspension, the cabinet shall take action to revoke the special health clinic's license pursuant to subsection (3) of this section if:

(a) The clinic fails to attend the expedited hearing;

(b) The decision rendered under subsection (8) of this section affirms that there is substantial evidence of an immediate danger to the public health, safety, or welfare; or

(c) Referral to a professional licensing board and law enforcement agency in accordance with subsection (6)(c) of this section results in an administrative sanction or criminal conviction relating to controlled substances against a physician or prescribing practitioner employed by, or under contract with, the clinic.

(11) Pursuant to KRS 216B.050, the cabinet may compel obedience to its lawful orders. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact directly into a rigid container. The rigid containers of sharp wastes shall either be incinerated, on site or off site, or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:080; and

6. The clinic shall establish a written policy for the handling and disposal of all infectious, pathological, and contaminated waste if the clinic generates them. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 or 401 KAR 61:040.

a. Infectious waste shall be placed in double impervious plastic bags and each bag shall be two (2) mils in thickness. A bag, when full, shall not exceed twenty five (25) pounds. All bags shall be securely closed and a tag, which reads "INFECTIOUS WASTE" and identifies the clinic from which the waste is being removed and shall be attached to the bag in a conspicuous manner.

b. All unpreserved tissue specimens procedures shall be incinerated on or off site.

c. The following wastes shall be sterilized before disposal or be

disposed of by incineration if they are combustible:

- (i) ~~Dressings and materials from open or contaminated wounds;~~
- (ii) ~~Waste materials and disposable linens from isolation rooms;~~
- (iii) ~~Culture plates;~~
- (iv) ~~Test tubes;~~
- (v) ~~Sputum cups; and~~
- (vi) ~~Contaminated sponges and swabs.~~

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 12, 2015

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CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, December 9, 2015)

907 KAR 1:026. Dental services' coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.8451, 42 U.S.C. 1396a-d
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1),
205.520(3), 42 U.S.C. 1396a-d[~~Pub.L. 109-174~~]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds[for the provision of medical assistance to Kentucky's indigent citizenry]. This administrative regulation establishes the Kentucky Medicaid Program provisions and requirements regarding the coverage of[provisions relating to] dental services.

Section 1. Definitions. (1) "Comprehensive orthodontic" means a medically necessary dental service for treatment of a dentofacial malocclusion which requires the application of braces for correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.

(3) "Debridement" means a preliminary procedure that:

(a) Entails the gross removal of plaque and calculus that interfere with the ability of a dentist to perform a comprehensive oral evaluation;~~and~~

(b) Does not preclude the need for further procedures[a procedure that is performed:

(a) ~~For removing thick or dense deposits on the teeth which is required if tooth structures are so deeply covered with plaque and calculus that a dentist or staff cannot check for decay, infections, or gum disease]; and~~

(c) Is separate[~~(b) Separately~~] from a regular cleaning and is usually a preliminary or first treatment when an individual has developed very heavy plaque or calculus.

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

(5) "Direct practitioner contact" means the billing dentist or oral surgeon is physically present with and evaluates, examines, treats, or diagnoses the recipient.

(6) "Disabling malocclusion" means[~~that a patient has~~] a condition that meets the criteria established in Section 13(7) of this administrative regulation.

(7) "Electronic signature" is defined by KRS 369.102(8).

(8) "Federal financial participation" is defined by[in] 42 C.F.R. 400.203.

(9) "Incidental" means that a medical procedure;

(a) Is performed at the same time as a primary procedure; and
(b)1.:

(a) Requires little additional practitioner resources; or

2.[(b)] Is clinically integral to the performance of the primary procedure.

(10)[(8)] "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(11) "Locum tenens dentist" means a substitute dentist:

(a) Who temporarily assumes responsibility for the professional practice of a dentist participating in the Kentucky Medicaid Program; and

(b) Whose services are paid under the participating dentist's provider number.

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

(13)[(9)] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(14)[(40)] "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one (1) another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CDT codes; or

(d) Are described in CDT as inappropriate coding of procedure combinations.

(15)[(44)] "Other licensed medical professional" or "OLMP" means a health care provider other than a dentist who has been approved to practice a medical specialty by the appropriate licensure board.

(16)[(42)] "Prepayment review" or "PPR" means a departmental review of a claim regarding a recipient who is not enrolled with a managed care organization to determine if the requirements of this administrative regulation have been met prior to authorizing payment.

(17)[(43)] "Prior authorization" or "PA" means approval that[which] a provider shall obtain from the department before being reimbursed for a covered service.

(18)[(44)] "Provider" is defined by[in] KRS 205.8451(7).

(19) "Public health hygienist" means an individual who:

(a) Is a dental hygienist as defined by[in] KRS 313.010(6);

(b) Meets the public health hygienist requirements established in KRS 313.040(8);

(c) Meets the requirements for a public health registered dental hygienist established in 201 KAR 8:562; and

(d) Is employed by or through:

1. The Department for Public Health; or

2. A governing board of health.

(20)[(45)] "Recipient" is defined by[in] KRS 205.8451(9).

(21)[(46)] "Resident" is defined by[in] 42 C.F.R. 415.152.

(22)[(47)] "Timely filing" means receipt of a claim by Medicaid:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

Section 2. Conditions of Participation. (1) A participating provider shall:

(a) Be licensed as a provider in the state in which the practice is located;

(b)1. ~~(2) A participating provider shall~~ Comply with the terms and conditions established in the following administrative regulations:

1.[(a)] 907 KAR 1:005;

2.[(b)] 907 KAR 1:671; and

3.[(c)] 907 KAR 1:672;

(c)1.:

~~(3) A participating provider shall~~ Comply with the requirements to maintain the confidentiality of personal medical records pursuant to 42 U.S.C. 1320d and 45 C.F.R. Parts 160 and 164; and

(d) Comply with all applicable state and federal laws.

(2)(a)(4) A participating provider shall:

1. Have the freedom to choose whether to accept an eligible Medicaid recipient; and

2. ~~shall~~ Notify the recipient of the decision prior to the delivery of service.

(b) If the provider accepts the recipient, the provider:

1. ~~(a)~~ Shall bill Medicaid rather than the recipient for a covered service;

2. ~~(b)~~ May bill the recipient for a service not covered by Kentucky Medicaid, if the provider informed the recipient of noncoverage prior to providing the service; and

3. ~~(c)~~ Shall not bill the recipient for a service that is denied by the department for:

a. ~~(1.)~~ Being:

i. ~~(a.)~~ Incidental;

ii. ~~(b.)~~ Integral; or

iii. ~~(c.)~~ Mutually exclusive;

b. ~~(2.)~~ Incorrect billing procedures, including incorrect bundling of procedures;

c. ~~(3.)~~ Failure to obtain prior authorization for the service; or

d. ~~(4.)~~ Failure to meet timely filing requirements.

(3)(a) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(b) A provider of a service to an enrollee shall be enrolled in the Medicaid Program.

(4)(a) If a provider receives any duplicate or overpayment from the department or managed care organization, regardless of reason, the provider shall return the payment to the department or managed care organization.

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

1. Interpreted to be fraud or abuse; and

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

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

(d) A provider shall comply with KRS 205.622.

Section 3. Record Maintenance. (1)(a) A provider shall maintain comprehensive legible medical records ~~that~~**[which]** substantiate the services billed.

(b) A dental record shall be considered a medical record.

(2) A medical record shall be signed on the date of service by the:

(a) Provider; or

(b) Other practitioner authorized to provide the service in accordance with:

1. KRS 313.040; and

2. 201 KAR 8:562~~[and dated to reflect the date of service]~~.

(3) An X-ray shall be:

(a) Of diagnostic quality; and

(b) Maintained in a manner that identifies~~[shall include]~~ the:

1. ~~(a)~~ Recipient's name;

2. ~~(b)~~ Service date; and

3. ~~(c)~~ Provider's name.

(4) A treatment regimen shall be documented to include:

(a) Diagnosis;

(b) Treatment plan;

(c) Treatment and follow-up; and

(d) Medical necessity.

(5) Medical records, including X-rays, shall be maintained in accordance with 907 KAR 1:672~~;~~ Section 4(3) and (4).

Section 4. General and Certain Service Coverage Requirements. (1) A covered service shall be:

(a) Medically necessary; and

(b) Except as provided in subsection (3)(2) of this section,

furnished to a recipient through direct practitioner contact.

(2) Dental visits shall be limited to twelve (12) visits per year; and

(c) Unless a recipient's provider demonstrates that dental services in excess of the following service limitations are medically necessary, limited to:

1. Two (2) prophylaxis per twelve (12) month period for a recipient under age twenty-one (21);

2. One (1) dental visit per month per provider for a recipient who is at least~~[age]~~ twenty-one (21) years of age~~[and over]; and~~

3. One (1) prophylaxis per twelve (12) month period for a recipient age twenty-one (21) years and over.

(3)(2) A covered service provided by an~~[individual who meets the definition of]~~ other licensed medical professional shall be covered if the:

(a) OLMP~~[Individual]~~ is employed by the supervising oral surgeon, dentist, or dental group;

(b) OLMP~~[Individual]~~ is licensed in the state of practice; and

(c) Supervising provider has direct practitioner contact with the recipient, except for a service provided by a dental hygienist if the dental hygienist provides the service under general supervision of a practitioner in accordance with KRS 313.040~~[313.310].~~

(4)(3)(a) A medical resident may provide and the department shall cover services if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.170, 415.172, and 415.174.

(b) A dental resident, student, or dental hygiene student may provide and the department shall cover services under the direction **or supervision** of a program participating provider in or affiliated with an American Dental Association accredited institution.

(5) Services provided by a locum tenens dentist shall be covered:

(a) If the locum tenens dentist:

1. Has a national provider identifier (NPI) and provides the NPI to the department;

2. Does not have a pending criminal or civil investigation regarding the provision of services;

3. Is not subject to a formal disciplinary sanction from the Kentucky Board of Dentistry; and

4. Is not subject to any federal or state sanction or penalty that would bar the dentist from Medicare or Medicaid participation; and

(b) For no more than sixty (60) continuous days.

(6) Preventative services provided by a public health hygienist shall be covered.

(7) The department shall cover the oral pathology procedures listed on the DMS Dental Fee Schedule if provided by an oral pathologist who meets the condition of participation requirements established in Section 2 of this administrative regulation.

(8)(4) Coverage shall be limited to the procedures or services:

(a) Identified on the DMS Dental Fee Schedule; or

(b) Established in this administrative regulation.

(9) The department shall not cover a service provided by a provider or practitioner that exceeds the scope of services established for the provider or practitioner in:

(a) Kentucky Revised Statutes; or

(b) Kentucky administrative regulations~~[in 907 KAR 1:626, Section 3, in the following CDT categories:~~

(a) Diagnostic;

(b) Preventive;

(c) Restorative;

(d) Endodontics;

(e) Periodontics;

(f) Removable prosthodontics;

(g) Maxillofacial prosthetics;

(h) Oral and maxillofacial surgery;

(i) Orthodontics; or

(j) Adjunctive general services].

Section 5. Diagnostic Service Coverage Limitations. (1)(a) Except as provided in paragraph (b) of this subsection, coverage for a comprehensive oral evaluation shall be limited to one (1) per twelve (12) month period, per recipient, per provider.

(b) The department shall cover a second comprehensive oral evaluation if the evaluation is provided in conjunction with a prophylaxis to an individual under twenty-one (21) years of age.

(c) A comprehensive oral evaluation shall not be covered in conjunction with the following:

1. A limited oral evaluation for trauma related injuries;
2. A space ~~maintainer~~[maintainers];
3. ~~Root canal therapy~~;
4. ~~Denture relining~~;
5. ~~A~~[5.] transitional ~~appliance~~[appliances];
6. ~~[6.]~~ A prosthodontic service;
7. ~~[7.]~~ Temporomandibular joint therapy;
8. ~~[8.]~~ An orthodontic service;
9. ~~[9.]~~ Palliative treatment; ~~[or]~~
10. A ~~house~~[hospital] call; ~~or~~
11. A ~~hospital~~ call.

(2)(a) Coverage for a limited oral evaluation shall:

1. Be limited to a trauma related injury or acute infection; ~~and~~
2. Be limited to one (1) per date of service, per recipient, per provider; ~~and~~

3. ~~Require a prepayment review~~.

(b) A limited oral evaluation shall not be covered in conjunction with another service except for:

1. A periapical X-ray;
2. A bitewing ~~X-ray~~[X-rays];
3. A panoramic X-ray;
4. Resin, anterior;
5. A simple or surgical extraction;
6. Surgical removal of a residual tooth root;
7. Removal of a foreign body;
8. Suture of a recent small wound;
9. Intravenous sedation; or
10. Incision and drainage of infection.

(3)(a) Except as provided in paragraph (b) of this subsection, the following limitations shall apply to coverage of a radiograph service:

1. Bitewing X-rays shall be limited to four (4) per twelve (12) month period, per recipient, per provider;
2. Periapical X-rays shall be limited to fourteen (14) per twelve (12) month period, per recipient, per provider;
3. An intraoral complete X-ray series shall be limited to one (1) per ~~twenty-four (24)~~[~~twelve (12)~~] month period, per recipient, per provider;
4. Periapical and bitewing X-rays shall not be covered in the same twelve (12) month period as an intraoral complete X-ray series per recipient, per provider;
5. A panoramic film shall:
 - a. Be limited to one (1) per twenty-four (24) month period, per recipient, per provider; and
 - b. Require prior authorization in accordance with Section 15(1), (2), and (3) of this administrative regulation for a recipient under the age of six (6) years;
6. A cephalometric film shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider; or
7. A cephalometric and panoramic ~~X-ray~~[X-rays] shall not be covered separately in conjunction with a comprehensive orthodontic consultation.

(b) The limits established in paragraph (a) of this subsection shall not apply to:

1. An X-ray necessary for a root canal or oral surgical procedure; or
2. An X-ray that:
 - a. Exceeds the established service limitations; and
 - b. Is determined by the department to be medically necessary.

Section 6. Preventive Service Coverage Limitations. (1)(a) Coverage of a prophylaxis shall be limited to:

1. For an individual who is at least twenty-one (21) years of age ~~[and over]~~, one (1) per twelve (12) month period, per recipient; and
2. For an individual under twenty-one (21) years of age, one (1)[~~two (2)~~] per six (6)[~~twelve (12)~~] month period, per recipient.

(b) A prophylaxis shall not be covered in conjunction with periodontal scaling or root planing.

(2)(a) Coverage of a sealant shall be limited to:

1. A recipient of the age five (5) through twenty (20) years;
2. Each six (6) and twelve (12) year molar once every four (4) years with a lifetime limit of three (3) sealants per tooth, per recipient; and
3. An occlusal surface that is noncavitated[~~noncarious~~].

(b) A sealant shall not be covered in conjunction with a restorative procedure for the same tooth on the same surface on the same date of service.

(3)(a) Coverage of a space maintainer shall:

1. Be limited to a recipient under the age of twenty-one (21) years; and

2. Require the following:

- a. Fabrication;
- b. Insertion;
- c. Follow-up visits;
- d. Adjustments; and
- e. Documentation in the recipient's medical record to:
 - (i) Substantiate the use for maintenance of existing interdental[~~intertooth~~] space; and
 - (ii) Support the diagnosis and a plan of treatment that includes follow-up visits.

(b) The date of service for a space maintainer shall be considered to be the date the appliance is placed on the recipient.

(c) Coverage of a space maintainer, an appliance therapy specified in the CDT orthodontic category, or a combination of the two (2)[~~thereof~~] shall not exceed two (2) per twelve (12) month period, per recipient.

Section 7. Restorative Service Coverage Limitations. (1) A four (4) or more surface resin-based anterior composite procedure shall not be covered if performed for the purpose of cosmetic bonding or veneering.

(2) Coverage of a prefabricated crown shall ~~be~~:

- (a) ~~Be~~ limited to a recipient under the age of twenty-one (21) years; and

(b) ~~Include~~[~~Inclusive of~~] any procedure performed for restoration of the same tooth.

(3) Coverage of a pin retention procedure shall be limited to:

- (a) A permanent molar;
- (b) One (1) per tooth, per date of service, per recipient; and
- (c) Two (2) per permanent molar, per recipient.

(4) Coverage of a restorative procedure performed in conjunction with a pin retention procedure shall be limited to one (1) of the following:

- (a) An appropriate medically necessary restorative material[~~amalgam~~] encompassing[~~;~~] three (3) or more surfaces;
- (b) A permanent prefabricated resin crown; or
- (c) A prefabricated stainless steel crown.

Section 8. Endodontic Service Coverage Limitations. (1) Coverage of the following endodontic procedures shall be limited to a recipient under the age of twenty-one (21) years:

- (a) A pulp cap direct;
- (b) Therapeutic pulpotomy; or
- (c) Root canal therapy.

(2) A therapeutic pulpotomy shall not be covered if performed in conjunction with root canal therapy.

(3)(a) Coverage of root canal therapy shall require:

1. Treatment of the entire tooth;
2. Completion of the therapy; and
3. An x-ray taken before and after completion of the therapy.

(b) The following root canal therapy shall not be covered:

1. The Sargenti method of root canal treatment; or
2. A root canal that does not treat all root canals on ~~one (1)~~ root of a multi-rooted tooth[molar].

Section 9. Periodontic Service Coverage Limitations. (1) Coverage of a gingivectomy or gingivoplasty procedure shall require prepayment review and shall be limited to:

- (a) A recipient with gingival[~~gigival~~] overgrowth due to a:

1. Congenital condition;
2. Hereditary condition; or
3. Drug-induced condition; and
- (b) One (1) per tooth or per quadrant, per provider, per recipient per twelve (12) month period.
1. Coverage of a quadrant procedure shall require a minimum of a ~~four (4)~~~~[three (3)]~~ tooth area within the same quadrant.
2. Coverage of a per-tooth procedure shall be limited to no more than ~~three (3)~~~~[two (2)]~~ teeth within the same quadrant.
- (2) Coverage of a gingivectomy or gingivoplasty procedure shall require documentation in the recipient's medical record that includes:
 - (a) Pocket-depth measurements;
 - (b) A history of nonsurgical services; and
 - (c) A prognosis.
- (3) Coverage for a periodontal scaling and root planing procedure shall:
 - (a) Not exceed one (1) per quadrant, per twelve (12) months, per recipient, per provider;
 - (b) Require prior authorization in accordance with Section 15(1), (2), and (4) of this administrative regulation; and
 - (c) Require documentation to include:
 1. A periapical film or bitewing X-ray;~~and~~
 2. Periodontal charting of preoperative pocket depths; and
 3. A photograph if applicable.
- (4)~~(a)~~ Coverage of a quadrant procedure shall require a minimum of a ~~four (4)~~~~[three (3)]~~ tooth area within the same quadrant.
- (b) Coverage of a per-tooth procedure shall be limited to no more than three (3) teeth.
- (5) Periodontal scaling and root planing shall not be covered if performed in conjunction with dental prophylaxis.
- (6)(a) A full mouth debridement shall only be covered for a pregnant woman.
- (b) More than~~[Only]~~ one (1) full mouth debridement per pregnancy shall not be covered.

Section 10. Prosthodontic Service Coverage Limitations. (1) A removable prosthodontic or denture repair shall be limited to a recipient under the age of twenty-one (21) years.

- (2) A denture repair in the following categories shall not exceed three (3) repairs per twelve (12) month period, per recipient:
 - (a) Repair resin denture base; or
 - (b) Repair cast framework.
- (3) Coverage for the following services shall not exceed one (1) per twelve (12) month period, per recipient:
 - (a) Replacement of a broken tooth on a denture;
 - (b) Laboratory relining of:
 1. Maxillary dentures; or
 2. Mandibular dentures;
 - (c) An interim maxillary partial denture; or
 - (d) An interim mandibular partial denture.
- (4) An interim maxillary or mandibular partial denture shall be limited to use:
 - (a) During a transition period from a primary dentition to a permanent dentition;
 - (b) For space maintenance or space management; or
 - (c) As interceptive or preventive orthodontics.

Section 11. Maxillofacial Prosthetic Service Coverage Limitations. The following services shall be covered if provided by a board eligible or board certified-prosthodontist:

- (1) A nasal prosthesis;
- (2) An auricular prosthesis;
- (3) A facial prosthesis;
- (4) A mandibular resection prosthesis;
- (5) A pediatric speech aid;
- (6) An adult speech aid;
- (7) A palatal augmentation prosthesis;
- (8) A palatal lift prosthesis;
- (9) An oral surgical splint; or
- (10) An unspecified maxillofacial prosthetic.

Section 12. Oral and Maxillofacial Service Coverage Limitations. (1) The simple use of a dental elevator shall not constitute a surgical extraction.

- (2) Root removal shall not be covered on the same date of service as the extraction of the same tooth.
- (3) Coverage of surgical access of an unerupted tooth shall:
 - (a) Be limited to exposure of the tooth for orthodontic treatment; and
 - (b) Require prepayment review.
- (4) Coverage of alveoplasty shall:
 - (a) Be limited to one (1) per quadrant, per lifetime, per recipient; and
 - (b) Require a minimum of a ~~four (4)~~~~[three (3)]~~ tooth area within the same quadrant.
- (5) An occlusal orthotic device shall:
 - (a) Be covered for temporomandibular joint therapy;
 - (b) Require prior authorization in accordance with Section 15(1), (2), and (5) of this administrative regulation;
 - (c) Be limited to a recipient under the age of twenty-one (21) years; and
 - (d) Be limited to one (1) per lifetime, per recipient.
- (6) Frenulectomy shall be limited to two (2)~~[one (1)]~~ per date of service.
- (7) Coverage shall be limited to one (1) per lifetime, per recipient, for removal of the following:
 - (a) Torus palatinus (maxillary arch);
 - (b) Torus mandibularis (lower left quadrant); or
 - (c) Torus mandibularis (lower right quadrant).

~~[(8)(a) A dental service that is covered by the Kentucky Medicaid Program and provided by an oral surgeon shall be reimbursed in accordance with 907 KAR 1:626 unless the given service is:~~

1. Not reimbursed pursuant to 907 KAR 1:626; and
2. Reimbursed pursuant to 907 KAR 3:010.

~~[(b) A dental service that is covered by the Kentucky Medicaid Program and provided by an oral surgeon but not reimbursed pursuant to 907 KAR 1:626 shall be reimbursed in accordance with 907 KAR 3:010.]~~ Except as specified in subsection (9) of this section, a service provided by an oral surgeon shall be covered in accordance with 907 KAR 3:005.

- (9) If performed by an oral surgeon, coverage of a service identified in CDT shall be limited to:
 - (a) Extractions;
 - (b) Impactions; and
 - (c) Surgical access of an unerupted tooth;~~[.]~~

Section 13. Orthodontic Service Coverage Limitations. (1) Coverage of an orthodontic service shall:

- (a) Be limited to a recipient under the age of twenty-one (21) years; and
- (b) Require prior authorization except as established in Section 15(1)(b) of this administrative regulation.
- (2) The combination of space maintainers and appliance therapy shall be limited to two (2) per twelve (12) month period, per recipient.
- (3) Space maintainers and appliance therapy shall not be covered in conjunction with comprehensive orthodontics.
- (4) The department shall only cover new orthodontic brackets or appliances.
- (5) An appliance for minor tooth guidance shall not be covered for the control of harmful habits.
- (6) In addition to the limitations specified in subsection (1) of this section, a comprehensive orthodontic service shall:
 - (a) Require a referral by a dentist; and
 - (b) Be limited to~~[-4-]~~ the correction of a disabling malocclusion for transitional, full permanent dentition, or~~[-or]~~
2. Transitional or full permanent dentition unless for treatment of a cleft palate or severe facial anomaly.
- (7) A disabling malocclusion shall:
 - (a) Exist if a patient:
 1. Exhibits a severe~~[(a) Has a deep impinging]~~ overbite encompassing one (1) or more teeth in~~[that shows]~~ palatal impingement diagnosed by a lingual view of orthodontic models

(stone or digital) showing palatal soft tissue contact[the majority of the lower incisors];

2. Exhibits[(b) Has] a true anterior open bite;

a. [1.] Either skeletal or habitual in nature [1.] that if left untreated will result in:

(i) [a.] The open bite persisting; or

(ii) [b.] A medically documented speech impediment; and

b. That does not include:

(i) One (1) or two (2) teeth slightly out of occlusion; or

(ii) Where the incisors have not fully erupted;

3. [does not include:

1. One (1) or two (2) teeth slightly out of occlusion; or

2. Where the incisors have not fully erupted;

(c) Demonstrates a significant antero-posterior discrepancy (Class II or III malocclusion that is comparable to at least one (1) full tooth Class II or III);

a. [1.] Dental or skeletal [1]; and

b. If skeletal, requires a traced cephalometric radiograph supporting significant skeletal malocclusion;

4. [(d)] Has an anterior crossbite that involves:

a. [1.] More than two (2) teeth within the same arch [in crossbite]; or

b. A single tooth crossbite if there is evident detrimental changes in supporting tissues including:

(i) [2.] Obvious gingival stripping; or

(ii) A functional shift of the mandible or severe dental attrition for an individual under the age of twelve (12) years [3. Recession related to the crossbite]; or

c. An edge to edge crossbite if there is severe dental attrition due to a traumatic occlusion;

5. [(e)] Demonstrates a handicapping posterior transverse discrepancy that:

a. May include several teeth, one (1) of which shall be a molar; and

b. Is handicapping in a function fashion as follows:

(i) Functional shift;

(ii) Facial asymmetry; or [Involving at least two (2) posterior teeth; and

b. Demonstrating:

(i) An arch collapse;

(ii) A lateral functional shift;

(iii) [A skeletal restriction; or

(iv)] A [discrepancies which:

1. May include several teeth, one (1) of which shall be a molar; and

2. Is handicapping in a function fashion as follows:

a. Functional shift;

b. Facial asymmetry;

c. complete buccal or lingual crossbite;

6. Demonstrates a medically documented speech pathology resulting from the malocclusion [or

d. Speech concern];

7. Demonstrates [(f) Has] a significant posterior open bite that does not involve:

a. [1.] Partially erupted teeth; or

b. [2.] One (1) or two (2) teeth slightly out of occlusion;

8. [(g)] Except for third molars, demonstrates an [has] impacted tooth [teeth] that:

a. Will not erupt into the arch [arches] without orthodontic or surgical intervention; and

b. (i) Shows a documented pathology; or

(ii) Poses a significant threat to the integrity of the remaining dentition or to the health of the patient;

9. [(h)] Has an extreme overjet in excess of eight (8) [to nine (9)] millimeters and one (1) of the skeletal conditions specified in subparagraphs 1 through 8 [paragraphs (a) through (g)] of this paragraph [subsection];

10. [(i)] Has trauma or injury resulting in severe misalignment of the teeth or alveolar structures [1.] and does not include simple loss of teeth with no other affects;

11. [(j)] Has a congenital or developmental disorder giving rise to a handicapping malocclusion; [or]

12. [(k)] Has a significant facial discrepancy requiring a

combined orthodontic and orthognathic surgery treatment approach; or

13. Has developmental anodontia in which several congenitally missing teeth result in a handicapping malocclusion or arch deformation; and

(b) Not include:

1. One (1) or two (2) teeth being slightly out of occlusion;

2. Incisors not having fully erupted; or

3. A bimaxillary protrusion [1.] or

(c) Exist if a patient [(1)] [has developmental anodontia in which several congenitally missing teeth result in a handicapping malocclusion or arch deformation].

(8) Coverage of comprehensive orthodontic treatment shall not include [be inclusive of] orthognathic surgery.

(9) If comprehensive orthodontic treatment is discontinued prior to completion, the provider shall submit to the department:

(a) Documentation of the [A] referral referenced in subsection (6) of this section [form, if applicable]; and

(b) A letter detailing:

1. Treatment provided, including dates of service;

2. Current treatment status of the patient; and

3. Charges for the treatment provided.

(10) Remaining portions of comprehensive orthodontic treatment may be authorized for prorated coverage upon compliance with [submission of] the prior authorization requirements specified in Section 15 [(1), (2), and (7) of this administrative regulation if treatment:

(a) Is transferred to another provider; or

(b) Began prior to Medicaid eligibility.

Section 14. Adjunctive General Service Coverage Limitations.

(1) (a) Coverage of palliative treatment for dental pain shall be limited to one (1) per date of service, per recipient, per provider.

(b) Palliative treatment for dental pain shall not be covered in conjunction with another service except for a radiograph [radiographs].

(2) [(a)] Coverage of a hospital or ambulatory surgical center call or extended care facility call shall be limited to one (1) per date of service, per recipient, per provider.

(b) A hospital call, ambulatory surgical center call, or extended care facility call shall not be covered in conjunction with:

1. Limited oral evaluation;

2. Comprehensive oral evaluation; or

3. Treatment of dental pain.

(3) [(a) Coverage of intravenous sedation shall be limited to a recipient under the age of twenty-one (21) years.

(b) Intravenous sedation shall not be covered for local anesthesia or nitrous oxide.

Section 15. Prior Authorization. (1) (a) The prior authorization requirements established in this administrative regulation shall apply to services for a recipient who is not enrolled with a managed care organization.

(b) A managed care organization shall not be required to apply the prior authorization requirements established in this administrative regulation for a recipient who is enrolled with the [a] managed care organization.

(c) Prior authorization shall be required for the following:

1. [(a)] A panoramic film for a recipient under the age of six (6) years;

2. [(b)] Periodontal scaling and root planing;

3. [(c)] An occlusal orthotic device;

4. [(d)] A preorthodontic treatment visit;

5. [(e)] Removable appliance therapy;

6. [(f)] Fixed appliance therapy; or

7. [(g)] A comprehensive orthodontic service.

(2) A provider shall request prior authorization by submitting the following information to the department:

(a) A MAP-9, Prior Authorization for Health Services;

(b) Additional forms or information as specified in subsections (3) through (8) [(7)] of this section; and

(c) Additional information required to establish medical necessity if requested by the department.

(3) A request for prior authorization of a panoramic film shall include a letter of medical necessity.

(4) A request for prior authorization of periodontal scaling and root planing shall include periodontal charting of preoperative pocket depths.

(5) A request for prior authorization of an occlusal orthotic device shall include a MAP 306, Temporomandibular Joint (TMJ) Assessment Form.

(6) A request for prior authorization of removable and fixed appliance therapy shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) Panoramic film or intraoral complete series; and

(c) Dental models or the digital equivalent of dental models.

(7) A request for prior authorization for comprehensive orthodontic services shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) A MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement;

(c) A cephalometric X-ray[x-rays] with tracing;

(d) A panoramic X-ray;

(e) Intraoral and extraoral facial frontal and profile pictures;

(f) An occluded and trimmed dental model or the digital equivalent[~~equivalents~~] of a model[model]; and

(g) An oral surgeon's pretreatment work up notes if orthognathic surgery is required.

(8) If prior authorization for comprehensive orthodontic services is given following a request submitted pursuant to subsection (7) of this section, additional information shall be submitted as required in this subsection.

(a);

(h) After six (6) monthly visits are completed, but not later than twelve (12) months after the banding date of service, **the provider shall submit:**

1. A MAP 559, Six (6) Month Orthodontic Progress Report; and

2. An additional MAP 9, Prior Authorization for Health Services.

(b); and

(i) Within three (3) months following completion of the comprehensive orthodontic treatment, **the provider shall submit:**

1. Beginning and final records; and

2. A MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission.

(9)[(8)] Upon receipt and review of the materials required in subsection (7)(a) through (g) of this section, the department may request a second opinion from another provider regarding the proposed comprehensive orthodontic treatment.

(10)[(9)] If a service that requires prior authorization is provided before the prior authorization is received, the provider shall assume the financial risk that the prior authorization may not be subsequently approved.

(11)[(10)](a) Prior authorization shall not be a guarantee of recipient eligibility.

(b) Eligibility verification shall be the responsibility of the provider.

(12)[(11)] Upon review and determination by the department that removing a prior authorization requirement shall be in the best interest of a Medicaid recipient[recipients], the prior authorization requirement for a specific covered benefit shall be discontinued, at which time the covered benefit shall be available to all recipients without prior authorization.

Section 16. 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 dental service 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, or 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.

Section 17. Auditing Authority. (1) The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(a) Claim;

(b) Medical record; or

(c) Documentation associated with any claim or medical record.

(2) A dental record shall be considered a medical record.

Section 18. Federal Approval and Federal Financial Participation. The coverage provisions and requirements established in this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval of the coverage.

Section 19. Appeal Rights.[(4)] An appeal of a department decision regarding a Medicaid recipient who is:

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

(2) Not enrolled with a managed care organization[based upon an application of this administrative regulation] shall be in accordance with 907 KAR 1:563.

Section 20[(2)] An appeal of a department decision regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

~~(3) An appeal of a department decision regarding a Medicaid provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:674.~~

Section 17]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "MAP 9, Prior Authorization for Health Services", December 1995[edition];

(b) "MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement", December 1995[edition];

(c) "MAP 306, Temporomandibular Joint (TMJ) Assessment Form", December 1995[edition];

(d) "MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form", March 2001[edition];

(e) "MAP 559, Six (6) Month Orthodontic Progress Report", December 1995[edition];[and]

(f) "MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission", December 1995; and

(g) "DMS Dental Fee Schedule", **December**[**September**]/[**June**] 2015[edition].

(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 located at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LISA LEE, 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, 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.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(As Amended at ARRS, December 9, 2015)**

907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements.

RELATES TO: KRS 314.011, 42 C.F.R. 440.70, 440.185, 42 U.S.C. 1396, 42 U.S.C. 1396n(c)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1315

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented, to qualify for federal Medicaid funds. This administrative regulation establishes the service coverage and reimbursement policies and requirements relating to Model Waiver II services provided to a Medicaid-eligible recipient. These services are provided pursuant to a 1915(c) home and community based waiver granted by the U. S. Department for Health and Human Services in accordance with 42 U.S.C. 1396n(c).

Section 1. Definitions. (1) "1915(c) home and community based waiver program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).

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

(3) "Federal financial participation" is defined in 42 C.F.R. 400.203.

(4) "Home health agency" means an agency that is:

- (a) Licensed in accordance with 902 KAR 20:081;
- (b) Medicare certified; and
- (c) Medicaid certified.

(5) "Licensed practical nurse" is defined by KRS 314.011(9).

(6) "Model Waiver II services" means 1915(c) home and community based waiver program in-home ventilator services provided to a Medicaid-eligible recipient who:

- (a) Is dependent on a ventilator; and
- (b) Would otherwise require a nursing facility level of care in a hospital based nursing facility that[which] will accept a recipient who is dependent on a ventilator.

(7) "MWMA[portal]" means the Kentucky Medicaid Waiver Management Application internet portal located at <http://chfs.ky.gov/dms/mwma.htm>.

(8) "Participant" means a recipient who qualifies for and is receiving Model Waiver II services in accordance with Section 2 of this administrative regulation.

(9) "Person-centered service plan" means a written individualized plan of services.

(10) "Private duty nursing agency" means a facility licensed to provide private duty nursing services:

- (a) By the Cabinet for Health and Family Services, Office of Inspector General; and
- (b) Pursuant to 902 KAR 20:370.

(11)[(8)] "Recipient" is defined by KRS 205.8451(9).

(12)[(9)] "Registered nurse" is defined by KRS 314.011(5).

(13)[(40)] "Registered respiratory therapist" is defined by KRS 314A.010(3)(a).

(14)[(44)] "Ventilator" means a respiration stimulating mechanism.

(15)[(42)] "Ventilator dependent" means the condition or state of an individual who:

- (a) Requires the aid of a ventilator for respiratory function; and

(b) Meets the high intensity nursing facility patient status criteria established in 907 KAR 1:022.

Section 2. Participant[Model Waiver II Recipient] Eligibility and Related Policies. (1)(a) To be eligible to receive Model Waiver II services, an individual shall:

- 1.[(a)] Be eligible for Medicaid pursuant to 907 KAR 20:010;
- 2.[(b)] Require ventilator support for at least twelve (12) hours per day; and

3.[(c)] Meet ventilator dependent patient status requirements established in 907 KAR 1:022.

(b) In addition to the individual meeting the requirements established in paragraph (a) of this subsection:

1. The individual or a representative on behalf of the individual shall:

a. Apply for 1915(c) home and community based waiver services via the MWMA[portal];

b. Complete and upload into the MWMA[portal] a MAP - 115 Application Intake - Participant Authorization; and

c. 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]; and

2. A registered nurse on behalf of the individual applying for services shall:

a. Complete and upload into the MWMA[portal];

(i); (d) Submit to the department an application packet which shall contain:

4.-] A MAP 350, Long Term Care Facilities and Home and Community Based Program Certification Form;

(ii) A person-centered service plan; and

(iii)2.-] A MAP-351A, Medicaid Waiver Assessment[Form]; and b. Upload[3.-] a MAP-10, Waiver Services – Physician's Recommendation[MAP109–MWII, Plan of Care/Prior Authorization for Model Waiver II Services], which shall be signed and dated by a physician.

(c) An individual's eligibility for Model Waiver II services shall begin upon receiving[; and

(e) Receive] notification of[an admission packet] approval from the department.

(2) For an individual to remain eligible for Model Waiver II services[; the requirements established in this subsection shall be met.]

(a) The[An] individual shall:

1. Maintain Medicaid eligibility requirements established in 907 KAR 20:010; and

2. Remain ventilator dependent pursuant to 907 KAR 1:022[;]

(b) A Model Waiver II level of care determination confirming that the individual qualifies shall be performed and submitted to the department every six (6) months; and[;]

(c) A MAP-10, Waiver Services – Physician's Recommendation[109, Plan of Care/Prior Authorization for Model Waiver II Services] shall be:

1. Signed and dated by a physician every sixty (60) days on behalf of the individual; and

2. Uploaded into the MWMA[portal][Submitted to the department;] after being signed and dated in accordance with subparagraph 1 of this paragraph, every sixty (60) days.

(3) A Model Waiver II service shall not be provided to a recipient who is:

(a) Receiving a service in another 1915(c) home and community based waiver program; or

(b) An inpatient of:

- 1. A nursing facility;
- 2. An intermediate care facility for individuals with an intellectual disability; or
- 3. Another facility.

(4) The department shall not authorize a Model Waiver II service unless it has ensured that:

(a) Ventilator dependent status has been met; and

(b) The service:

- 1. Is available to the recipient;
- 2. Will meet the need of the recipient; and

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3. Does not exceed the cost of traditional institutional ventilator care.

Section 3. Provider Participation Requirements. To participate in the Model Waiver II program, a:

(1) Home health agency shall:

(a) Be a currently participating Medicaid provider in accordance with 907 KAR 1:671;

(b) Be currently enrolled as a Medicaid provider in accordance with 907 KAR 1:672; and

(c) Meet the home and community based waiver service provider requirements established in:

1. 907 KAR 1:160; or

2. 907 KAR 7:010; or

(2) Private duty nursing agency shall:

(a) Be a currently participating Medicaid provider in accordance with 907 KAR 1:671;

(b) Be currently enrolled as a Medicaid provider in accordance with 907 KAR 1:672; and

(c) Be a licensed private duty nursing agency in accordance with 902 KAR 20:370.

Section 4. Covered Services. (1) The following shall be covered Model Waiver II services:

(a) Skilled nursing provided by:

1. A registered nurse; or

2. A licensed practical nurse; or

(b) Respiratory therapy.

(2) Model Waiver II services shall be provided by an individual employed by or under contract through a private duty nursing agency or home health agency as a:

(a) Registered nurse;

(b) Licensed practical nurse; or

(c) Registered respiratory therapist.

Section 5. Payment for Services. The department shall reimburse a participating home health agency or private duty nursing agency for the provision of covered Model Waiver II services as established in this section. (1) Reimbursement shall be based on a fixed fee for a unit of service provided for each covered service referenced in Section 4 of this administrative regulation with one (1) hour equal to one (1) unit of service.

(2) The fixed fee for skilled nursing services provided by:

(a) A registered nurse shall be thirty-one (31) dollars and ninety-eight (98) cents for each unit of service;

(b) A licensed practical nurse shall be twenty-nine (29) dollars and ten (10) cents for each unit of service; and

(c) A registered respiratory therapist shall be twenty-seven (27) dollars and forty-two (42) cents for each unit of service.

(3) Reimbursement shall not exceed sixteen (16) units of service per day.

(4) Payment shall not be made for a service to an individual for whom it can reasonably be expected that the cost of the 1915(c) home and community based waiver program service furnished under this administrative regulation would exceed the cost of the service if provided in a hospital-based nursing facility.

Section 6. Maintenance of Records. (1) A Model Waiver II service provider shall maintain:

(a) A clinical record for each participant/[HCB recipient] which shall contain[the following]:

1. Pertinent medical, nursing, and social history;

2. ~~A comprehensive assessment entered on a MAP-351A, Medicaid Waiver Assessment Form, and signed by the:~~

~~a. Assessment team; and~~

~~b. Department;~~

3. ~~A person-centered service[completed MAP109 – MWII.] plan[of Care/Prior Authorization for Model Waiver II Services];~~

3. ~~4.] A copy of the MAP 350, Long Term Care Facilities and Home and Community Based Program Certification Form signed by the participant[recipient] or the participant's[recipient's] legal representative at the time of application or reapplication and each recertification thereafter;~~

~~4.5.] Documentation of all level of care determinations;~~

~~5.6.] All documentation related to prior authorizations including requests, approvals, and denials;~~

~~6.7.] Documentation that the participant[recipient] or legal representative was informed of the procedure for reporting complaints; and~~

~~7.8.] 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[recipient's] home;~~

~~d. Progress notes, which shall include documentation of changes, responses, and treatments utilized to evaluate the participant's[recipient's] needs; and~~

~~e. The signature of the service provider;[and]~~

~~(b) Each MAP-10, Waiver Services – Physician's Recommendation submitted regarding the participant in accordance with Section 2 of this administrative regulation; and~~

~~(c) Incident reports as required by Section 7 of this administrative regulation if an incident with the participant[recipient] occurs.~~

(2)(a) Except as provided in paragraph (b) of this subsection, a clinical record or incident report shall be retained for at least six (6) years from the date that a covered service is provided.

(b) If the participant[recipient] is a minor, a clinical record or incident report shall be retained for three (3) years after the participant[recipient] reaches the age of majority under state law, if that is a longer time period than the time period required by paragraph (a) of this subsection.

(3) Upon request, a 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) United States 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 7. Incident Reporting. 1(a) There shall be two (2) classes of incidents.

(b) The following shall be the two (2) classes of incidents:

1. An incident; or

2. A critical incident.

(2) An incident shall be any occurrence that impacts the health, safety, welfare, or lifestyle choice of a participant and includes:

(a) A minor injury;

(b) A medication error without a serious outcome; or

(c) A behavior or situation that is not a critical incident.

(3) A critical incident shall be an alleged, suspected, or actual occurrence of an incident that:

(a) Can reasonably be expected to result in harm to a participant; and

(b) Shall include:

1. Abuse, neglect, or exploitation;

2. A serious medication error;

3. Death;

4. A homicidal or suicidal ideation;

5. A missing person; or

6. Other action or event that the provider determines may result in harm to the participant.

(4)(a) If an incident occurs, the Model Waiver II provider shall:

1. Report the incident by making an entry into the MWMA[portal] that includes details regarding the incident; and

2. Be immediately assessed for potential abuse, neglect, or exploitation.

(b) If an assessment of an incident indicates that the potential for abuse, neglect, or exploitation exists:

1. The individual who discovered or witnessed the incident shall immediately act to ensure the health, safety, or

welfare of the at-risk participant:

2.] The incident shall immediately be considered a critical incident;

2.3.] The critical incident procedures established in subsection (5) of this section shall be followed; and

3.4.] The Model Waiver II provider shall report the incident to the participant's registered nurse and participant's guardian, if the participant has a guardian, within twenty-four (24) hours of discovery of the incident.

(5) If a critical incident occurs, the:

(a) Individual who witnessed the critical incident or discovered the critical incident shall immediately:

1. Act to ensure the health, safety, and welfare of the at-risk participant; and

2. Report the critical incident by making an entry in the MWMA portal including details of the incident; and

(b) Model Waiver II provider shall:

1. Conduct an immediate investigation and involve the participant's registered nurse 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.

(6) If a critical incident does not require reporting of abuse, neglect, or exploitation, the critical incident shall be reported via the MWMA[portal] within eight (8) hours of discovery.

(7) If a death of a participant occurs, a Model Waiver II provider shall submit to the MWMA[portal] mortality data documentation within fourteen (14) days of the death including:

(a) The participant's person-centered service plan at the time of death;

(b) Any current assessment forms regarding the participant;

(c) The participant's medication administration records from all service sites for the past three (3) months along with a copy of each prescription;

(d) Progress notes regarding the participant from all service elements for the past thirty (30) days;

(e) The results of the participant's most recent physical exam;

(f) All incident reports, if any exist, regarding the participant for the past six (6) months;

(g) Any medication error report, if any exists, related to the participant for the past six (6) months;

(h) A full life history of the participant including any update from the last version of the life history;

(i) 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;

(j) Emergency medical services notes regarding the participant if available;

(k) The police report if available;

(l) A copy of:

1. The participant's advance directive, medical order for scope of treatment, living will, or health care directive if applicable; and

2. The cardiopulmonary resuscitation and first aid card for any provider's staff member who was present at the time of the incident that resulted in the participant's death;

(m)[(n)] A record of all medical appointments or emergency room visits by the participant within the past twelve (12) months; and

(n)[(e)] A record of any crisis training for any staff member present at the time of the incident that resulted in the participant's death.

(8) A Model Waiver II provider shall report a medication error by making an entry into the MWMA[portal][A Model Waiver II service provider shall:

(1) Implement a procedure or procedures to ensure that the following is reported:

(a) Abuse, neglect, or exploitation of a Model Waiver II

recipient in accordance with KRS Chapters 209 or 620;

(b) A slip or fall;

(c) A transportation incident;

(d) Improper administration of medication;

(e) A medical complication; or

(f) An incident caused by the recipient, including:

1. Verbal or physical abuse of staff or other recipients;

2. Destruction or damage of property; or

3. Recipient self-abuse;

(2) Ensure that a copy of each incident reported in this subsection is maintained in a central file subject to review by the department; and

(3) Implement a process for communicating the incident, the outcome, and the prevention plan to:

(a) The Model Waiver II service recipient involved, his or her family member, or his or her responsible party; and

(b) The attending physician, physician assistant, or advanced practice registered nurse].

Section 8. 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 Model Waiver II service 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 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 9. Federal Financial Participation. The department's coverage of and reimbursement for Model Waiver II services pursuant to [A policy established in] this administrative regulation shall be contingent upon [null and void if the Centers for Medicare and Medicaid Services]:

(1) [Denies] Federal financial participation for the coverage and reimbursement [policy]; and [or]

(2) Centers for Medicare and Medicaid Services' approval for the coverage and reimbursement [Disapproves the policy].

Section 10. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid recipient shall be appealed in accordance with 907 KAR 1:563.

(2) An appeal of a negative action regarding a Medicaid beneficiary's eligibility shall be appealed in accordance with 907 KAR 1:560.

(3) An appeal of a negative action regarding a Medicaid provider shall be appealed in accordance with 907 KAR 1:671.

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

(a) "MAP - 115 Application Intake - Participant Authorization", June 2015[109-MWII, Plan of Care/Prior Authorization for Model Waiver II Services", April 2004 edition];

(b) "MAP 350, Long Term Care Facilities and Home and Community Based Program Certification Form", June 2015[January 2000 edition; and]

(c) "MAP-10 Waiver Services - Physician's Recommendation", June 2015;

(d) "MAP - 116 Service Plan - Participant Authorization", June

2015; and

(e) MAP-351A, Medicaid Waiver Assessment[Form], July 2015[June 15, 2002 edition].

(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: August 13, 2015

FILED WITH LRC: August 13, 2015 at 3 p.m.

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.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, December 9, 2015)

907 KAR 1:626. Reimbursement of dental services.

RELATES TO: KRS 205.520, 42 C.F.R. 440.100, 447.200-205, 42 U.S.C. 1396a-d

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, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds[for the provision of medical assistance to Kentucky's indigent citizenry]. This administrative regulation establishes the reimbursement policies and requirements for covered dental services provided to a Medicaid recipient who is not enrolled with a managed care organization[method for determining the amount payable by the cabinet for a dental service].

Section 1. Definitions. (1)[~~"Comprehensive orthodontic procedure"~~] means a medically necessary dental service for a dentofacial malocclusion which requires the application of braces for correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.

(2)(3) "Debridement" means a procedure that is performed:

(a) For removing thick or dense deposits on the teeth which is required if tooth structures are so deeply covered with plaque and calculus that a dentist or staff cannot check for decay, infections, or gum disease; and

(b) Separately from a regular cleaning and is usually a preliminary or first treatment when an individual has developed very heavy plaque or calculus.

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

(3) "Federal financial participation" is defined in 42 C.F.R. 400.203.

(4)(5) "Disabling malocclusion" means that a patient has a condition that meets the criteria established in 907 KAR 1:026, Section 13(7).

(6) "Incidental" means that a medical procedure;

(a) Is performed at the same time as a primary procedure; and
(b) 1.;

(a) Requires little additional practitioner resources; or

2.(b) Is clinically integral to the performance of the primary procedure.

(5)(7) "Integral" means that a medical procedure represents a

component of a more complex procedure performed at the same time.

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

(7)(8) "Manually priced" or "MP" means that a procedure is priced according to complexity.

(8)(9) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(9)(10) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one (1) another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CDT codes; or

(d) Are described in CDT as inappropriate coding of procedure combinations.

(10)(11) "Prepayment review" or "PPR" means a departmental review of a claim to determine if the requirements established in 907 KAR 1:026 have been met prior to authorizing payment.

(12) "Prior authorization" or "PA" means approval which a provider shall obtain from the department before being reimbursed for a covered service.

(13) "Provider" is defined in KRS 205.8451(7).

(11)(14) "Recipient" is defined in KRS 205.8451(9).

(12)(15) "Timely filing" means receipt of a claim by Medicaid:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

(13)(16) "Usual and customary charge" means the uniform amount which the individual dentist charges in the majority of cases for a specific dental procedure or service.

Section 2. General Requirements. For the department to reimburse for a dental service or item, the service or item shall be:

(1) Provided:

(a) To a recipient; and

(b) By a provider who meets the conditions of participation requirements established in 907 KAR 1:026;

(2) Covered in accordance with 907 KAR 1:026;

(3) Medically necessary; and

(4) A service or item authorized within the scope of the provider's licensure.

Section 3. Reimbursement. (1) Except as established in Section 4 or 5 of this administrative regulation, reimbursement for a covered service shall be the lesser of the:

(a) Dentist's usual and customary charge;

(b) Reimbursement limits specified in this section[Sections 3 and 4 of this administrative regulation];

(c) Manually-priced amount; or

(d) Amount established on the DMS Dental Fee Schedule[Prior authorized fee].

(2) If a rate has not been established for a covered dental service, the department shall set an upper limit for the procedure by:

(a) Averaging the reimbursement rates assigned to the service by three (3) other payer or provider sources; and

(b) Comparing the calculated average obtained from these three (3) rates to rates of similar procedures paid by the department.

(3) If cost sharing is required, the cost sharing shall be in accordance with 907 KAR 1:604.

(4) For a service covered under Medicare Part B, reimbursement shall be in accordance with 907 KAR 1:006.

(5) A service which is not billed within timely filing requirements shall not be reimbursed.

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(6) If performed concurrently, separate reimbursement shall not be made for a procedure that has been determined by the department to be incidental, integral, or mutually exclusive to another procedure.

Section[3. Reimbursement Rates for Dental Services. (1) The following maximum upper limits for reimbursement shall apply for a service provided to a recipient under twenty-one (21) years of age:

Kentucky Medicaid Dental Services		
Description	Upper Limit	Authorization Requirement
Diagnostic Procedures		
Limited oral evaluation (trauma related injuries or acute infection only)	\$33	PPR required
Comprehensive oral evaluation	\$26	-
Intraoral complete series	\$63.70	-
Intraoral periapical, first film	\$10.40	-
Intraoral periapical, each additional film	\$7.80	-
Bitewing, single film	\$9.10	-
Bitewing, 2 films	\$18.20	-
Bitewing, 4 films	\$29.90	-
Panoramic film	\$39	PA required for ages 5 and under
Cephalometric film	\$61.10	-
Preventative Procedures		
Prophylaxis	\$48.10	-
Sealant per tooth (ages 5-20)	\$19.50	-
Space maintainer, fixed unilateral	\$135.20	-
Space maintainer, fixed bilateral	\$262.60	-
Space maintainer, removable unilateral	\$134	-
Space maintainer, removable bilateral	\$202	-
Restorative Procedures		
Amalgam, 1 surface	\$49.40	-
Amalgam, 2 surfaces	\$65.00	-
Amalgam, 3 surfaces	\$76.70	-
Amalgam, 4 or more surfaces	\$93.60	-
Resin, 1 surface, anterior	\$57.20	-
Resin, 2 surfaces, anterior	\$71.50	-
Resin, 3 surfaces, anterior	\$85.80	-
Resin, 4 or more surfaces, anterior	\$101.40	-
Resin, 1 surface, posterior	\$57.20	-
Resin, 2 surfaces, posterior	\$71.50	-
Resin, 3 surfaces, posterior	\$85.80	-
Resin, 4 or more surfaces, posterior	\$101.40	-
Prefab stainless steel crown primary	\$119.60	-
Prefab stainless steel crown permanent	\$133.90	-
Prefab resin crown	\$113.10	-
Pin retention, per tooth, in add. to restoration	\$13	-
Endodontic Procedures		
Pulp cap direct	\$17	-
Therapeutic pulpotomy	\$67.60	-
Root canal therapy	\$274.30	-

anterior		
Root canal therapy bicuspid	\$344.50	-
Root canal therapy molar	\$481	-
Apicoectomy anterior	\$201.50	-
Apicoectomy, bicuspid first root	\$201.50	-
Apicoectomy, molar first root	\$201.50	-
Replace missing or broken tooth on denture	\$40.30	-
Apicoectomy, per tooth each additional root	\$197	-
Periodontic Procedures		
Gingivectomy, gingivoplasty per quadrant	\$336.70	PPR required
Gingivectomy, gingivoplasty per tooth	\$135.20	PPR required
Periodontal scaling and root planing per quadrant	\$101.40	PA required
Full mouth debridement	\$68.50	Pregnant women only
Removable Prosthodontic Procedures		
Repair resin denture base	\$61.10	-
Repair cast framework	\$97.50	-
Replace broken teeth, per tooth on a denture	\$36.40	-
Reline complete maxillary denture	\$128.70	-
Reline complete mandibular denture	\$128.70	-
Interim partial upper	\$319.80	-
Interim partial lower	\$336.70	-
Maxillofacial Prosthetic Procedures		
Nasal prosthesis	\$2,036	-
Auricular prosthesis	\$1,881	-
Facial prosthesis	\$3,408	-
Obturator (temporary)	\$1121.90	-
Obturator (permanent)	\$1,992	-
Mandibular resection prosthesis	\$1,660	-
Speech aid-pediatric (13 and under)	\$2,036	-
Speech aid (14 - 20)	\$2,036	-
Palatal augmentation prosthesis	\$1,550	-
Palatal lift prosthesis	\$1,836	-
Oral surgical splint	\$896	-
Unspecified maxillofacial prosthetic procedure	MP	PPR required
Oral and Maxillofacial Surgery Procedures		
Extraction, deciduous tooth	\$49.40	-
Extraction, erupted tooth or exposed root	\$49.40	-
Surgical removal of erupted tooth	\$93.60	-
Removal of impacted tooth (soft tissue)	\$127.40	-
Removal of impacted tooth (partially bony)	\$179.40	-
Removal of impacted tooth (completely bony)	\$215.80	-
Removal of impacted tooth (comp. bony or unusual)	\$222.30	-
Removal of torus palatinus (maxillary arch)	\$302.47	-
Removal of torus mandibularis (lower left quadrant)	\$209.28	-

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Removal of torus mandibularis (lower right quadrant)	\$209.28	
Surgical access of an unerupted tooth	MP	PPR required
Surgical removal of residual tooth roots	\$107.90	-
Oroantral fistula closure	\$135.20	-
Alveoplasty in conjunction with extraction per quadrant	\$101.40	-
Alveoplasty not in conjunction with extraction per quadrant	\$101.40	-
Excision of benign lesion	\$87.10	-
Incision and drainage of abscess (intraoral)	\$67.60	-
Incision and drainage of abscess (extraoral)	\$80.60	-
Removal of foreign body	\$201.50	-
Temporomandibular splint therapy	\$424	PA required
Suture of recent small wound	\$67.60	-
Frenulectomy	\$167.60	-
Orthodontic Procedures		
Removable appliance therapy	\$362	PA required
Fixed appliance therapy	\$259	PA required
Preorthodontic exam and treatment plan	PA Fee	PA required
Orthodontic treatment	PA Fee	PA required
Unspecified orthodontic procedure-final 1/3	PA Fee	PA required
Adjunctive General Services		
Palliative treatment of dental pain	\$27.30	-
Intravenous sedation	\$158.60	-
Hospital call	\$67.60	-

(2) The following maximum upper limits for reimbursement shall apply for a service provided to a recipient twenty-one (21) years of age and older:

Kentucky Medicaid Dental Services		
Description	Upper Limit	Authorization Requirement
Diagnostic Procedures		
Limited oral evaluation (trauma related injuries only)	\$33	PPR required
Comprehensive oral evaluation	\$26	-
Intraoral complete series	\$49	-
Intraoral periapical, first film	\$8	-
Intraoral periapical, each additional film	\$6	-
Bitewing, single film	\$7	-
Bitewing, 2 films	\$14	-
Bitewing, 4 films	\$23	-
Panoramic film	\$39	-
Cephalometric film	\$47	-
Preventative Procedures		
Prophylaxis	\$37	-
Restorative Procedures		
Amalgam, 1 surface	\$38	-
Amalgam, 2 surfaces	\$50	-
Amalgam, 3 surfaces	\$59	-
Amalgam, 4 or more surfaces	\$72	-

Resin, 1 surface, anterior	\$44	-
Resin, 2 surfaces, anterior	\$55	-
Resin, 3 surfaces, anterior	\$66	-
Resin, 4 or more surfaces, anterior	\$78	-
Resin, 1 surface, posterior	\$44	-
Resin, 2 surfaces, posterior	\$55	-
Resin, 3 surfaces, posterior	\$66	-
Resin, 4 or more surfaces, posterior	\$78	-
Pin retention, per tooth, in add. to restoration	\$13	
Endodontic Procedures		
Apicoectomy anterior	\$155	-
Apicoectomy, bicuspid first root	\$155	-
Apicoectomy, molar first root	\$155	-
Apicoectomy, per tooth each additional root	\$197	-
Periodontic Procedures		
Full mouth debridement	\$68.50	Pregnant women only
Gingivectomy, gingivoplasty per quadrant	\$259	PPR required
Gingivectomy, gingivoplasty per tooth	\$104	PPR required
Periodontal scaling and root planing per quadrant	\$78	PA required
Maxillofacial Prosthetic Procedures		
Nasal prosthesis	\$2,036	-
Auricular prosthesis	\$1,881	-
Facial prosthesis	\$3,408	-
Obturator (temporary)	\$863	-
Obturator (permanent)	\$1,992	-
Mandibular resection prosthesis	\$1,660	-
Speech aid - Adult	\$2,036	-
Palatal augmentation prosthesis	\$1,550	-
Palatal lift prosthesis	\$1,836	-
Oral surgical splint	\$896	-
Unspecified maxillofacial prosthetic procedure	MP	PPR required
Oral and Maxillofacial Surgery Procedures		
Extraction, deciduous tooth	\$38	-
Extraction, erupted tooth or exposed root	\$38	-
Surgical removal of erupted tooth	\$72	-
Removal of impacted tooth (soft tissue)	\$98	-
Removal of impacted tooth (partially bony)	\$138	-
Removal of impacted tooth (completely bony)	\$166	-
Removal of impacted tooth (comp. bony or unusual)	\$171	-
Removal of torus palatinus (maxillary arch)	\$302.47	
Removal of torus mandibularis (lower left quadrant)	\$209.28	
Removal of torus mandibularis (lower right quadrant)	\$209.28	
Surgical access of an	MP	PPR required

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unerrupted tooth		
Surgical removal of residual tooth roots	\$83	-
Oroantral fistula closure	\$104	-
Alveoplasty in conjunction with extraction per quadrant	\$78	-
Alveoplasty not in conjunction with extraction per quadrant	\$78	-
Excision of benign lesion	\$67	-
Incision and drainage of abscess (intraoral)	\$52	-
Incision and drainage of abscess (extraoral)	\$62	-
Removal of foreign body	\$155	-
Suture of recent small wound	\$52	-
Frenulectomy	\$129	-
Adjunctive General Services		
Palliative treatment of dental pain	\$24	-
Hospital call	\$52	-

(3) A comprehensive orthodontic procedure shall be reimbursed as follows:

(a) Except as specified in paragraph (b) of this subsection, an orthodontic consultation, including examination and development of a treatment plan, \$112;

(b) The Medicaid reimbursement rate for an orthodontic consultation shall not exceed fifty-six (56) dollars if:

1. The provider determines that comprehensive orthodontic treatment services are not needed;

2. The provider is unable or unwilling to provide the needed orthodontic treatment services; or

3. Prior authorization for comprehensive orthodontic services is not approved by the department or is not requested by the provider;

(c) A service for an early phase of moderately severe or severe disabling malocclusion:

1. \$1,367 for an orthodontist; or

2. \$1,234 for a general dentist;

(d) A service for a moderately severe disabling malocclusion:

1. \$1,825 for an orthodontist; or

2. \$1,659 for a general dentist; or

(e) A service for a severe disabling malocclusion:

1. \$3,000 total for an orthodontist; or

2. \$2,674 total for a general dentist.

(4) Reimbursement for comprehensive orthodontic treatment shall consist of two (2) payments.

(a) The first payment shall be two-thirds (2/3) of the prior authorized payment amount.

(b) The second payment shall:

1. Be one-third (1/3) of the prior authorized payment amount; and

2. Not be billed until six (6) monthly visits are completed following the banding date.

(c) The two (2) payments shall be inclusive of all services associated with the comprehensive orthodontic treatment.

Section 4. Oral Surgeons. (1) A dental service that is covered by the Kentucky Medicaid Program and provided by an oral surgeon shall be reimbursed in accordance with this administrative regulation unless the given service is:

(a) Not reimbursed pursuant to this administrative regulation; and

(b) Reimbursed pursuant to 907 KAR 3:010.

(2) A dental service that is covered by the Kentucky Medicaid Program and provided by an oral surgeon but not reimbursed pursuant to this administrative regulation [Except for a service specified in 907 KAR 1:026, Section 12(8), a service provided by an oral surgeon] shall be reimbursed in accordance with 907 KAR 3:010.

Section 5. Supplemental Payments. (1) In addition to a payment made pursuant to Section 3 [Sections 2 through 4] of this administrative regulation, the department shall make a supplemental payment to a dental school faculty dentist who is employed by a state-supported school of dentistry in Kentucky.

(2) The supplemental payment shall be:

(a) In an amount ~~that~~ which, if combined with other payments made in accordance with this administrative regulation, does not exceed the dentist's charge for ~~the~~ a service ~~that~~ the dentist ~~he~~ has provided:

1. As a dental school faculty; and

2. For which the payment is made directly or indirectly to the dental school;

(b) Based on the funding made available through an intergovernmental transfer of funds for this purpose by a state-supported school of dentistry in Kentucky; and

(c) Made on a quarterly basis.

Section 6. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with:

(1) This administrative regulation for a service covered pursuant to:

(a) 907 KAR 1:026; and

(b) This administrative regulation; or

(2) 907 KAR 3:010 for a service referenced in Section 5 of this administrative regulation that is reimbursed by the department in accordance with 907 KAR 3:010.

Section 7. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval of the reimbursement.

Section 8. Appeal Rights. An appeal of a department decision regarding a Medicaid provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

Section 9. Incorporation by Reference. (1) "DMS Dental Fee Schedule", ~~December~~ September ~~June~~ 2015, is incorporated by reference.

(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, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site located at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LISA LEE, 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, 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.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(As Amended at ARRS, December 9, 2015)

907 KAR 3:090. Acquired brain injury waiver services.

RELATES TO: KRS 205.5605, 205.5606, 205.5607, 205.8451, 205.8477, 42 C.F.R. 441.300 - 310, 42 C.F.R. 455.100 - 106, 42 U.S.C. 1396a, b, d, n

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the 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 [the provision of medical assistance to Kentucky's indigent citizenry]. KRS 205.5606(1) requires the cabinet to promulgate administrative regulations to establish a participant[consumer]-directed services program to provide an option for the home and community-based services waivers. This administrative regulation establishes the coverage provisions relating to home- and community-based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services and including a participant[consumer]-directed services program 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) "ABI" means an acquired brain injury.

(3)[(2)] "ABI provider" means an entity that meets the criteria established in Section 2 of this administrative regulation.

[(3)] "ABI recipient" means an individual who meets the criteria established in Section 3 of this administrative regulation.]

(4) "Acquired Brain Injury Branch" or "ABIB" means the Acquired Brain Injury Branch of the Department for Medicaid Services, Division of Community Alternatives.

(5) "Acquired brain injury waiver service" or "ABI waiver service" means a home and community based waiver service provided to a Medicaid eligible individual who has acquired a brain injury.

(6) "Advanced practice registered nurse" is defined by KRS 314.1011(7).

(7) "Assessment" or "reassessment" means a comprehensive evaluation of abilities, needs, and services that[is]:

(a) Serves as the basis[Completed on a MAP-351;

(b) Submitted to the department:

4-] for a level of care determination;

(b) Is completed on a MAP 351, Medicaid Waiver Assessment that is uploaded into the MWMA[portal]; and

(c) Occurs at least once[2- No less than] every twelve (12) months thereafter.

(8) "Behavior intervention committee" or "BIC" means a group of individuals established to evaluate the technical adequacy of a proposed behavior intervention for an ABI recipient.

(9) "Blended services" means a nonduplicative combination of ABI waiver services identified in Section 4 of this administrative regulation and participant directed[CDO] services identified in Section 10[8] of this administrative regulation provided pursuant to a recipient's approved person-centered service plan[of care].

(10) "Board certified behavior analyst" means an independent practitioner who is certified by the Behavior Analyst Certification Board, Inc.

(11) "Budget allowance" is defined by KRS 205.5605(1).

(12) "Case manager" means an individual who manages the overall development and monitoring of a recipient's person-centered service plan[of care].

(13)[Consumer] is defined by KRS 205.5605(2)-

(14) "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.

(15)] "Covered services and supports" is defined by KRS 205.5605(3).

(14)[(16)] "Crisis prevention and response plan" means a plan developed by the person centered team[an interdisciplinary team] to identify any potential risk to a recipient and to detail a strategy to minimize the risk.

(15)[(17)] "DCBS" means the Department for Community Based Services.

(16)[(18)] "Department" means the Department for Medicaid Services or its designee.

(17)[(19)] "Good cause" means a circumstance beyond the control of an individual that affects the individual's ability to access funding or services, including:

(a) Illness or hospitalization of the individual which is expected to last sixty (60) days or less;

(b) Death or incapacitation of the primary caregiver;

(c) Required paperwork and documentation for processing in accordance with Section 3 of this administrative regulation that has not been completed but is expected to be completed in two (2) weeks or less; or

(d) The individual or his or her legal representative has made diligent contact with a potential provider to secure placement or access services but has not been accepted within the sixty (60) day time period.

(18)[(20)] "Human rights committee" or "HRC" means a group of individuals established to protect the rights and welfare of an ABI recipient.

(19)[(21)] "Interdisciplinary team" means a group of individuals that assist in the development and implementation of an ABI recipient's plan of care consisting of:

(a) The ABI recipient and legal representative if appointed;

(b) A chosen ABI service provider;

(c) A case manager; and

(d) Others as designated by the ABI recipient.

(22)] "Level of care certification" means verification, by the department, of ABI program eligibility for:

(a) An individual; and

(b) A specific period of time.

(20)[(23)] "Licensed marriage and family therapist" or "LMFT" is defined by KRS 335.300(2).

(21) "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.

(22)[(24)] "Licensed professional clinical counselor" is defined by KRS 335.500(3).

(23)[(25)] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(24) "MWMA[portal]" means the Kentucky Medicaid Waiver Management Application internet portal located at <http://chfs.ky.gov/dms/mwma.htm>.

(25)[(26)] "Occupational therapist" is defined by KRS 319A.010(3).

(26)[(27)] "Occupational therapy assistant" is defined by KRS 319A.010(4).

(27) "Participant directed services" or "PDS" means an option established by KRS 205.5606 within the 1915(c) home and community based service waiver programs that allows recipients to receive non-medical services in which the individual:

(a) Assists with the design of the program;

(b) Chooses the providers of services; and

(c) Directs the delivery of services to meet their needs.

(28) "Patient liability" means the financial amount, determined by the department, that an individual is required to contribute

towards cost of care in order to maintain Medicaid eligibility.

(29) "Person-centered service plan" means a written individualized plan of services for a participant that meets the requirements established in Section 4 of this administrative regulation.

(30) "Person centered team" means a participant, the participant's guardian or representative, and other individuals who are natural or paid supports and who:

(a) Recognize that evidenced based decisions are determined within the basic frame-work of what is important for the participant and within the context of what is important to the participant based on informed choice;

(b) Work together to identify what roles they will assume to assist the participant in becoming as independent as possible in meeting the participant's needs; and

(c) Include providers who receive payment for services who shall:

1. Be active contributing members of the person centered team meetings;

2. Base their input upon evidence-based information; and

3. Not request reimbursement for person-centered team meetings.

(31)[(29)] "Personal services agency" is defined by KRS 216.710(8).

(32)[(30)] "Psychologist" is defined by KRS 319.010(9).

(33)[(31)] "Psychologist with autonomous functioning" means an individual who is licensed in accordance with KRS 319.056.

(34)[(32)] "Qualified mental health professional" is defined by KRS 202A.011(12).

(35)[(33)] "Representative" is defined by KRS 205.5605(6).

(36)[(34)] "Speech-language pathologist" is defined by KRS 334A.020(3).

(37)[(35)] "Support broker" means an individual 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].

(38)[(36)] "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.

(39)[(37)] "Transition plan" means a plan that is developed by the person centered[an interdisciplinary] team to aid an ABI recipient in exiting from the ABI program into the community.

Section 2. Non-PDS[CDO] Provider Participation Requirements. (1) In order to provide an ABI waiver service in accordance with Section 4 of this administrative regulation, excluding a participant-directed[consumer-directed-option] service, an ABI provider shall:

(a) Be enrolled as a Medicaid provider in accordance with 907 KAR 1:671;

(b) Be certified by the department prior to the initiation of the service;

(c) Be recertified at least annually by the department;

(d) Have an office within the Commonwealth of Kentucky; and

(e) Complete and submit a MAP-4100a to the department.

(2) An ABI provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672;

(c)[(b)] 907 KAR 1:673;

(d) 907 KAR 7:005;

(e) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164; and

(f) 42 U.S.C. 1320d to 1320d-8[and

(c) 902 KAR 20:078].

(3) An ABI provider shall have a governing body that shall be:

(a) A legally-constituted entity within the Commonwealth of Kentucky; and

(b) Responsible for the overall operation of the organization including establishing policy that complies with this administrative regulation concerning the operation of the agency and the health, safety and welfare of an ABI recipient served by the agency.

(4) An ABI provider shall:

(a) Unless providing PDS[participating in the CDO program], ensure that an ABI waiver service is not provided to a participant[an ABI recipient] by a staff member of the ABI provider who has one (1) of the following blood relationships to the participant[ABI recipient]:

1. Child;

2. Parent;

3. Sibling; or

4. Spouse;

(b) Not enroll a participant[an ABI recipient] for whom the ABI provider cannot meet the service needs; and

(c) Have and follow written criteria that complies with this administrative regulation for determining the eligibility of an individual for admission to services.

(5)[An ABI provider shall comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, 42 U.S.C. 1320d to 1320d-8.

(6) An ABI provider shall meet the following requirements if responsible for the management of a participant's[an ABI recipient's] funds:

(a) Separate accounting shall be maintained for each participant[ABI recipient] or for his or her interest in a common trust or special account;

(b) Account balance and records of transactions shall be provided to the participant[ABI recipient] or legal representative on a quarterly basis; and

(c) The participant[ABI recipient] or legal representative shall be notified when a large balance is accrued that may affect Medicaid eligibility.

(6)[(7)] An ABI provider shall have a written statement of its mission and values.

(7)[(8)] An ABI provider shall have written policy and procedures for communication and interaction with a family and legal representative of a participant[an ABI recipient's] which shall:

(a) Require a timely response to an inquiry;

(b) Require the opportunity for interaction with direct care staff;

(c) Require prompt notification of any unusual incident;

(d) Permit visitation with the participant[ABI recipient] at a reasonable time and with due regard for the participant's[ABI recipient's] right of privacy;

(e) Require involvement of the legal representative in decision-making regarding the selection and direction of the service provided; and

(f) Consider the cultural, educational, language, and socioeconomic characteristics of the participant[ABI recipient].

(8)[(9)] An ABI provider shall have written policies and procedures for all settings that assure the participant has:

1. Rights of privacy, dignity, respect, and freedom from coercion and restraint;

2. Freedom of choice:

a. As defined by the experience of independence, individual initiative, or autonomy in making life choices, both in small everyday matters (what to eat or what to wear), and in large, life-defining matters (where and with whom to live and work); and

b. Including the freedom to choose:

(i) Services;

(ii) Providers;

(iii) Settings from among setting options including non-disability specific settings; and

(iv) Where to live with as much independence as possible and in the most community-integrated environment.

(b) The setting options and choices shall be:

1. Identified and documented in the person-centered service plan; and

2. Based on the participant's needs and preferences.

(c) For a residential setting, the resources available for room

and board shall be documented in the person-centered service plan.

(9) An ABI provider shall have written policies and procedures for residential settings that assure the participant has:

(a) Privacy in the sleeping unit and living unit in a residential setting;

(b) An option for a private unit in a residential setting;

(c) A unit with lockable entrance doors and with only the participant and appropriate staff having keys to those doors;

(d) A choice of roommate or housemate;

(e) The freedom to furnish or decorate their sleeping or living units within the lease or other agreement;

(f) Visitors of the participant's choosing at any time and access to a private area for visitors; and

(g) Physical accessibility, defined as being easy to approach, enter, operate, or participate in a safe manner and with dignity by a person with or without a disability.

1. Settings considered to be physically accessible shall also meet the Americans with Disabilities Act standards of accessibility for all participants served in the setting.

2. All communal areas shall be accessible to all participants as well as have a means to enter the building (i.e. keys, security codes, etc.).

3. Bedrooms shall be accessible to the appropriate persons.

4.a. Any modification of an additional residential condition except for the setting being physically accessible requirement shall be supported by a specific assessed need and justified in the participant's person-centered service plan.

b. Regarding a modification, the following shall be documented in a participant's person-centered service plan:

(i) That the modification is the result of an identified specific and individualized assessed need;

(ii) Any positive intervention or support used prior to the modification;

(iii) Any less intrusive method of meeting the participant's need that was tried but failed;

(iv) A clear description of the condition that is directly proportionate to the specific assessed need;

(v) Regular collection and review of data used to measure the ongoing effectiveness of the modification;

(vi) Time limits established for periodic reviews to determine if the modification remains necessary or should be terminated;

(vii) Informed consent by the participant or participant's representative for the modification; and

(viii) An assurance that interventions and supports will cause no harm to the participant.

(10) ensure the rights of an ABI recipient by:

(a) Making available a description of the rights and the means by which the rights may be exercised, including:

1. The right to time, space, and opportunity for personal privacy;

2. The right to retain and use personal possessions; and

3. For a supervised residential care, personal care, companion or respite provider, the right to communicate, associate and meet privately with a person of the ABI recipient's choice, including:

a. The right to send and receive unopened mail; and

b. The right to private, accessible use of the telephone;

(b) Maintaining a grievance and appeals system;

(c) Complying with the Americans with Disabilities Act (28 C.F.R. Part 35); and

(d) Prohibiting the use of:

1. Prone or supine restraint;

2. Corporal punishment;

3. Seclusion;

4. Verbal abuse; or

5. Any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility.

(10) An ABI provider shall maintain fiscal and service records and incident reports for a minimum of six (6) years from the date that a covered service is provided and all the records and reports shall be made available to the:

(a) Department;

(b) ABI recipient's selected case manager;

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

(d) General Accounting Office or its designee;

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

(f) Office of the Attorney General or its designee; or

(g) Centers for Medicare and Medicaid Services.

(14) An ABI provider shall cooperate with monitoring visits from monitoring agents.

(11)(12) An ABI provider shall maintain a record for each participant[ABI recipient] served that shall:

(a) Be recorded in permanent ink;

(b) Be free from correction fluid;

(c) Have a strike through each error which is initialed and dated; and

(d) Contain no blank lines between each entry.

(12)(13) A record of each participant[ABI recipient] who is served shall:

(a) Be cumulative;

(b) Be readily available;

(c) Contain a legend that identifies any symbol or abbreviation used in making a record entry; and

(d) Contain the following specific information:

1. The participant's[ABI recipient's] name and Medical Assistance Identification Number (MAID);

2. An assessment summary relevant to the service area;

3. The person-centered service plan[MAP-109];

4. The crisis prevention and response plan that shall include:

a. A list containing emergency contact telephone numbers; and
b. The participant's[ABI recipient's] history of any allergies with appropriate allergy alerts for severe allergies;

5. The transition plan that shall include:

a. Skills to be obtained from the ABI waiver program;

b. A listing of the on-going formal and informal community services available to be accessed; and

c. A listing of additional resources needed; and

d. Expected date of transition from the ABI waiver program;

6. The training objective for any service that[which] provides skills training to the participant[ABI recipient];

7. The participant's[ABI recipient's] medication record, including a copy of the prescription or the signed physician's order and the medication log if medication is administered at the service site;

8. Legally-adequate consent for the provision of services or other treatment including a consent for emergency attention, which shall be located at each service site;

9. The MAP-350, Long Term Care Facilities and Home and Community Based Program Certification form[MAP-350] updated at recertification; and

10. Current level of care certification;

(e) Be maintained by the provider in a manner to ensure the confidentiality of the participant's[ABI recipient's] record and other personal information and to allow the participant[ABI recipient] or legal representative to determine when to share the information as provided by law;

(f) Be secured against loss, destruction, or use by an unauthorized person ensured by the provider; and

(g) Be available to the participant[ABI recipient] or legal representative[guardian] according to the provider's written policy and procedures, which shall address the availability of the record.

(13)(14) An ABI provider shall:

(a) Shall:

1. Ensure that each new staff person or volunteer performing direct care or a supervisory function has had a tuberculosis (TB) risk assessment performed by a licensed medical professional and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider;

2. Maintain, for existing staff, documentation of each staff person's or, if a volunteer performs direct care or a supervisory function, the volunteer's annual TB risk assessment or negative tuberculosis test required by subparagraph 1 of this paragraph;

3. Ensure that an employee or volunteer who tests positive for

TB or has a history of a positive TB skin test shall be assessed annually by a licensed medical professional for signs or symptoms of active disease;

4. Before allowing a staff person or volunteer determined to have signs or symptoms of active disease to work, ensure that follow-up testing is administered by a physician with the test results indicating the person does not have active TB disease; and

5. Maintain annual documentation for an employee or volunteer with a positive TB test to ensure no active disease symptoms are present;

(b)1. Shall for each potential employee or volunteer expected to perform direct care or a supervisory function, obtain;

a. Prior to the date of hire or date of service as a volunteer, the results of:

(i)[a.] A criminal record check from the Administrative Office of the Courts or equivalent out-of-state agency if the individual resided, worked, or volunteered outside Kentucky during the year prior to employment or volunteer service; [and]

(ii)[b.] A Nurse Aide Abuse Registry check as described in 906 KAR 1:100; and

(iii) A Caregiver Misconduct Registry check as described in 922 KAR 5:120; and

b.[2. Obtain.] Within thirty (30) days of the date of hire or date of service as a volunteer, the results of a Central Registry check as described in 922 KAR 1:470; 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;

(c) Shall[and

3.] annually, for twenty-five (25) percent of employees randomly selected, obtain the results of a criminal record check from the Kentucky Administrative Office of the Courts or equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the year prior to employment;

(d) Shall[and

(e)] not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function if the individual has a prior conviction of an offense delineated in KRS 17.165(1) through (3) or prior felony conviction;

(e) Shall[(d)] not permit an employee or volunteer to transport an ABI recipient if the employee or volunteer:

1. Does not possess a valid operator's license issued pursuant to KRS 186.410; or

2. Has a conviction of Driving Under the Influence (DUI) during the past year;

(f) Shall[(e)] not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function if the individual has a conviction of trafficking, manufacturing, or possession of an illegal drug during the past five (5) years;

(g) Shall[(f)] not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function if the individual has a conviction of abuse, neglect or exploitation;

(h) Shall[(g)] not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function if the individual has a Cabinet for Health and Family Services finding of:

1. Child abuse or neglect pursuant to the Central Registry; or

2. Adult abuse, neglect, or exploitation pursuant to the Caregiver Misconduct Registry;

(i) Shall[(h)] not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function if the individual is listed on the:

1. Nurse Aide Abuse Registry pursuant to 906 KAR 1:100; or

2. Caregiver Misconduct Registry pursuant to 922 KAR 5:120;

(i) Shall[(i)] evaluate and document the performance of each employee upon completion of the agency's designated probationary period and at a minimum of annually thereafter; and

(k) Shall[(j)] conduct and document periodic and regularly-scheduled supervisory visits of all professional and paraprofessional direct-service staff at the service site in order to ensure that high quality, appropriate services are provided to the participant[ABI recipient].

(14)[(15)] An ABI provider shall:

(a) Have an executive director who:

1. Is qualified with a bachelor's degree from an accredited institution in administration or a human services field; and

2. Has a minimum of one (1) year of administrative responsibility in an organization which served an individual with a disability; and

(b) Have adequate direct-contact staff who:

1. Is eighteen (18) years of age or older;

2. Has a high school diploma or GED; and

3.a. Has a minimum of two (2) years' experience in providing a service to an individual with a disability; or

b. Has successfully completed a formalized training program such as nursing facility nurse aide training.

(15)[(46)] An ABI provider shall establish written guidelines that address the health, safety and welfare of a participant[an ABI recipient], which shall include:

(a) Ensuring the health, safety and welfare of the participant[ABI recipient];

(b) Maintenance of sanitary conditions;

(c) Ensuring each site operated by the provider is equipped with:

1. Operational smoke detectors placed in strategic locations; and

2. A minimum of two (2) correctly-charged fire extinguishers placed in strategic locations, one (1) of which shall be capable of extinguishing a grease fire and have a rating of 1A10BC;

(d) For a supervised residential care or adult day training provider, ensuring the availability of an ample supply of hot and cold running water with the water temperature at a tap used by the participant[ABI recipient] not exceeding 120 degrees Fahrenheit;

(e) Ensuring that the nutritional needs of the participant[ABI recipient] are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

(f) Ensuring that staff who supervise medication administration:

1. Unless the employee is a licensed or registered nurse, have specific training provided by a licensed medical professional[(a nurse, pharmacist, or medical doctor)] and documented competency on cause and effect and proper administration and storage of medication; and

2. Document all medication administered, including self-administered, over-the-counter drugs, on a medication log, with the date, time, and initials of the person who administered the medication and ensure that the medication shall:

a. Be kept in a locked container;

b. If a controlled substance, be kept under double lock;

c. Be carried in a proper container labeled with medication, dosage, time of administration, and the recipient's name if administered to the participant[ABI recipient] or self-administered at a program site other than his or her residence; and

d. Be documented on a medication administration form and properly disposed of if discontinued; and

(g) Establish policies and procedures for on-going monitoring of medication administration as approved by the department.

(16)[(47)] An ABI provider shall establish and follow written guidelines for handling an emergency or a disaster which shall:

(a) Be readily accessible on site;

(b) Include an evacuation drill:

1. To be conducted and documented at least quarterly; and

2. For a residential setting, scheduled to include a time overnight when a participant[an ABI recipient] is typically asleep;

(c) Mandate that:

1. The result of an evacuation drill be evaluated and modified as needed; and

2. Results of the prior year's evacuation drill be maintained on site.

(17)[(48)] An ABI provider shall:

(a) Provide orientation for each new employee which shall include the mission, goals, organization and policy of the agency;

(b) Require documentation of all training which shall include:

1. The type of training provided;

2. The name and title of the trainer;

3. The length of the training;

4. The date of completion; and

5. The signature of the trainee verifying completion;

(c) Ensure that each employee complete ABI training consistent with the curriculum that has been approved by the department prior to working independently with a participant[an ABI-recipient] which shall include:

1. Required orientation in brain injury;
2. Identifying and reporting abuse, neglect and exploitation;
3. Unless the employee is a licensed or registered nurse, first aid, which shall be provided by an individual certified as a trainer by the American Red Cross or other nationally-accredited organization; and
4. Coronary pulmonary resuscitation, which shall be provided by an individual certified as a trainer by the American Red Cross or other nationally-accredited organization;

(d) Ensure that each employee completes at least six (6) hours of continuing education in brain injury annually;

(e) Not be required to receive the training specified in paragraph (c)1 of this subsection if the provider is a professional who has, within the prior five (5) years, 2,000 hours of experience in serving a person with a primary diagnosis of a brain injury including:

1. An occupational therapist or occupational therapy assistant providing occupational therapy;
2. A psychologist or psychologist with autonomous functioning providing psychological services;
3. A speech-language pathologist providing speech-language pathology services[therapy]; or
4. A board certified behavior analyst; and

(f) Ensure that prior to the date of service as a volunteer, an individual receives training which shall include:

1. Required orientation in brain injury as specified in paragraph (c)1, 2, 3, and 4 of this subsection;
2. Orientation to the agency;
3. A confidentiality statement; and
4. Individualized instruction on the needs of the participant[ABI-recipient] to whom the volunteer will provide services.

~~(18)~~~~(19)~~ An ABI provider shall provide information to a case manager necessary for completion of a Mayo-Portland Adaptability Inventory-4 for each participant[ABI-recipient] served by the provider.

~~(19)~~~~(20)~~ A case management provider shall meet the requirements established in Section 5 of this administrative regulation:

(a) Establish a human rights committee which shall:

1. Include an:

- a. Individual with a brain injury or a family member of an individual with a brain injury;
- b. Individual not affiliated with the ABI provider; and
- c. Individual who has knowledge and experience in human rights issues;

2. Review and approve each plan of care with human rights restrictions at a minimum of every six (6) months;

3. Review and approve, in conjunction with the ABI-recipient's team, behavior intervention plans that contain human rights restrictions; and

4. Review the use of a psychotropic medication by an ABI recipient without an Axis I diagnosis; and

(b) Establish a behavior intervention committee which shall:

1. Include one (1) individual who has expertise in behavior intervention and is not the behavior specialist who wrote the behavior intervention plan;

2. Be separate from the human rights committee; and

3. Review and approve, prior to implementation and at a minimum of every six (6) months in conjunction with the ABI recipient's team, an intervention plan that includes highly restrictive procedures or contain human rights restrictions; and

(c) Complete and submit a Mayo-Portland Adaptability Inventory-4 to the department for each ABI-recipient:

1. Within thirty (30) days of the recipient's admission into the ABI program;
2. Annually thereafter; and
3. Upon discharge from the ABI waiver program].

Section 3. Participant[ABI-Recipient] Eligibility, Enrollment and Termination. (1) To be eligible to receive a service in the ABI program:

(a) An individual shall:

1. Be at least eighteen (18) years of age;
2. Have acquired a brain injury of the following nature, to the central nervous system:
 - a. An injury from physical trauma;
 - b. Damage from anoxia or from a hypoxic episode; or
 - c. Damage from an allergic condition, toxic substance, or another acute medical incident; ~~and~~
3. Apply to be placed on the ABI waiting list in accordance with Section 9[7] of this administrative regulation; and

4. Be screened by the department for the purpose of making a preliminary determination of whether the individual might qualify for ABI waiver services;

(b) An individual or the individual's representative shall:

1. Apply for 1915(c) home and community based waiver services via the MWMA[portal]; and
2. Complete and upload to the MWMA[portal] a MAP - 115 Application Intake - Participant Authorization;

(c) A case manager or support broker, on behalf of an applicant, shall enter into the MWMA[portal]~~[submit]~~ a certification packet~~[to the department]~~ containing the following:

1. A copy of the allocation letter;
2. A MAP 351, Medicaid Waiver Assessment~~[MAP-351]~~;
3. A statement for the need for ABI waiver services which shall be signed and dated by a physician on a MAP-10, Waiver Services – Physician's Recommendation;
4. A MAP 350, Long Term Care Facilities and Home and Community Based Program Certification form~~[MAP-350]~~; and
5. A person-centered service plan~~[MAP-109]~~; and
6. ~~The MAP-24C, Admittance, Discharge or Transfer of an Individual in the ABI/SCL Program];~~

~~(d)~~~~(e)~~ An individual shall receive notification of potential funding allocated for ABI services for the individual;

~~(e)~~~~(f)~~ An individual shall meet the patient status criteria for nursing facility services established in 907 KAR 1:022 including nursing facility services for a brain injury;

~~(f)~~~~(e)~~ An individual shall meet the following conditions:

1. Have a primary diagnosis that indicates an ABI with structural, nondegenerative brain injury;
2. Be medically stable;
3. Meet Medicaid eligibility requirements established in 907 KAR 20:010;
4. Exhibit cognitive, behavioral, motor or sensory damage with an indication for rehabilitation and retraining potential; and
5. Have a rating of at least four (4) on the Family Guide to the Rancho Levels of Cognitive Functioning; and

~~(g)~~~~(f)~~ An individual shall receive notification of approval from the department.

(2) An individual shall not remain in the ABI waiver program for an indefinite period of time.

(3) The basis of an eligibility determination for participation in the ABI waiver program shall be:

- (a) The presenting problem;
- (b) The person-centered service plan~~[of care]~~ goal;
- (c) The expected benefit of the admission;
- (d) The expected outcome;
- (e) The service required; and
- (f) The cost effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.

(4) An ABI waiver service shall not be furnished to an individual if the individual is:

- (a) An inpatient of a hospital, nursing facility or an intermediate care facility for individuals with an intellectual~~[mental retardation or a developmental]~~ disability; or
- (b) Receiving a service in another 1915(c) home and community based services waiver program.

(5) The department shall make:

- (a) An initial evaluation to determine if an individual meets the nursing facility patient status criteria established in 907 KAR 1:022; and

(b) A determination of whether to admit an individual into the ABI waiver program.

(6) To maintain eligibility as a participant[an ABI recipient]:

(a) An individual shall maintain Medicaid eligibility requirements established in 907 KAR 20:010; and

(b) A reevaluation shall be conducted at least once every twelve (12) months to determine if the individual continues to meet the patient status criteria for nursing facility services established in 907 KAR 1:022.

(7)[An ABI case management provider shall notify the local DCBS office, ABIB, and the department via a MAP 24C, Admittance, Discharge or Transfer of an Individual in the ABI/SCL Program, if the ABI recipient is:

(a) Admitted to the ABI waiver program;

(b) Discharged from the ABI waiver program;

(c) Temporarily discharged from the ABI waiver program;

(d) Readmitted from a temporary discharge;

(e) Admitted to a nursing facility;

(f) Changing the primary provider; or

(g) Changing the case management agency.

(8)] The department may exclude an individual from receiving ABI waiver services if the projected cost of ABI waiver services for the individual is reasonably expected to exceed the cost of nursing facility services for the individual.

(9)] Involuntary termination or[and] loss of an ABI waiver program placement shall be in accordance with 907 KAR 1:563 and shall be initiated if:

(a) An individual fails to initiate an ABI waiver service within sixty (60) days of notification of potential funding without good cause shown. The individual or legal representative shall have the burden of providing documentation of good cause, including:

1. A statement signed by the participant[recipient] or legal representative;

2. Copies of letters to providers; and

3. Copies of letters from providers;

(b) A participant[An ABI recipient] or legal representative fails to access the required service as outlined in the person-centered service plan[of care] for a period greater than sixty (60) consecutive days without good cause shown.

1. The participant[recipient] or legal representative shall have the burden of providing documentation of good cause including:

a. A statement signed by the participant[recipient] or legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers; and

2. Upon receipt of documentation of good cause, the department shall grant one (1) extension in writing which shall be:

a. Sixty (60) days for an individual who does not reside in a facility; and

b. For an individual who resides in a facility, the length of the transition plan and contingent upon continued active participation in the transition plan;

(c) A participant[An ABI recipient] changes residence outside the Commonwealth of Kentucky;

(d) A participant[An ABI recipient] does not meet the patient status criteria for nursing facility services established in 907 KAR 1:022;

(e) A participant[An ABI recipient] is no longer able to be safely served in the community;

(f) The participant[ABI recipient] has reached maximum rehabilitation potential; or

(g) The participant[ABI recipient] is no longer actively participating in services within the approved person-centered service plan[of care] as determined by the person-centered team[interdisciplinary team].

(9)[(40)] Involuntary termination of a service to a participant[an ABI recipient] by an ABI provider shall require:

(a) Simultaneous notice to the department, the participant[ABI recipient] or legal representative and the case manager at least thirty (30) days prior to the effective date of the action, which shall include:

1. A statement of the intended action;

2. The basis for the intended action;

3. The authority by which the action is taken; and

4. The participant[s][ABI recipient's] right to appeal the intended action through the provider's appeal or grievance process; and

(b) The case manager in conjunction with the provider to:

1. Provide the participant[ABI recipient] with the name, address and telephone number of each current ABI provider in the state;

2. Provide assistance to the participant[ABI recipient] in making contact with another ABI provider;

3. Arrange transportation for a requested visit to an ABI provider site;

4. Provide a copy of pertinent information to the participant[ABI recipient] or legal representative;

5. Ensure the health, safety and welfare of the participant[ABI recipient] until an appropriate placement is secured;

6. Continue to provide supports until alternative services or another placement is secured; and

7. Provide assistance to ensure a safe and effective service transition.

(10)[(44)] Voluntary termination and loss of an ABI waiver program placement shall be initiated if a participant[an ABI recipient] or legal representative submits a written notice of intent to discontinue services to the service provider and to the department.

(a) An action to terminate services shall not be initiated until thirty (30) calendar days from the date of the notice; and

(b) The participant[ABI recipient] or legal representative may reconsider and revoke the notice in writing during the thirty (30) calendar day period.

Section 4. Person-centered Service Plan Requirements. (1) A person-centered service plan shall be established:

(a) For each participant; and

(b) By the participant's person-centered service plan team.

(2) A participant's person-centered service plan shall:

(a) Be developed by:

1. The participant, the participant's guardian, or the participant's 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;

(b) 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 recipient'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;

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 recipient;
 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 recipient's legal 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[which] the individual elects to self-direct; and
 o. Prevents the provision of unnecessary or inappropriate services and supports; and
 (c) Includes 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.
 (3) 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.
 (4)(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 5. Case Management Requirements. (1) A case manager shall:

(a)1. Be a registered nurse;
 2. Be a licensed practical nurse; or
 3. Be an individual with a bachelor's degree or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in:
 a. Psychology;
 b. Sociology;
 c. Social work;

d. Rehabilitation counseling; or
 e. Occupational therapy;
 (b)1. Be independent as defined as not being employed by an agency that is providing ABI waiver services to the participant; or
 2. Be employed by or work under contract with a free-standing case management agency; and
 (c) Have completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services.
 (2) 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, which 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 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 service plan 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) Document services provided to a participant by entering the following into the MWMA[portal]:
 1. A monthly department-approved person centered monitoring tool; and
 2. A monthly entry, which shall include:

a. The month and year for the time period the note covers;
b. An analysis of progress toward the participant's outcome or outcomes;
c. Identification of barriers to achievement of outcomes;
d. A projected plan to achieve the next step in achievement of outcomes;
e. The signature and title of the case manager completing the note; and
f. The date the note was generated;
(n) Document via an entry into the MWMA[portal] if a participant is:
1. Admitted to the ABI long term care waiver program;
2. Terminated from the ABI long-term care waiver program;
3. Temporarily discharged from the ABI long term care waiver program;
4. Admitted to a hospital;
5. Admitted to a nursing facility;
6. Changing the primary ABI provider;
7. Changing the case management agency;
8. Transferred to another Medicaid 1915(c) home and community based waiver service program; or
9. Relocated to a different address; and
(o) Provide information about participant-directed services to the participant or the participant's guardian:
1. At the time the initial person-centered service plan is developed;
2. At least annually thereafter; and
3. Upon inquiry from the participant or participant's guardian.
(3) A case management provider shall:
(a) Establish a human rights committee which shall:
1. Include an:
a. Individual with a brain injury or a family member of an individual with a brain injury;
b. Individual not affiliated with the ABI provider; and
c. Individual who has knowledge and experience in human rights issues;
2. Review and approve each person-centered service plan with human rights restrictions at a minimum of every six (6) months;
3. Review and approve, in conjunction with the participant's team, behavior intervention plans that contain human rights restrictions; and
4. Review the use of a psychotropic medication by a participant without an Axis I diagnosis;
(b) Establish a behavior intervention committee which shall:
1. Include one (1) individual who has expertise in behavior intervention and is not the behavior specialist who wrote the behavior intervention plan;
2. Be separate from the human rights committee; and
3. Review and approve, prior to implementation and at a minimum of every six (6) months in conjunction with the participant's team, an intervention plan that includes highly restrictive procedures or contain human rights restrictions; and
(c) Complete and submit a Mayo-Portland Adaptability Inventory-4 to the department for each participant:
1. Within thirty (30) days of the participant's admission into the ABI program;
2. Annually thereafter; and
3. Upon discharge from the ABI waiver program.
(4)(a) Case management for any participant who begins receiving ABI waiver services after the effective date of this administrative regulation shall be conflict free.
(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 ABI waiver services 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 ABI 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 ABI waiver services.
(5) Case management shall:
(a) Include initiation, coordination, implementation, and monitoring of the assessment or reassessment, evaluation, intake, and eligibility process;
(b) Assist a participant in the identification, coordination, and facilitation of the person centered team and person centered team meetings;
(c) Assist a participant and the person-centered team to develop an individualized person-centered service plan and update it as necessary based on changes in the participant's medical condition and supports;
(d) Include monitoring of the delivery of services and the effectiveness of the person-centered service plan, which shall:
1. Be initially developed with the participant and legal representative if appointed prior to the level of care determination;
2. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and
3. Include the person-centered service plan being sent to the department or its designee prior to the implementation of the effective date the change occurs with the participant;
(e) Include a transition plan that shall be developed within the first thirty (30) days of service, updated as changes or recertification occurs, and updated thirty (30) days prior to discharge, and shall include:
1. The skills or service obtained from the ABI waiver program upon transition into the community;
2. A listing of the community supports available upon the transition; and
3. The expected date of transition from the ABI waiver program;
(f) Assist a participant in obtaining a needed service outside those available by the ABI waiver;
(g) Be provided by a case manager who:
1.a. Is a registered nurse;
b. Is a licensed practical nurse;
c. Is an individual who has a bachelor's or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in psychology, sociology, social work, rehabilitation counseling, or occupational therapy;
d. Is an independent case manager; or
e. Is employed by a free-standing case management agency;
2. Has completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services;

3. Shall provide a participant and legal representative with a listing of each available ABI provider in the service area;

4. Shall maintain documentation signed by a participant or legal representative of informed choice of an ABI provider and of any change to the selection of an ABI provider and the reason for the change;

5. Shall provide a distribution of the crisis prevention and response plan, transition plan, person-centered service plan, and other documents within the first thirty (30) days of the service to the chosen ABI service provider and as information is updated;

6. Shall provide twenty-four (24) hour telephone access to a participant and chosen ABI provider;

7. Shall work in conjunction with an ABI provider selected by a participant to develop a crisis prevention and response plan, which shall be:

a. Individual-specific; and

b. Updated as a change occurs and at each recertification;

8. Shall assist a participant in planning resource use and assuring protection of resources;

9.a. Shall conduct two (2) face-to-face meetings with a participant within a calendar month occurring at a covered service site[no more than fourteen (14) days apart,] with one (1) visit quarterly at the participant's residence; and

b. For a participant receiving supervised residential care, shall conduct at least one (1) of the two (2) monthly visits at the participant's supervised residential care provider site;

10. Shall ensure twenty-four (24) hour availability of services; and

11. Shall ensure that the participant's health, welfare, and safety needs are met; and

(h) Be documented in the MWMA by a detailed staff note, which shall include:

1. The participant's health, safety, and welfare;

2. Progress toward outcomes identified in the approved person-centered service plan;

3. The date of the service;

4. The beginning and ending times;

5. The signature and title of the individual providing the service;

and

6. A quarterly summary, which shall include:

a. Documentation of monthly contact with each chosen ABI provider; and

b. Evidence of monitoring of the delivery of services approved in the participant's person-centered service plan and of the effectiveness of the person-centered service plan.

(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.

Section 6. Covered Services. (1) An ABI waiver service shall:

(a) Not be covered unless it has been[Be:] prior-authorized by the department; and

(b) Be provided pursuant to the participant's person-centered service plan[of care].

(2) The following services shall be provided to a participant[an ABI recipient] by an ABI waiver provider:

(a) Case management services in accordance with Section 4 of this administrative regulation[, which shall:

1. Include initiation, coordination, implementation, and monitoring of the assessment or reassessment, evaluation, intake, and eligibility process;

2. Assist an ABI recipient in the identification, coordination, and facilitation of the interdisciplinary team and [interdisciplinary team meetings;

3. Assist an ABI recipient and the interdisciplinary team to develop an individualized plan of care and update it as necessary based on changes in the recipient's medical condition and supports;

4. Include monitoring of the delivery of services and the effectiveness of the plan of care, which shall:

a. Be initially developed with the ABI recipient and legal representative if appointed prior to the level of care determination;

b. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

c. Include the MAP-109 being sent to the department or its designee prior to the implementation of the effective date the change occurs with the ABI recipient;

5. Include a transition plan that shall be developed within the first thirty (30) days of service, updated as changes or recertification occurs, updated thirty (30) days prior to discharge, and shall include:

a. The skills or service obtained from the ABI waiver program upon transition into the community; and

b. A listing of the community supports available upon the transition;

6. Assist an ABI recipient in obtaining a needed service outside those available by the ABI waiver;

7. Be provided by a case manager who:

a. (i) Is a registered nurse;

(ii) Is a licensed practical nurse;

(iii) Is an individual who has a bachelor's or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in psychology, sociology, social work, rehabilitation counseling, or occupational therapy;

(iv) Is an independent case manager; or

(v) Is employed by a free-standing case management agency;

b. Has completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services;

c. Shall provide an ABI recipient and legal representative with a listing of each available ABI provider in the service area;

d. Shall maintain documentation signed by an ABI recipient or legal representative of informed choice of an ABI provider and of any change to the selection of an ABI provider and the reason for the change;

e. Shall provide a distribution of the crisis prevention and response plan, transition plan, plan of care, and other documents within the first thirty (30) days of the service to the chosen ABI service provider and as information is updated;

f. Shall provide twenty-four (24) hour telephone access to an ABI recipient and chosen ABI provider;

g. Shall work in conjunction with an ABI provider selected by an ABI recipient to develop a crisis prevention and response plan which shall be:

(i) Individual-specific; and

(ii) Updated as a change occurs and at each recertification;

h. Shall assist an ABI recipient in planning resource use and assuring protection of resources;

i. (i) Shall conduct two (2) face-to-face meetings with an ABI recipient within a calendar month occurring at a covered service site no more than fourteen (14) days apart, with one (1) visit quarterly at the ABI recipient's residence; and

(ii) For an ABI recipient receiving supervised residential care, shall conduct at least one (1) of the two (2) monthly visits at the ABI recipient's supervised residential care provider site;

j. Shall ensure twenty-four (24) hour availability of services; and

k. Shall ensure that the ABI recipient's health, welfare, and safety needs are met; and

8. Be documented by a detailed staff note which shall include:

a. The ABI recipient's health, safety and welfare;

b. Progress toward outcomes identified in the approved plan of care;

c. The date of the service;

d. Beginning and ending time;

e. The signature and title of the individual providing the service;

and

f. A quarterly summary which shall include:

(i) Documentation of monthly contact with each chosen ABI provider; and

(ii) Evidence of monitoring of the delivery of services approved in the recipient's plan of care and of the effectiveness of the plan of care];

(b) Behavior programming services, which shall:

1. Be the systematic application of techniques and methods to influence or change a behavior in a desired way;
2. Include a functional analysis of the participant's[ABI recipient's] behavior which shall include:
 - a. An evaluation of the impact of an ABI on cognition and behavior;
 - b. An analysis of potential communicative intent of the behavior;
 - c. The history of reinforcement for the behavior;
 - d. Critical variables that precede the behavior;
 - e. Effects of different situations on the behavior; and
 - f. A hypothesis regarding the motivation, purpose and factors which maintain the behavior;
3. Include the development of a behavioral support plan, which shall:
 - a. Be developed by the behavioral specialist;
 - b. Not be implemented by the behavior specialist who wrote the plan;
 - c. Be revised as necessary;
 - d. Define the techniques and procedures used;
 - e. Include the hierarchy of behavior interventions ranging from the least to the most restrictive;
 - f. Reflect the use of positive approaches; and
 - g. Prohibit the use of prone or supine restraint, corporal punishment, seclusion, verbal abuse, and any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility;
4. Include the provision of training to other ABI providers concerning implementation of the behavioral intervention plan;
5. Include the monitoring of a participant's[an ABI recipient's] progress, which shall be accomplished through:
 - a. The analysis of data concerning the frequency, intensity, and duration of a behavior;
 - b. Reports involved in implementing the behavioral service plan; and
 - c. A monthly summary, which assesses the participant's status related to the plan of care;
6. Be provided by a behavior specialist who shall:
 - a. (i) Be a psychologist;
 - (ii) Be a psychologist with autonomous functioning;
 - (iii) Be a licensed psychological associate;
 - (iv) Be a psychiatrist;
 - (v) Be a licensed clinical social worker;
 - (vi) Be a clinical nurse specialist with a master's degree in psychiatric nursing or rehabilitation nursing;
 - (vii) Be an advanced practice registered nurse[(APRN)];
 - (viii) Be a board certified behavior analyst; or
 - (ix) Be a licensed professional clinical counselor; and
 - b. Have at least one (1) year of behavior specialist experience or provide documentation of completed coursework regarding learning and behavior principles and techniques; and
7. Be documented in the MWMA by a detailed staff note which shall include:
 - a. The date of the service;
 - b. The beginning and ending time; and
 - c. The signature and title of the behavioral specialist;
- (c) Companion services, which shall:
 1. Include a nonmedical service, supervision or socialization as indicated in the recipient's plan of care;
 2. Include assisting with but not performing meal preparation, laundry and shopping;
 3. Include light housekeeping tasks which are incidental to the care and supervision of a participant[an ABI-waiver-service recipient];
 4. Include services provided according to the approved plan of care which are therapeutic and not diversional in nature;
 5. Include accompanying and assisting a participant[an ABI recipient] while utilizing transportation services;
 6. Include documentation in the MWMA by a detailed staff note which shall include:
 - a. Progress toward goal and objectives identified in the approved plan of care;
 - b. The date of the service;

- c. Beginning and ending time; and
- d. The signature and title of the individual providing the service;
7. Not be provided to a participant[an ABI recipient] who receives supervised residential care; and
8. Be provided by:
 - a. A home health agency licensed and operating in accordance with 902 KAR 20:081;
 - b. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department;
 - c. A community habilitation program certified by the department; or
 - d. A supervised residential care provider;
- (d) Supervised residential care level I services, which:
 1. Shall be provided by:
 - a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department; or
 - b. An ABI provider;
 2. Shall not be provided to a participant[an ABI recipient] unless the participant[recipient] has been authorized to receive residential care by the department's residential review committee, which shall:
 - a. Consider applications for residential care in the order in which the applications are received;
 - b. Base residential care decisions on the following factors:
 - (i) Whether the applicant resides with a caregiver or not;
 - (ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior which places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or
 - (iii) Whether the applicant demonstrates behavior which may result in potential legal problems if not ameliorated;
 - c. Be comprised of three (3) Cabinet for Health and Family Services employees:
 - (i) With professional or personal experience with brain injury or other cognitive disabilities; and
 - (ii) None of whom shall be supervised by the manager of the acquired brain injury branch; and
 - d. Only consider applications at a monthly committee meeting if the applications were received at least three (3) business days before the committee convenes;
 3. Shall not have more than three (3) participants[ABI recipients] simultaneously in a residence rented or owned by the ABI provider;
 4. Shall provide twenty-four (24) hours of supervision daily unless the provider implements, pursuant to subparagraph 5 of this paragraph, an individualized plan allowing for up to five (5) unsupervised hours per day;
 5. May include the provision of up to five (5) unsupervised hours per day per participant[recipient] if the provider develops an individualized plan for the participant[recipient] to promote increased independence. The plan shall:
 - a. Contain provisions necessary to ensure the participant's[recipient's] health, safety, and welfare;
 - b. Be approved by the participant's[recipient's] treatment team, with the approval documented by the provider; and
 - c. Contain periodic reviews and updates based on changes, if any, in the participant's[recipient's] status;
 6. Shall include assistance and training with daily living skills including:
 - a. Ambulating;
 - b. Dressing;
 - c. Grooming;
 - d. Eating;
 - e. Toileting;
 - f. Bathing;
 - g. Meal planning;
 - h. Grocery shopping;
 - i. Meal preparation;
 - j. Laundry;

k. Budgeting and financial matters;
 l. Home care and cleaning;
 m. Leisure skill instruction; or
 n. Self-medication instruction;
 7. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the participant's person-centered service[individual's] plan[of care];
 8. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;
 9. Shall include accompanying or assisting a participant[an ABI recipient] while the participant[recipient] utilizes transportation services as specified in the participant's person-centered service[recipient's] plan[of care];
 10. Shall include participation in medical appointments or follow-up care as directed by the medical staff;
 11. Shall be documented in the MWMA by a detailed staff note which shall document:
 a. Progress toward goals and objectives identified in the approved person-centered service plan[of care];
 b. The date of the service;
 c. The beginning and ending time of the service; and
 d. The signature and title of the individual providing the service;
 12. Shall not include the cost of room and board;
 13. Shall be provided to a participant[an ABI recipient] who:
 a. Does not reside with a caregiver;
 b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or
 c. Demonstrates behavior that may result in potential legal problems if not ameliorated;
 14. May utilize a modular home only if the:
 a. Wheels are removed;
 b. Home is anchored to a permanent foundation; and
 c. Windows are of adequate size for an adult to use as an exit in an emergency;
 15. Shall not utilize a motor home;
 16. Shall provide a sleeping room which ensures that a participant[an ABI recipient]:
 a. Does not share a room with an individual of the opposite gender who is not the participant's[ABI recipient's] spouse;
 b. Does not share a room with an individual who presents a potential threat; and
 c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the participant's[ABI recipient's] health and comfort; and
 17. Shall provide service and training to obtain the outcomes for the participant[ABI recipient] as identified in the approved person-centered service plan[of care];
 (e) Supervised residential care level II services, which:
 4.] shall:
 1. Meet the requirements established in paragraph (d) of this subsection, except for the requirements established in paragraph (d)4 and 5:
 2.[be provided by:
 a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department; or
 b. An ABI provider;
 2.Shall not be provided to an ABI recipient unless the recipient has been authorized to receive residential care by the department's residential review committee which shall:
 a. Consider applications for residential care in the order in which the applications are received;
 b. Base residential care decisions on the following factors:
 (i) Whether the applicant resides with a caregiver or not;
 (ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior which places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or

(iii) Whether the applicant demonstrates behavior which may result in potential legal problems if not ameliorated;
 e. Be comprised of three (3) Cabinet for Health and Family Services employees:
 (i) With professional or personal experience with brain injury or other cognitive disabilities; and
 (ii) None of whom shall be supervised by the manager of the acquired brain injury branch; and
 d. Only consider applications at a monthly committee meeting if the applications were received at least three (3) business days before the committee convenes;
 3. Shall not have more than three (3) ABI recipients simultaneously in a residence rented or owned by the ABI provider;
 4. Shall] Provide twelve (12) to eighteen (18) hours of daily supervision, the amount of which shall:
 a. Be based on the participant's[recipient's] needs;
 b. Be approved by the participant's[recipient's] treatment team; and
 c. Be documented in the participant's person-centered service[recipient's] plan,[of care] which shall also contain periodic reviews and updates based on changes, if any, in the participant's[recipient's] status; and
 3.5. Shall include assistance and training with daily living skills including:
 a. Ambulating;
 b. Dressing;
 c. Grooming;
 d. Eating;
 e. Toileting;
 f. Bathing;
 g. Meal planning;
 h. Grocery shopping;
 i. Meal preparation;
 j. Laundry;
 k. Budgeting and financial matters;
 l. Home care and cleaning;
 m. Leisure skill instruction; or
 n. Self-medication instruction;
 6. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the individual's plan of care;
 7. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;
 8. Shall include accompanying or assisting an ABI recipient while the recipient utilizes transportation services as specified in the recipient's plan of care;
 9. Shall include participation in medical appointments or follow-up care as directed by the medical staff;
 10. Shall] Include provision of twenty-four (24) hour on-call support; [14. Shall be documented by a detailed staff note which shall document:
 a. Progress toward goals and objectives identified in the approved plan of care;
 b. The date of the service;
 c. The beginning and ending time of the service; and
 d. The signature and title of the individual providing the service;
 12. Shall not include the cost of room and board;
 13. Shall be provided to an ABI recipient who:
 a. Does not reside with a caregiver;
 b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or
 c. Demonstrates behavior that may result in potential legal problems if not ameliorated;
 14. May utilize a modular home only if the:
 a. Wheels are removed;
 b. Home is anchored to a permanent foundation; and
 c. Windows are of adequate size for an adult to use as an exit in an emergency;
 15. Shall not utilize a motor home;
 16. Shall provide a sleeping room which ensures that an ABI

recipient:

- a. Does not share a room with an individual of the opposite gender who is not the ABI recipient's spouse;
- b. Does not share a room with an individual who presents a potential threat; and
- c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the ABI recipient's health and comfort; and

17. Shall provide service and training to obtain the outcomes for the ABI recipient as identified in the approved plan of care;]

(f) Supervised residential care level III services, which[:

4.] shall:

1. Meet the requirements established in paragraph (d) of this subsection except for the requirements established in paragraph (d)4 and 5;

2.[be provided by:

a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department; or

b. An ABI provider;

2. Shall not be provided to an ABI recipient unless the recipient has been authorized to receive residential care by the department's residential review committee which shall:

a. Consider applications for residential care in the order in which the applications are received;

b. Base residential care decisions on the following factors:

(i) Whether the applicant resides with a caregiver or not;

(ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior which places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or

(iii) Whether the applicant demonstrates behavior which may result in potential legal problems if not ameliorated;

c. Be comprised of three (3) Cabinet for Health and Family Services employees:

(i) With professional or personal experience with brain injury or other cognitive disabilities; and

(ii) None of whom shall be supervised by the manager of the acquired brain injury branch; and

d. Only consider applications at a monthly committee meeting if the applications were received at least three (3) business days before the committee convenes;

3. Shall] Be provided in a single family home, duplex, or apartment building to a participant[an ABI recipient] who lives alone or with an unrelated roommate;

3.[4. Shall] Not be provided to more than two (2) participants [ABI recipients] simultaneously in one (1) apartment or home;

4.[5. Shall] Not be provided in more than two (2) apartments in one (1) building;

5.[6. Shall.] If provided in an apartment building, have staff:

a. Available twenty-four (24) hours per day and seven (7) days per week; and

b. Who do not reside in a dwelling occupied by a participant [an ABI recipient]; and

6.[7. Shall] Provide less than twelve (12) hours of supervision or support in the residence based on an individualized plan developed by the provider to promote increased independence which shall:

a. Contain provisions necessary to ensure the recipient's health, safety, and welfare;

b. Be approved by the participant's[recipient's] treatment team, with the approval documented by the provider; and

c. Contain periodic reviews and updates based on changes, if any, in the participant's[recipient's] status;

[8. Shall include assistance and training with daily living skills including:

a. Ambulating;

b. Dressing;

c. Grooming;

d. Eating;

e. Toileting;

f. Bathing;

g. Meal planning;

h. Grocery shopping;

i. Meal preparation;

j. Laundry;

k. Budgeting and financial matters;

l. Home care and cleaning;

m. Leisure skill instruction; or

n. Self-medication instruction;

9. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the individual's plan of care;

10. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;

11. Shall include accompanying or assisting an ABI recipient while the recipient utilizes transportation services as specified in the recipient's plan of care;

12. Shall include participation in medical appointments or follow-up care as directed by the medical staff;

13. Shall be documented by a detailed staff note which shall document:

a. Progress toward goals and objectives identified in the approved plan of care;

b. The date of the service;

c. The beginning and ending time of the service;

d. The signature and title of the individual providing the service; and

e. Evidence of at least one (1) daily face-to-face contact with the ABI recipient;

14. Shall not include the cost of room and board;

15. Shall be provided to an ABI recipient who:

a. Does not reside with a caregiver;

b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or

c. Demonstrates behavior that may result in potential legal problems if not ameliorated;

16. May utilize a modular home only if the:

a. Wheels are removed;

b. Home is anchored to a permanent foundation; and

c. Windows are of adequate size for an adult to use as an exit in an emergency;

17. Shall not utilize a motor home;

18. Shall provide a sleeping room which ensures that an ABI recipient:

a. Does not share a room with an individual of the opposite gender who is not the ABI recipient's spouse;

b. Does not share a room with an individual who presents a potential threat; and

c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the ABI recipient's health and comfort; and

19. Shall provide service and training to obtain the outcomes for the ABI recipient as identified in the approved plan of care;]

(g) Counseling services, which:

1. Shall be designed to help a participant[an ABI waiver service recipient] resolve personal issues or interpersonal problems resulting from his or her ABI;

2. Shall assist a family member in implementing an[ABI waiver service recipient's] approved person-centered service plan[of care];

3. In a severe case, shall be provided as an adjunct to behavioral programming;

4. Shall include substance abuse or chemical dependency treatment, if needed;

5. Shall include building and maintaining healthy relationships;

6. Shall develop social skills or the skills to cope with and adjust to the brain injury;

7. Shall increase knowledge and awareness of the effects of an ABI;

8. May include a group therapy service if the service is:

a. Provided to a minimum of two (2) and a maximum of eight

(8) ~~participants~~[ABI-recipients]; and

b. Included in the ~~participant's~~[recipient's] approved person-centered service plan~~[of-care]~~ for:

(i) Substance abuse or chemical dependency treatment, if needed;

(ii) Building and maintaining healthy relationships;

(iii) Developing social skills;

(iv) Developing skills to cope with and adjust to a brain injury, including the use of cognitive remediation strategies consisting of the development of compensatory memory and problem solving strategies, and the management of impulsivity; and

(v) Increasing knowledge and awareness of the effects of the acquired brain injury upon the ~~participant's~~[ABI-recipients] functioning and social interactions;

9. Shall be provided by:

a. A psychiatrist;

b. A psychologist;

c. A psychologist with autonomous functioning;

d. A licensed psychological associate;

e. A licensed clinical social worker;

f. A clinical nurse specialist with a master's degree in psychiatric nursing;

g. An advanced practice registered nurse~~[(APRN)]~~; or

h. A certified alcohol and drug counselor;

i. A licensed marriage and family therapist;~~[or]~~

j. A licensed professional clinical counselor;

k. A licensed clinical alcohol and drug counselor associate effective and contingent upon approval by the Centers for Medicare and Medicaid Services; or

l. A licensed clinical alcohol and drug counselor effective and contingent upon approval by the Centers for Medicare and Medicaid Services; and

10. Shall be documented in the MWMA by a detailed staff note, which shall include:

a. Progress toward the goals and objectives established in the person-centered service plan~~[of-care]~~;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(h) Occupational therapy which shall be:

1. A physician-ordered evaluation of a participant's~~[an ABI recipient's]~~ level of functioning by applying diagnostic and prognostic tests;

2. Physician-ordered services in a specified amount and duration to guide a participant~~[an ABI recipient]~~ in the use of therapeutic, creative, and self-care activities to assist the participant~~[ABI recipient]~~ in obtaining the highest possible level of functioning;

3. Exclusive of maintenance or the prevention of regression;

4. Provided by an occupational therapist or an occupational therapy assistant if supervised by an occupational~~[occupation]~~ therapist in accordance with 201 KAR 28:130; and

5. Documented in the MWMA by a detailed staff note, which shall include:

a. Progress toward goal and objectives identified in the approved person-centered service plan~~[of-care]~~;

b. The date of the service;

c. The beginning and ending times~~[time]~~; and

d. The signature and title of the individual providing the service;

(i) Personal care services, which shall:

1. Include the retraining of a participant~~[an ABI waiver service recipient]~~ in the performance of an activity of daily living by using repetitive, consistent and ongoing instruction and guidance;

2. Be provided by:

a. An adult day health care center licensed and operating in accordance with 902 KAR 20:066;

b. A home health agency licensed and operating in accordance with 902 KAR 20:081;

c. A personal services agency; or

d. Another ABI provider;

3. Include the following activities of daily living:

a. Eating, bathing, dressing or personal hygiene;

b. Meal preparation; and

c. Housekeeping chores including bed-making, dusting and vacuuming;

4. Be documented in the MWMA by a detailed staff note which shall include:

a. Progress toward goal and objectives identified in the approved person-centered service plan~~[of-care]~~;

b. The date of the service;

c. Beginning and ending time; and

d. The signature and title of the individual providing the service; and

5. Not be provided to a participant~~[an ABI recipient]~~ who receives supervised residential care

(j) A respite service, which shall:

1. Be provided only to a participant~~[an ABI recipient]~~ unable to administer self-care;

2. Be provided by a:

a. Nursing facility;

b. Community mental health center;

c. Home health agency;

d. Supervised residential care provider; or

e. Community habilitation program;

3. Be provided on a short-term basis due to absence or need for relief of a non-paid primary caregiver~~[an individual providing care to an ABI recipient]~~;

4. Be limited to 336 hours per one (1) year authorized person-centered service plan~~[in a twelve (12) month] period unless an individual's non-paid~~~~[normal]~~ caregiver is unable to provide care due to a:

a. Death in the family;

b. Serious illness; or

c. Hospitalization;

5. Not be provided to a participant~~[an ABI recipient]~~ who receives supervised residential care;

6. Not include the cost of room and board if provided in a nursing facility; and

7. Be documented in the MWMA by a detailed staff note, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan~~[of-care]~~;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(k) Speech-~~[, hearing and]~~ language pathology services, which shall be:

1. A physician-ordered evaluation of a participant~~[an ABI recipient]~~ with a speech, hearing, or language disorder;

2. A physician-ordered habilitative service in a specified amount and duration to assist a participant~~[an ABI recipient]~~ with a speech and language disability in obtaining the highest possible level of functioning;

3. Exclusive of maintenance or the prevention of regression;

4. Provided by a speech language pathologist; and

5. Documented in the MWMA by a detailed staff note, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan~~[of-care]~~;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(l) Adult day training services, which shall:

1. Be provided by:

a. An adult day health care center that~~[which]~~ is certified by the department and licensed and operating in accordance with 902 KAR 20:066;

b. An outpatient rehabilitation facility that~~[which]~~ is certified by the department and licensed and operating in accordance with 902 KAR 20:190;

c. A community mental health center licensed and operating in accordance with 902 KAR 20:091;

d. A community habilitation program;

e. A sheltered employment program; or

f. A therapeutic rehabilitation program;

2. Rehabilitate, retrain and reintegrate a participant~~[an~~

individual] into the community;

3. Not exceed a staffing ratio of five (5) participants[ABI recipients] per one (1) staff person, unless a participant[an ABI recipient] requires individualized special service;

4. Include the following services:

a. Social skills training related to problematic behaviors identified in the participant's person-centered service[recipient's] plan [of care];

b. Sensory or motor development;

c. Reduction or elimination of a maladaptive behavior;

d. Prevocational; or

e. Teaching concepts and skills to promote independence including:

(i) Following instructions;

(ii) Attendance and punctuality;

(iii) Task completion;

(iv) Budgeting and money management;

(v) Problem solving; or

(vi) Safety;

5. Be provided in a nonresidential setting;

6. Be developed in accordance with a participant's[an ABI waiver service recipient's] overall approved person-centered service plan[of care];

7. Reflect the recommendations of a participant's[an ABI waiver service recipient's] interdisciplinary team;

8. Be appropriate:

a. Given a participant's[an ABI waiver service recipient's] age, level of cognitive and behavioral function and interest;

b. Given a participant's[an ABI waiver service recipient's] ability prior to and since his or her injury; and

c. According to the approved person-centered service plan[of care] and be therapeutic in nature and not diversional;

9. Be coordinated with occupational, speech, or other rehabilitation therapy included in a participant's person-centered service[an ABI waiver service recipient's] plan[of care];

10. Provide a participant[an ABI waiver service recipient] with an organized framework within which to function in his or her daily activities;

11. Entail frequent assessments of a participant's[an ABI waiver service recipient's] progress and be appropriately revised as necessary; and

12. Be documented in the MWMA by a detailed staff note, which shall include:

a. Progress toward goal and objectives identified in the approved person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time;

d. The signature and title of the individual providing the service; and

e. A monthly summary that assesses the participant's status related to the approved person-centered service plan[of care];

(m) Supported employment services, which shall be:

1. Intensive, ongoing services for a participant[an ABI recipient] to maintain paid employment in an environment in which an individual without a disability is employed;

2. Provided by a:

a. Supported employment provider;

b. Sheltered employment provider; or

c. Structured day program provider;

3. Provided one-on-one;

4. Unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 99-457 (34 C.F.R. Parts 300 to 399), proof of which shall be documented in the participant's[ABI recipient's] file;

5. Limited to forty (40) hours per week alone or in combination with structured day services;

6. An activity needed to sustain paid work by a participant[an ABI recipient] receiving waiver services including supervision and training;

7. Exclusive of work performed directly for the supported employment provider; and

8. Documented in the MWMA by a time and attendance record, which shall include:

a. Progress towards the goals and objectives identified in the person-centered service plan[of care];

b. The date of service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(n) Specialized medical equipment and supplies, which shall:

1. Include durable and nondurable medical equipment, devices, controls, appliances, or ancillary supplies;

2. Enable a participant[an ABI recipient] to increase his or her ability to perform daily living activities or to perceive, control, or communicate with the environment;

3. Be ordered by a physician, documented in a participant's person-centered service plan, and entered into the MWMA[portal] by the participant's case manager or support broker, and[submitted on a Request for Equipment form, MAP-95, and] include three (3) estimates if the equipment is needed for vision and hearing;

4. Include equipment necessary to the proper functioning of specialized items;

5. Not be available through the department's durable medical equipment, vision or hearing programs;

6. Not be necessary for life support;

7. Meet applicable standards of manufacture, design and installation; and

8. Exclude those items which are not of direct medical or remedial benefit to a participant[an ABI recipient];

(o) Environmental modifications, which shall:

1. Be provided in accordance with applicable state and local building codes;

2. Be provided to a participant[an ABI recipient] if:

a. Ordered by a physician;

b. Prior-authorized by the department;

c. Specified in the participant's approved person-centered service plan and entered into the MWMA[portal][Submitted on a Request for Equipment form, MAP-95,] by the participant's[a] case manager or support broker;

d.[Specified in an ABI recipient's approved plan of care; e.] Necessary to enable a participant[an ABI recipient] to function with greater independence within his or her home; and

e.[f.] Without the modification, the participant[ABI recipient] would require institutionalization;

3. Not include a vehicle modification;

4. Be limited to no more than \$2,000 for a participant[an ABI recipient] in a twelve (12) month period; and

5. If entailing:

a. Electrical work, be provided by a licensed electrician; or

b. Plumbing work, be provided by a licensed plumber;

(p) An assessment, which shall:

1. Be a comprehensive assessment which shall identify:

a. A participant's[An ABI waiver recipient's] needs; and

b. Services that a participant's[an ABI recipient's] family cannot manage or arrange for the participant[recipient];

2. Evaluate a participant's[an ABI waiver recipient's] physical health, mental health, social supports, and environment;

3. Be requested by:

a. An individual requesting ABI waiver services;

b. A family member of the individual requesting ABI services;

or

c. A legal representative of the individual requesting ABI services;

4. Be conducted:

a. By an ABI case manager or support broker; and

b. Within seven (7) calendar days of receipt of the request for an assessment;

5. Include at least one (1) face-to-face contact in the participant's[ABI waiver recipient's] home between the assessor, the participant[ABI waiver recipient], and, if appropriate, the participant's[recipient's] family; and

6. Not be reimbursable if the individual no longer meets ABI program eligibility requirements; or

(q) A reassessment, which shall:

1. Be performed at least once every twelve (12) months;

2. Be conducted:

a. Using the same procedures as for an assessment; and

- b. By an ABI case manager or support broker;
- 3. Be timely conducted to enable the results to be submitted to the department within three (3) weeks prior to the expiration of the current level of care certification to ensure that certification is consecutive;
- 4. Not be reimbursable if the individual no longer meets ABI program eligibility requirements; and
- 5. Not be retroactive.

Section 7.[5.] Exclusions of the Acquired Brain Injury Waiver Program. A condition included in the following list shall not be considered an acquired brain injury requiring specialized rehabilitation:

- (1) A stroke treatable in a nursing facility providing routine rehabilitation services;
- (2) A spinal cord injury for which there is no known or obvious injury to the intracranial central nervous system;
- (3) Progressive dementia or another condition related to mental impairment that is of a chronic degenerative nature, including senile dementia, organic brain disorder, Alzheimer's Disease, alcoholism or another addiction;
- (4) A depression or a psychiatric disorder in which there is no known or obvious central nervous system damage;
- (5) A birth defect;
- (6) An intellectual disability[Mental retardation] without an etiology to an acquired brain injury;
- (7) A condition which causes an individual to pose a level of danger or an aggression which is unable to be managed and treated in a community; or
- (8) Determination that the participant[recipient] has met his or her maximum rehabilitation potential.

Section 8.[6.] Incident Reporting Process. (1)(a) There shall be two (2) classes of incidents.

(b) The following shall be the two (2) classes of incidents:

- 1. An incident; or
- 2. A critical incident.

(2) An incident shall be any occurrence that impacts the health, safety, welfare, or lifestyle choice of a participant and includes:

- (a) A minor injury;
- (b) A medication error without a serious outcome; or
- (c) A behavior or situation which is not a critical incident.

(3) A critical incident shall be an alleged, suspected, or actual occurrence of an incident that:

(a) Can reasonably be expected to result in harm to a participant; and

(b) Shall include:

- 1. Abuse, neglect, or exploitation;
- 2. A serious medication error;
- 3. Death;
- 4. A homicidal or suicidal ideation;
- 5. A missing person; or
- 6. Other action or event that the provider determines may result in harm to the participant.

(4)(a) If an incident occurs, the ABI provider shall:

- 1. Report the incident by making an entry into the MWMA[portal] that includes details regarding the incident; and
- 2. Be immediately assessed for potential abuse, neglect, or exploitation.

(b) If an assessment of an incident indicates that the potential for abuse, neglect, or exploitation exists:

1. ~~The individual who discovered or witnessed the incident shall immediately act to ensure the health, safety, or welfare of the at-risk participant;~~

2. The incident shall immediately be considered a critical incident;

2.[3.] The critical incident procedures established in subsection (5) of this section shall be followed; and

3.[4.] The ABI provider shall report the incident to the participant's case manager and participant's guardian, if the participant has a guardian, within twenty-four (24) hours of discovery of the incident.

(5)(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 via the MWMA[portal] by the individual who witnessed or discovered the critical incident within eight (8) hours of discovery.

(c) The ABI 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) Axis I diagnosis or diagnoses;

(ii) Axis II diagnosis or diagnoses;

(iii) Axis III diagnosis or diagnoses;

(iv) A listing of recent medical concerns;

(v) An analysis of causal factors; and

(vi) Recommendations for preventing future occurrences.

(6) ~~If a critical incident does not require reporting of abuse, neglect, or exploitation, the critical incident shall be reported via the MWMA[portal] within eight (8) hours of discovery.~~

(7)(a) Following a death of a participant receiving ABI services from an ABI provider, the ABI provider 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. The most recent psychological evaluation of the participant;

9. A full life history of the participant including any update from the last version of the life history;

10. 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;

11. Emergency medical services notes regarding the participant if available;

12. The police report if available;

13. A copy of:

a. The participant's advance directive, medical order for scope of treatment, living will, or health care directive if applicable;

b. Any functional assessment of behavior or positive behavior support plan regarding the participant that has been in place over any part of the past twelve (12) months; and

c. The cardiopulmonary resuscitation and first aid card for any ABI provider's staff member who was present at the time of the incident that resulted in the participant's death;

14. A record of all medical appointments or emergency room visits by the participant within the past twelve (12) months; and

15. A record of any crisis training for any staff member present at the time of the incident that resulted in the participant's death.

(7)(8)(a) An ABI provider shall report a medication error to the

MWMA[portal].

(b) An ABI provider shall document all medication error details on a medication error log retained on file at the ABI provider site[documented on an Incident Report form.

(2) There shall be three (3) classes of incidents as follows:

(a) A Class I incident which shall:

1. Be minor in nature and not create a serious consequence;

2. Not require an investigation by the provider agency;

3. Be reported to the case manager or support broker within twenty-four (24) hours;

4. Be reported to the guardian as directed by the guardian; and

5. Be retained on file at the provider and case management or support brokerage agency;

(b) A Class II incident which shall:

1.a. Be serious in nature; or

b. Include a medication error;

2. Require an investigation which shall be initiated by the provider agency within twenty-four (24) hours of discovery and shall involve the case manager or support broker; and

3. Be reported to the following by the provider agency:

a. The case manager or support broker within twenty-four (24) hours of discovery;

b. The guardian within twenty-four (24) hours of discovery; and

c. BISB within twenty-four (24) hours of discovery followed by a complete written report of the incident investigation and follow-up within ten (10) calendar days of discovery; and

(c) A Class III incident which shall:

1.a. Be grave in nature;

b. Involve suspected abuse, neglect or exploitation;

c. Involve a medication error which requires a medical intervention or hospitalization;

d. Be an admission to an acute or psychiatric hospital;

e. Involve the use of a chemical or physical restraint; or

f. Be a death;

2. Be immediately investigated by the provider agency, and the investigation shall involve the case manager or support broker; and

3. Be reported by the provider agency to:

a. The case manager or support broker within eight (8) hours of discovery;

b. DCBS, immediately upon discovery, if involving suspected abuse, neglect, or exploitation in accordance with KRS Chapter 209;

c. The guardian within eight (8) hours of discovery; and

d. BISB, within eight (8) hours of discovery, followed by a complete written report of the incident investigation and follow-up within seven (7) calendar days of discovery. If an incident occurs after 5 p.m. EST on a weekday or occurs on a weekend or holiday, notification to BISB shall occur on the following business day.

(3) The following documentation with a complete written report shall be submitted for a death:

(a) The plan of care in effect at the time of death;

(b) The list of prescribed medications, including PRN medications, in effect at the time of death;

(c) The crisis plan in effect at the time of death;

(d) Medication administration review (MAR) forms for the current and previous month;

(e) Staff notes from the current and previous month including details of physician and emergency room visits;

(f) Any additional information requested by the department;

(g) A coroner's report; and

(h) If performed, an autopsy report].

Section 9.7. ABI Waiting List. (1) An individual of age eighteen (18) years or older applying for an ABI waiver service shall be placed on a statewide waiting list which shall be maintained by the department.

(2) In order to be placed on the ABI waiting list, an individual or individual's representative shall:

(a) Apply for 1915(c) home and community based waiver services via the MWMA[portal];

(b) Complete and upload into the MWMA[portal] a MAP – 115 Application Intake – Participant Authorization; and

(c) Upload to the MWMA[portal] [submit to the department a

completed MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver Services Program, and] a completed MAP-10, Waiver Services – Physician's Recommendation that has been signed by a physician.

(3) The order of placement on the ABI waiting list shall be determined by the:

(a) Chronological date of complete application information regarding the individual being entered into the MWMA[portal]; [receipt of the completed MAP-10, Waiver Services – Physician's Recommendation,] and

(b) [by] Category of need.

(4) The ABI waiting list categories of need shall be emergency or nonemergency.

(5) To be placed in the emergency category of need, an individual shall be determined by the emergency review committee to meet the emergency category criteria established in subsection (8) of this section.

(6) The emergency review committee shall:

(a) Be comprised of three (3) individuals from the department:

1. Who shall each have professional or personal experience with brain injury or cognitive disabilities; and

2. None of whom shall be supervised by the branch manager of the department's acquired brain injury branch; and

(b) Meet during the fourth (4th) week of each month to review and consider applications for the acquired brain injury waiver program to determine if applicants meet the emergency category of need criteria established in subsection (8) of this subsection.

(7) An individual's application via the MWMA[portal] shall be completed [A completed MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver Services Program, and a completed MAP-10, Waiver Services – Physician's Recommendation for an ABI waiting list applicant shall be submitted to the department] no later than three (3) business days prior to the fourth (4th) week of each month in order to be considered by the emergency review committee during that month's emergency review committee meeting.

(8) An applicant shall meet the emergency category of need criteria if the applicant is currently demonstrating behavior related to his or her acquired brain injury:

(a) That places the individual, caregiver, or others at risk of significant harm; or

(b) Which has resulted in the applicant being arrested.

(9) An applicant who does not meet the emergency category of need criteria established in subsection (8) of this subsection shall be considered to be in the nonemergency category of need.

(10) In determining chronological status of an applicant, the original date of the individual's complete application information being entered into the MWMA[portal] [receipt of the MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver Services Program, and the MAP-10, Waiver Services – Physician's Recommendation,] shall:

(a) Be maintained; and

(b) Not change if the [an] individual is moved from one (1) category of need to another.

(11) A written statement by a physician or other qualified mental health professional shall be required to support the validation of risk of significant harm to a recipient or caregiver.

(12) Written documentation by law enforcement or court personnel shall be required to support the validation of a history of arrest.

(13) [If multiple applications are received on the same date, a lottery shall be held to determine placement on the waiting list within each category of need.

(14) A written notification of placement on the waiting list shall be mailed to the individual or his or her legal representative and case management provider if identified.

(14) [(45)] Maintenance of the ABI waiting list shall occur as follows:

(a) The department shall, at a minimum, annually update the waiting list during the birth month of an individual;

(b) If an individual is removed from the ABI waiting list, written notification shall be mailed by the department to the individual and his or her legal representative and also the ABI case manager; and

(c) The requested data shall be received by the department within thirty (30) days from the date on the written notice required by subsection (13)(14) of this section.

(15)(16) Reassignment of an applicant's category of need shall be completed based on the updated information and validation process.

(16)(17) An individual or legal representative may submit a request for consideration of movement from one category of need to another at any time that an individual's status changes.

(17)(18) An individual shall be removed from the ABI waiting list if:

(a) After a documented attempt, the department is unable to locate the individual or his or her legal representative;

(b) The individual is deceased;

(c) The individual or individual's legal representative refuses the offer of ABI placement for services and does not request to be maintained on the waiting list; or

(d) An ABI placement for services offer is refused by the individual or legal representative; or

(e) The individual[and he or she] does not access services without demonstration of good cause[complete the Acquired Brain Injury Waiver Services Program Application form, MAP-26,] within sixty (60) days of the placement allocation date.

1. The individual or individual's legal representative shall have the burden of providing documentation of good cause including:

a. A signed statement by the individual or the legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers.

2. Upon receipt of documentation of good cause, the department shall grant one (1) sixty (60) day extension in writing.

(18)(19) If an individual is removed from the ABI waiting list, written notification shall be mailed by the department to the individual or individual's legal representative and the ABI case manager.

(19)(20) The removal of an individual from the ABI waiting list shall not prevent the submittal of a new application at a later date.

(20)(24) Potential funding allocated for services for an individual shall be based upon:

(a) The individual's category of need; and

(b) The individual's chronological date of placement on the waiting list.

Section 10. Participant[8. Consumer] Directed Services[Option]. (1) Covered services and supports provided to a participant receiving PDS[an ABI recipient participating in CDO] shall include:

(a) Home and community support services;

(b) Community day support services;

(c) Goods or services; or

(d) Financial management.

(2) A home and community support service shall:

(a) Be available only as a participant[under the consumer] directed service[option];

(b) Be provided in the participant's[consumer's] home or in the community;

(c) Be based upon therapeutic goals;

(d) Not be diversional in nature;

(e) Not be provided to an individual if the same or similar service is being provided to the individual via non-PDS[CDO] ABI services; and

(f) 1. Be respite for the primary caregiver; or

2. Be supports and assistance related to chosen outcomes to facilitate independence and promote integration into the community for an individual residing in his or her own home or the home of a family member and may include:

a. Routine household tasks and maintenance;

b. Activities of daily living;

c. Personal hygiene;

d. Shopping;

e. Money management;

f. Medication management;

g. Socialization;

h. Relationship building;

i. Meal planning;

j. Meal preparation;

k. Grocery shopping; or

l. Participation in community activities.

(3) A community day support service shall:

(a) Be available only as a participant-directed service[under the consumer-directed option];

(b) Be provided in a community setting;

(c) Be based upon therapeutic goals;

(d) Not be diversional in nature;

(e) Be tailored to the participant's[consumer's] specific personal outcomes related to the acquisition, improvement, and retention of skills and abilities to prepare and support the participant[consumer] for:

1. Work;

2. Community activities;

3. Socialization;

4. Leisure; or

5. Retirement activities; and

(f) Not be provided to an individual if the same or similar service is being provided to the individual via non-PDS[CDO] ABI services.

(4) Goods or services shall:

(a) Be individualized;

(b) Be utilized to:

1. Reduce the need for personal care; or

2. Enhance independence within the participant's[consumer's] home or community;

(c) Not include experimental goods or services; and

(d) Not include chemical or physical restraints.

(5) To be covered, a PDS[CDO service] shall be specified in a participant's person-centered service[consumer's] plan[of care].

(6) Reimbursement for a PDS[CDO service] shall not exceed the department's allowed reimbursement for the same or a similar service provided in a non-PDS[CDO] ABI setting.

(7) A participant[consumer], including a married participant[consumer], shall choose providers and the choice of PDS[CDO] provider shall be documented in his or her person-centered service plan[of care].

(8)(a) A participant[consumer] may designate a representative to act on the participant's[consumer's] behalf.

(b) The PDS[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 form.

(9) A participant[consumer] may voluntarily terminate PD[CDO] services by completing a MAP-2000 and submitting it to the support broker.

(10) The department shall immediately terminate a participant[consumer] from CDO services if:

(a) Imminent danger to the participant's[consumer's] health, safety, or welfare exists;

(b) The recipient's person-centered service plan[of care] indicates he or she requires more hours of service than the program can provide, thus jeopardizing the recipient's safety or welfare due to being left alone without a caregiver present; or

(c) The recipient, caregiver, family member, or guardian threatens or intimidates a support broker or other PDS[CDO] staff.

(11) 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 person-centered service plan[of care].

(12) Prior 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 form 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 ABI services.

(13) 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) Inform the participant[consumer] of the right to appeal the department's decision in accordance with Section 10 of this administrative regulation.

(14) A PDS[~~CDO~~] provider:

(a) Shall be selected by the participant[consumer];

(b) Shall submit a completed Kentucky Participant-[Consumer] Directed Services[Option] Employee Provider Contract to the support broker;

(c) Shall be eighteen (18) years of age or older;

(d) Shall 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) Shall be able to communicate effectively with the participant, participant's[consumer, consumer] representative, or family;

(f) Shall be able to understand and carry out instructions;

(g) Shall be able to keep records as required by the participant[consumer];

(h) Shall submit to a criminal background check conducted by the Administrative Office of the Courts if the individual is a Kentucky resident or equivalent out-of-state agency if the individual resided or worked outside Kentucky during the year prior to selection as a provider of PDS[~~CDO-services~~];

(i) Shall submit to a check of the Central Registry maintained in accordance with 922 KAR 1:470 and not be found on the registry:

1. A participant[consumer] may employ a provider prior to a Central Registry check result being obtained for up to thirty (30) days; and

2. If a participant[consumer] does not obtain a Central Registry check result within thirty (30) days of employing a provider, the participant[consumer] shall cease employment of the provider until a favorable result is obtained;

(j) Shall submit to a check of the:

1. Nurse Aide Abuse Registry maintained in accordance with 906 KAR 1:100 and not be found on the registry; and

2. Caregiver Misconduct Registry maintained in accordance with 922 KAR 5:120 and not be found on the registry;

(k) Shall not have pled guilty or been convicted of committing a sex crime or violent crime as defined in KRS 17.165 (1) through (3);

(l) Shall 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];

(m) Shall be approved by the department;

(n) Shall maintain and submit timesheets documenting hours worked; and

(o) Shall be a friend, spouse, parent, family member, other relative, employee of a provider agency, or other person hired by the participant[consumer].

(15) A PDS provider may use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of subsection (14)(h), (i), and (j) of this section.

(16) A parent, parents combined, or a spouse shall not provide more than forty (40) hours of services in a calendar week (Sunday through Saturday) regardless of the number of family members who receive waiver services.

(17)(14)(a)1. 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].

2. If no historical cost exists for the participant[consumer], the participant's[consumer's] budget shall equal the average per capita historical costs of ABI recipients minus five (5) percent.

(b) Cost of services authorized by the department for the individual's prior year person-centered service plan[of-care] but not utilized may be added to the budget if necessary to meet the individual's needs.

(c) The department may 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 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 recipient's relocation.

(f) A participant's[consumer's] budget shall not exceed the average per capita cost of services provided to individuals with a brain injury in a nursing facility.

(18)(17) Unless approved by the department pursuant to subsection (16)(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.

(19)(a)(18) A support broker shall:

1.(a) Provide needed assistance to a participant[consumer] with any aspect of PDS[~~CDO~~] or blended services;

2.(b) Be available to a participant[consumer] by phone or in person:

a.1- Twenty-four (24) hours per day, seven (7) days per week; and

b.2- To assist the participant[consumer] in obtaining community resources as needed;

3.(c) Comply with applicable federal and state laws and requirements;

4.(d) Continually monitor a participant's[consumer's] health, safety, and welfare; and

5.(e) Complete or revise a person-centered service plan in accordance with Section 4 of this administrative regulation[of-care using the Person-Centered Planning: Guiding Principles].

(b)(20)(19) For a PDS[~~CDO~~] participant, a support broker may conduct an assessment or reassessment.

(c) Services provided by a supporter broker shall meet the conflict free requirements established for case management in Section 5(4) of this administrative regulation.

(20)(21)(20) Financial management shall:

(a) Include managing, directing, or dispersing a participant's[consumer's] funds identified in the participant's[consumer's] approved PDS[~~CDO~~] budget;

(b) Include payroll processing associated with the individual hired by a participant[consumer] or the participant's[consumer's] representative;

(c) Include:

1. Withholding local, state, and federal taxes; and

2. Making payments to appropriate tax authorities on behalf of a participant[consumer];

(d) Be performed by an entity that:

1. Is enrolled as a Medicaid provider in accordance with 907 KAR 1:672;
2. Is currently compliant with 907 KAR 1:671;
3. Has at least two (2) years of experience working with individuals with an acquired brain injury; and
- (e) Include preparation of fiscal accounting and expenditure reports for:
 1. A participant[consumer] or participant's[consumer's] representative; and
 2. The department.

Section 11.[9-] Electronic Signature Usage.[(4)] The creation, transmission, storage, or other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.[(2) An ABI provider which chooses to use electronic signatures shall:

- (a) Develop and implement a written security policy which 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 which 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.]

Section 12.[10-] Appeal Rights. (1) An appeal of a department decision regarding a participant[recipient] or applicant based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision regarding a provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

Section 13.[14-] Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) ~~"MAP-109, Prior Authorization for Waiver Services", July 2008 edition;~~
- (b) ~~"MAP-24C, Admittance, Discharge or Transfer of an Individual in the ABI/SCL Program", August 2010 edition;~~
- (c) ~~"MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver Services Program", July 2008 edition;~~
- (d) ~~"MAP-95, Request for Equipment Form", May 2010 edition;~~
- (e) ~~"MAP-10, Waiver Services – Physician's Recommendation", June 2015[August 2010 edition];~~
- (b) "MAP – 115 Application Intake – Participant Authorization", May 2015;
- (c) "MAP – 116 Service Plan – Participant Authorization", May 2015;
- (d) "MAP – 531 Conflict-Free Case Management Exemption", October[May] 2015;
- (f) ~~"Incident Report", July 2008 edition;~~
- (g) ~~"MAP-2000, Initiation/Termination of Participant-[Consumer] Directed Services[Option] (CDO)", June 2015[July 2008 edition];~~
- (h) "MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form", June 2015[July 2008 edition];

(g) ~~(f)~~ "Family Guide to the Rancho Levels of Cognitive Functioning", August 2006[edition];

(h) ~~(g)~~ "MAP-351, Medicaid Waiver Assessment", July 2015[2008 edition];

(i) ~~(h)~~ "Mayo-Portland Adaptability Inventory-4", March 2003[edition];

(j) ~~(i)~~ "Person-Centered Planning: Guiding Principles", March 2005 edition;(m) "MAP-4100a", September 2010 [edition]; and

(k) ~~(n)~~ "Kentucky Participant-[Consumer] Directed Services [Option] Employee Provider Contract", June 2015[May 4, 2007 edition].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) ~~(i)~~ 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: November 12, 2015

FILED WITH LRC: November 13, 2015 at noon

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

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Community Alternatives

(As Amended at ARRS, December 9, 2015)

907 KAR 3:210. Acquired brain injury long-term care waiver services and reimbursement.

RELATES TO: KRS 17.165, 202A.011, 205.5605, 205.5607, 205.8451, 205.8477, 314.011, 319.010(8), 319A.010, 319.056, 327.010, 334A.020, 335.300(2), 335.500(3), 620.030, 42 C.F.R. 441 Subpart G, 455 Subpart B, 42 U.S.C. 1396a, 1396b, 1396d, 1396n

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.5606(1).

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law 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 participant[consumer]-directed services program to provide an option for the home and community-based services waivers. This administrative regulation establishes the coverage provisions relating to home- and community- based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services and including a participant[consumer]-directed services program pursuant to KRS 205.5606. The purpose of acquired brain injury long term care waiver services is to provide an alternative to institutional care to individuals with an acquired brain injury who require maintenance services.

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) "ABI" means an acquired brain injury.

(3) ~~(2)~~ "ABI provider" means an entity that meets the criteria established in Section 2 of this administrative regulation. (3) "ABI recipient" means an individual who meets the criteria established in Section 3 of this administrative regulation.]

(4) "ABIB" means the Acquired Brain Injury Branch in the

Division of Community Alternatives, in the Cabinet for Health and Family Services.

(5) "Acquired brain injury long term care waiver service" means a home and community based waiver service for an individual who requires long term maintenance and has acquired a brain injury involving the central nervous system that resulted from:

- (a) An injury from a physical trauma;
- (b) Anoxia or a hypoxic episode; or
- (c) Allergic condition, toxic substance, or another acute medical incident.

(6) "ADHC services" means adult day health care services provided on a regularly scheduled basis that ensure optimal functioning of a participant[an ABI recipient] who does not require twenty-four (24) hour care in an institutional setting.

(7) "Assessment" or "reassessment" means a comprehensive evaluation of abilities, needs, and services that[is]:

- (a) Serves as the basis[Completed on a MAP 351; and
- (b) Submitted to the department:

4-] for a level of care determination;

(b) Is completed on a MAP 351, Medicaid Waiver Assessment that is uploaded into the MWMA[portal]; and

(c) Occurs at least once[2- No less than] every twelve (12) months thereafter.

(8) "Axis I diagnosis" means a clinical disorder or other condition which may be a focus of clinical attention.

(9) "Behavior intervention committee" or "BIC" means a group of individuals established to evaluate the technical adequacy of a proposed behavior intervention for a participant[an ABI recipient].

(10) "Blended services" means a nonduplicative combination of ABI waiver services identified in Section 6[4] of this administrative regulation and participant-[consumer] directed[option] services identified in Section 10[8] of this administrative regulation provided in accordance with the participant's[recipient's] approved person-centered service plan[of care].

(11) "Board certified behavior analyst" means an independent practitioner who is certified by the Behavior Analyst Certification Board, Inc.

(12) "Case manager" means an individual who manages the overall development and monitoring of a participant's person-centered service[recipient's] plan[of care].

(13)[Consumer] is defined by KRS 205.5605(2).

(14) "Consumer directed option" or "CDO" means an option established by KRS 205.5606 within the home and community based services waiver that allows a recipient to:

- (a) Assist with the design of their programs;
- (b) Choose a provider of services; and
- (c) Direct the delivery of services to meet the recipient's needs.

(15)[(47)] "Covered services and supports" is defined by KRS 205.5605(3).

(14)[(46)] "Crisis prevention and response plan" means a plan developed to identify any potential risk to a participant[recipient] and to detail a strategy to minimize the risk.

(15)[(47)] "DCBS" means the Department for Community Based Services.

(16)[(48)] "Department" means the Department for Medicaid Services or its designee.

(17)[(49)] "Family training" means providing to the family or other responsible person:

- (a) Interpretation or explanation of medical examinations and procedures;
- (b) Treatment regimens;
- (c) Use of equipment specified in the person-centered service plan[of care]; or
- (d) Advising the family how to assist the participant.

(18)[(20)] "Good cause" means a circumstance beyond the control of an individual which affects the individual's ability to access funding or services, including:

- (a) Illness or hospitalization of the individual which is expected to last sixty (60) days or less;
- (b) Death or incapacitation of the primary caregiver;
- (c) Required paperwork and documentation for processing in accordance with Section 3 of this administrative regulation that has not been completed but is expected to be completed in two (2)

weeks or less; or

(d) The individual not having been accepted for services or placement by a potential provider despite the individual or individual's legal representative having made diligent contact with the potential provider to secure placement or access services within sixty (60) days.

(19)[(24)] "Human rights committee" means a group of individuals established to protect the rights and welfare of a participant[an ABI recipient].

(20)[(22)] "Human rights restriction" means the denial of a basic right or freedom to which all humans are entitled, including the right to life and physical safety, civil and political rights, freedom of expression, equality before the law, social and cultural justice, the right to participate in culture, the right to food and water, the right to work, and the right to education.

(21)[(23)] "Interdisciplinary team" means a group of individuals that assist in the development and implementation of an ABI recipient's plan of care consisting of:

- (a) The ABI recipient and legal representative if appointed;
- (b) A chosen ABI service provider;
- (c) A case manager; and
- (d) Others as designated by the ABI recipient.

(24)] "Licensed marriage and family therapist" or "LMFT" is defined by KRS 335.300(2).

(22) "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.

(23)[(25)] "Licensed practical nurse" or "LPN" means a person who:

- (a) Meets the definition of KRS 314.011(9); and
- (b) Works under the supervision of a registered nurse.

(24)[(26)] "Licensed professional clinical counselor" or "LPCC" is defined by KRS 335.500(3).

(25)[(27)] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(26) "MWMA[portal]" means the Kentucky Medicaid Waiver Management Application internet portal located at <http://chfs.ky.gov/dms/mwma.htm>.

(27)[(28)] "Nursing supports" means training and monitoring of services by a registered nurse or a licensed practical nurse.

(28)[(29)] "Occupational therapist" is defined by KRS 319A.010(3).

(29)[(30)] "Occupational therapy assistant" is defined by KRS 319A.010(4).

(30) "Participant" means an individual who meets the criteria established in Section 3 of this administrative regulation.

(31) "Participant-directed services" or "PDS" means an option established by KRS 205.5606 within the 1915(c) home and community based service waiver programs which allows participants to receive non-medical services in which the individual:

- (a) Assists with the design of the program;
- (b) Chooses the providers of services; and
- (c) Directs the delivery of services to meet their needs.

(32) "Person-centered service plan" means a written individualized plan of services for a participant that meets the requirements established in Section 4 of this administrative regulation.

(33) "Person-centered team" means the participant, the participant's guardian or representative, and other individuals who are natural or paid supports, and who:

- (a) Recognize that evidenced based decisions are determined within the basic framework of what is important for the participant and within the context of what is important to the participant based on informed choice;
- (b) Work together to identify what roles they will assume to assist the participant in becoming as independent as possible in meeting the participant's needs; and
- (c) Include providers who receive payment for services who

shall:

1. Be active contributing members of the person centered team meetings;

2. Base their input upon evidence-based information; and

3. Not request reimbursement for person centered team meetings.

(34)[(31)] "Physical therapist" is defined by KRS 327.010(2).

(35)[(32)] "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

(36)[(33)] "Pro re nata" or "PRN" means as needed.

(37)[(34)] "Psychologist" is defined by KRS 319.010(8).

(38)[(35)] "Psychologist with autonomous functioning" means an individual who is licensed in accordance with KRS 319.056.

(39)[(36)] "Qualified mental health professional" is defined by KRS 202A.011(12).

(40)[(37)] "Registered nurse" or "RN" means a person who:

(a) Meets the definition established in KRS 314.011(5); and

(b) Has one (1) year or more experience as a professional nurse.

(41)[(38)] "Representative" is defined by KRS 205.5605(6).

(42)[(39)] "Speech-language pathologist" is defined by KRS 334A.020(3).

(43)[(40)] "Support broker" means an individual 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 participant-directed services[CDO].

Section 2. Non-PDS[CDO] Provider Participation Requirements. (1) In order to provide an ABI waiver service in accordance with Section 4 of this administrative regulation, excluding a participant[consumer]-directed[option] service, an ABI provider shall[be]:

(a) Be enrolled as a Medicaid provider in accordance with 907 KAR 1:671;

(b) Be located within an office in the Commonwealth of Kentucky; and

(c)1. Be a licensed provider in accordance with:

a. 902 KAR 20:066, if an adult day health care provider;

b. 902 KAR 20:081, if a home health service provider; or

c. 902 KAR 20:091, if a community mental health center; or

2. Be certified by the department in accordance with 907 KAR 12:010[1:145], Section 3, or 907 KAR 3:090, Section 2, if a provider type is not listed in subparagraph 1. of this paragraph; and

(d) Complete and submit a MAP-4100a to the department.

(2) An ABI provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672;

(c)[and (b)] 907 KAR 1:673;

(d) 907 KAR 7:005;

(e) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164; and

(f) 42 U.S.C. 1320d to 1320d-8.

(3) An ABI provider shall have a governing body that shall be:

(a) A legally-constituted entity within the Commonwealth of Kentucky; and

(b) Responsible for the overall operation of the organization including establishing policy that complies with this administrative regulation concerning the operation of the agency and the health, safety, and welfare of a participant[an ABI recipient] served by the agency.

(4) An ABI provider shall:

(a) Unless providing participant-directed services[participating in the CDO program], ensure that an ABI waiver service is not provided to a participant[an ABI recipient] by a staff member of the ABI provider who has one (1) of the following blood relationships to the participant[ABI recipient]:

1. Child;

2. Parent;

3. Sibling; or

4. Spouse;

(b) Not enroll a participant[an ABI recipient] for whom the ABI provider cannot meet the service needs; and

(c) Have and follow written criteria in accordance with this administrative regulation for determining the eligibility of an individual for admission to services.

(5)[An ABI provider shall comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 pursuant to 42 U.S.C. 1320d to 1320d-8.

(6)] An ABI provider shall meet the following requirements if responsible for the management of a participant[s[an ABI recipient's] funds:

(a) Separate accounting shall be maintained for each participant[ABI recipient] or for the participant's[recipient's] interest in a common trust or special account;

(b) Account balance and records of transactions shall be provided to the participant[ABI recipient] or legal representative on a quarterly basis; and

(c) The participant[ABI recipient] or legal representative shall be notified if a large balance is accrued that may affect Medicaid eligibility.

(6)[(7)] An ABI provider shall have a written statement of its mission and values.

(7)[(8)] An ABI provider shall have written policies and procedures for communication and interaction with a family and legal representative of a participant[an ABI recipient] which shall:

(a) Require a timely response to an inquiry;

(b) Require the opportunity for interaction with direct care staff;

(c) Require prompt notification of any unusual incident;

(d) Permit visitation with the participant[ABI recipient] at a reasonable time and with due regard for the participant's[ABI recipient's] right of privacy;

(e) Require involvement of the legal representative in decision-making regarding the selection and direction of the service provided; and

(f) Consider the cultural, educational, language, and socioeconomic characteristics of the participant[ABI recipient].

(8)(a)[(9)] An ABI provider shall have written policies and procedures for all settings that assure the participant has:

1. Rights of privacy, dignity, respect, and freedom from coercion and restraint; and

2. Freedom of choice:

a. As defined by the experience of independence, individual initiative, or autonomy in making life choices, both in small everyday matters (what to eat or what to wear), and in large, life-defining matters (where and with whom to live and work); and

b. Including the freedom to choose:

(i) Services;

(ii) Providers;

(iii) Settings from among setting options including non-disability specific settings; and

(iv) Where to live with as much independence as possible and in the most community-integrated environment.

(b) The setting options and choices shall be:

1. Identified and documented in the person-centered service plan; and

2. Based on the participant's needs and preferences.

(c) For a residential setting, the resources available for room and board shall be documented in the person-centered service plan.

(9) An ABI provider shall have written policies and procedures for residential settings that assure the participant has:

(a) Privacy in the sleeping unit and living unit in a residential setting;

(b) An option for a private unit in a residential setting;

(c) A unit with lockable entrance doors and with only the participant and appropriate staff having keys to those doors;

(d) A choice of roommate or housemate;

(e) The freedom to furnish or decorate the sleeping or living units within the lease or other agreement;

(f) Visitors of the participant's choosing at any time and access to a private area for visitors; and

(g) Physical accessibility, defined as being easy to approach, enter, operate, or participate in a safe manner and with dignity by a person with or without a disability.

1. Settings considered to be physically accessible shall also meet the Americans with Disabilities Act standards of accessibility for all participants served in the setting.

2. All communal areas shall be accessible to all participants as well as have a means to enter the building (i.e. keys, security codes, etc.).

3. Bedrooms shall be accessible to the appropriate persons.

4.a. Any modification of an additional residential condition except for the setting being physically accessible requirement shall be supported by a specific assessed need and justified in the participant's person-centered service plan.

b. Regarding a modification, the following shall be documented in a participant's person-centered service plan:

(i) That the modification is the result of an identified specific and individualized assessed need;

(ii) Any positive intervention or support used prior to the modification;

(iii) Any less intrusive method of meeting the participant's need that was tried but failed;

(iv) A clear description of the condition that is directly proportionate to the specific assessed need;

(v) Regular collection and review of data used to measure the ongoing effectiveness of the modification;

(vi) Time limits established for periodic reviews to determine if the modification remains necessary or should be terminated;

(vii) Informed consent by the participant or participant's representative for the modification; and

(viii) An assurance that interventions and supports will cause no harm to the participant.

(10) [ensure the rights of an ABI recipient by:

(a) Making available a description of the rights and the means by which the rights may be exercised, including the right:

1. To time, space, and opportunity for personal privacy;

2. To retain and use personal possessions; and

3. For a supervised residential care, personal care, companion, or respite provider to communicate, associate and meet privately with a person of the ABI recipient's choice, including:

a. The right to send and receive unopened mail; and

b. The right to private, accessible use of the telephone;

(b) Maintaining a grievance and appeals system;

(c) Complying with the Americans with Disabilities Act pursuant to 28 C.F.R. Part 35; and

(d) Prohibiting the use of:

1. Prone or supine restraint;

2. Corporal punishment;

3. Seclusion;

4. Verbal abuse; or

5. Any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility.

(10) An ABI provider shall maintain fiscal and service records and incident reports for a minimum of six (6) years from the date that a covered service was provided and all records and reports shall be made available to the:

(a) Department;

(b) ABI recipient's selected case manager;

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

(d) General Accounting Office or its designee;

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

(f) Office of the Attorney General or its designee; and

(g) Centers for Medicare and Medicaid Services.

(11) An ABI provider shall cooperate with monitoring visits from monitoring agents.

(12) An ABI provider shall maintain a record for each participant [ABI recipient] served that shall:

(a) Be recorded in permanent ink;

(b) Be free from correction fluid;

(c) Have a strike through for each error which is initialed and dated; and

(d) Contain no blank lines between each entry.

(13) [(43)] A record of each participant [ABI recipient] who is served shall:

(a) Be cumulative;

(b) Be readily available;

(c) Contain a legend that identifies any symbol or abbreviation used in making a record entry;

(d) Contain the following specific information:

1. The participant's [ABI recipient's] name and Medical Assistance Identification Number (MAID);

2. An assessment summary relevant to the service area;

3. The person-centered service plan [of care, MAP-109];

4. The crisis prevention and response plan that shall include:

a. A list containing emergency contact telephone numbers; and
b. The participant's [ABI recipient's] history of any allergies with appropriate allergy alerts for severe allergies;

5. The training objective for any service which provides skills training to the participant [ABI recipient];

6. The participant's [ABI recipient's] medication record, including a copy of the prescription or the signed physician's order and the medication log if medication is administered at the service site;

7. Legally-adequate consent for the provision of services or other treatment including consent for emergency attention which shall be located at each service site;

8. The MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form [—MAP-350—] updated at recertification; and

9. Current level of care certification;

(e) Be maintained by the provider in a manner to ensure the confidentiality of the participant's [ABI recipient's] record and other personal information and to allow the participant [ABI recipient] or legal representative to determine when to share the information;

(f) Be secured against loss, destruction, or use by an unauthorized person ensured by the provider; and

(g) Be available to the participant [ABI recipient] or legal guardian according to the provider's written policy and procedures which shall address the availability of the record.

(13) [(44)] An ABI provider [shall]:

(a) Shall ensure that each new staff person or volunteer performing direct care or a supervisory function has had a tuberculosis (TB) risk assessment performed by a licensed medical professional and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider;

(b) Shall maintain documentation of the annual TB risk assessment or negative TB test result described in paragraph (a) of this subsection for:

1. Existing staff; or

2. A volunteer, if the volunteer performs direct care or a supervisory function;

(c) Shall ensure that an employee or volunteer who tests positive for TB, or has a history of a positive TB skin test, shall be assessed annually by a licensed medical professional for signs or symptoms of active disease;

(d) Shall if it is determined that signs and symptoms of active TB are present, ensure that the employee or volunteer has follow-up testing administered by the employee's or volunteer's physician and that the follow-up test results indicate the employee or volunteer does not have active TB disease;

(e) Shall not permit an individual to work for or volunteer for the provider if the individual has TB or symptoms of active TB;

(f) Shall maintain documentation for an employee or volunteer with a positive TB test to ensure that active disease or symptoms of active disease are not present;

(g) 1. Shall:

a. Prior to the employee's date of hire or the volunteer's date of service, obtain the results of:

(i) A criminal record check from [—4—] the Administrative Office of the Courts [—] or [2—] the equivalent out-of-state agency if the individual resided, worked, or volunteered outside Kentucky during the year prior to employment or volunteer service in Kentucky;

(ii) [(h) obtain the result of] A Nurse Aide Abuse Registry check

as described in 906 KAR 1:100; and

(iii) A Caregiver Misconduct Registry check as described in 922 KAR 5:120; and

b. Within thirty (30) days of the date of hire or service as a volunteer, obtain the results of a Central Registry check as described in 922 KAR 1:470; 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;

(h) Shall[(i)] annually, for twenty-five (25) percent of employees randomly selected, obtain the results of a criminal record check from:

1. The Kentucky Administrative Office of the Courts; or
2. The equivalent out-of-state agency, if the individual resided or worked outside of Kentucky during the year prior to employment;

(i) Shall[(j)] Within thirty (30) days of the date of hire or service as a volunteer, obtain the results of a central registry check as described in 922 KAR 1:470;

(k) evaluate and document the performance of each employee upon completion of the agency's designated probationary period, and at a minimum, annually thereafter;

(l) [(k)] Conduct and document periodic and regularly scheduled supervisory visits of all professional and paraprofessional direct service staff at the service site in order to ensure that high quality, appropriate services are provided to the participant[ABI recipient];

(k) [(m)] Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a prior conviction of an offense delineated in KRS 17.165(1) through (3) or prior felony conviction;

(l) [(n)] Not permit an employee or volunteer to transport a participant[an ABI recipient], if the employee or volunteer has a conviction of Driving under the Influence (DUI) during the past year;

(m) [(o)] Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a conviction of abuse or sale of illegal drugs during the past five (5) years;

(n) [(p)] Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a conviction of abuse, neglect, or exploitation;

(o) [(q)] Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual has a Cabinet for Health and Family Services finding of:

1. Child abuse or neglect pursuant to the Central Registry; or
2. Adult abuse, neglect, or exploitation pursuant to the

Caregiver Misconduct Registry; and

(p) [(r)] Not employ or permit an individual to serve as a volunteer performing direct care or a supervisory function, if the individual is listed on the:

1. Nurse Aide Abuse Registry pursuant to 906 KAR 1:100; or
2. Kentucky Caregiver Misconduct Registry pursuant to 922

KAR 5:120.

(14) [(15)] An ABI provider shall:

(a) Have an executive director who:

1. Is qualified with a bachelor's degree from an accredited institution in administration or a human services field; and
2. Has a minimum of one (1) year of administrative responsibility in an organization which served an individual with a disability; and

(b) Have adequate direct contact staff who:

1. Is eighteen (18) years of age or older and has a high school diploma or GED; and
2. Has a minimum of two (2) years of experience in providing a service to an individual with a disability or has successfully completed a formalized training program approved by the department.

(15) [(16)] An ABI provider shall establish written guidelines which:

(a) Ensure the health, safety, and welfare of the participant[ABI recipient];

(b) Address maintenance of sanitary conditions;

(c) Ensure each site operated by the provider is equipped with:

1. Operational smoke detectors placed in strategic locations;

and

2. A minimum of two (2) correctly charged fire extinguishers placed in strategic locations, one (1) of which shall be capable of extinguishing a grease fire and with a rating of 1A10BC;

(d) Ensure the availability of a supply of hot and cold running water with the water temperature at a tap, for water used by the participant[ABI recipient], not exceeding 120 degrees Fahrenheit, for a Supervised Residential Care, Adult Day Training, or Adult Day Health provider;

(e) Ensure that the nutritional needs of the participant[ABI recipient] are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

(f) Ensure that staff who supervise waiver participants in medication administration[:];

1. Unless the employee is a licensed or registered nurse, have been provided specific training by a licensed medical professional and competency has been documented on cause and effect and proper administration and storage of medication[.The training shall be provided by a nurse, pharmacist, or medical doctor]; and

2. Document on a medication log all medication administered, including:

a. Self-administered and over-the-counter drugs; and

b. The date, time, and initials of the person who administered the medication;

(g) Ensure that the medication shall be:

1. Kept in a locked container;

2. Kept under double lock[,] if it is a controlled substance;

3. Carried in a proper container labeled with medication, dosage, and time of administration, if administered to the participant[ABI recipient] or self-administered at a program site other than the participant's[recipient's] residence;

4. Documented on a medication administration form; and

5. Properly disposed of if it is discontinued; and

(h) Establish policy and procedures for monitoring of medication administration, which shall be approved by the department before services begin to ensure that medication administration will be properly monitored under the policies and procedures as approved by the department.

(16) [(17)] An ABI provider shall establish and follow written guidelines for handling an emergency or a disaster which shall:

(a) Be readily accessible on site;

(b) Include an evacuation drill:

1. To be conducted and documented at least quarterly; and

2. For a residential setting, scheduled to include a time when a participant[an ABI recipient] is asleep;

(c) Mandate:

1. That the result of an evacuation drill be evaluated and modified as needed; and

2. That results of the prior years' evacuation drills be maintained on site.

(17) [(18)] An ABI provider shall:

(a) Provide orientation for each new employee which shall include the agency's:

1. Mission;

2. Goals;

3. Organization; and

4. Policies and procedures;

(b) Require documentation of all training provided which shall include the:

1. Type of training;

2. Name and title of the trainer;

3. Length of the training;

4. Date of completion; and

5. Signature of the trainee verifying completion;

(c) Ensure that each employee completes ABI training consistent with the curriculum that has been approved by the department, prior to working independently with a participant[an ABI recipient], which shall include:

1. Required orientation in brain injury;

2. Identifying and reporting:

a. Abuse;

b. Neglect; and

- c. Exploitation;
- 3. Unless the employee is a licensed or registered nurse, first aid provided by an individual certified as a trainer by:
 - a. The American Red Cross; or
 - b. Other nationally accredited organization; and
- 4. Coronary pulmonary resuscitation provided by an individual certified as a trainer by:
 - a. The American Red Cross; or
 - b. Other nationally accredited organization;
- (d) Ensure that each employee completes six (6) hours of continuing education in brain injury annually, following the first year of service;
- (e) Not be required to receive the training specified in paragraph (c)1 of this subsection if the provider is a professional who has, within the prior five (5) years, attained 2,000 hours of experience providing services to a person with a primary diagnosis of a brain injury including:
 - 1. An occupational therapist or occupational therapy assistant providing occupational therapy;
 - 2. A psychologist or psychologist with autonomous functioning providing psychological services;
 - 3. A speech-language pathologist providing speech therapy;
 - 4. A board certified behavior analyst; or
 - 5. A physical therapist or physical therapist assistant providing physical therapy; and
- (f) Ensure that prior to the date of service as a volunteer, an individual receives training which shall include:
 - 1. Required orientation in brain injury as specified in paragraph (c)1, 2, 3, and 4 of this subsection;
 - 2. Orientation to the agency;
 - 3. A confidentiality statement; and
 - 4. Individualized instruction on the needs of the participant[ABI recipient] to whom the volunteer shall provide services.
- ~~(18)~~[(19)] An ABI provider shall provide information to a case manager necessary for completion of a Mayo-Portland Adaptability Inventory-4 for each participant[ABI recipient] served by the provider. [(20)] A case management provider shall:
 - (a) Establish a human rights committee which shall:
 - 1. Include an individual:
 - a. With a brain injury or a family member of an individual with a brain injury;
 - b. Not affiliated with the ABI provider; and
 - c. Who has knowledge and experience in human rights issues;
 - 2. Review and approve each plan of care with human rights restrictions at a minimum of every six (6) months;
 - 3. Review and approve, in conjunction with the ABI recipient's team, behavior intervention plans that contain human rights restrictions; and
 - 4. Review the use of a psychotropic medication by an ABI recipient without an Axis-I diagnosis;
 - (b) Establish a behavior intervention committee which shall:
 - 1. Include one (1) individual who has expertise in behavior intervention and is not the behavior specialist who wrote the behavior intervention plan;
 - 2. Be separate from the human rights committee; and
 - 3. Review and approve, prior to implementation and at a minimum of every six (6) months in conjunction with the ABI recipient's team, an intervention plan that contain human rights restrictions; and
 - (c) Complete and submit a Mayo-Portland Adaptability Inventory-4 to the department for each ABI recipient:
 - 1. Within thirty (30) days of the recipient's admission into the ABI program;
 - 2. Annually thereafter; and
 - 3. Upon discharge from the ABI Waiver program.]

Section 3. Participant[ABI Recipient] Eligibility, Enrollment, and Termination. (1)(a) To be eligible to receive a service in the ABI long term care waiver program, an[and] individual shall:

- 1. [(a)] Be at least eighteen (18) years of age;
- 2. [(b)] Have an ABI which necessitates:
 - a. [4.] Supervision;
 - b. [2.] Rehabilitative services; and

- c. [3.] Long term supports; [and]
- 3. [(e)] Have an ABI that involves:
 - a. [4.] Cognition;
 - b. [2.] Behavior; or
 - c. [3.] Physical function; and
- 4. Be screened by the department for the purpose of making a preliminary determination of whether the individual might qualify for ABI waiver services.
 - (b) In addition to the individual meeting the requirements established in paragraph (a) of this subsection, the individual or a representative on behalf of the individual 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 MAP - 115 Application Intake - Participant Authorization.
 - (2)[From inception of the ABI long term care waiver through June 30, 2009, the department shall enroll an individual on a first priority basis, if the individual:
 - (a) Is currently being served in the ABI waiver as established in 907 KAR 3:090 and has reached maximum rehabilitation potential; or
 - (b) Has previously received ABI waiver services as established in 907 KAR 3:090 and is currently in a nursing facility or ICF/MR/DD and meets the eligibility criteria established in this section.
 - (3) From inception through June 30, 2009, after all first priority basis individuals outlined in subsection (2)(a) and (b) of this Section have been enrolled, the department shall enroll the remaining ABI rehabilitation waiver waiting list individuals as described in 907 KAR 3:090, Section 7, who meet the eligibility criteria established in this section.
 - (4) After all individuals have been enrolled pursuant to subsections (2)(a), (2)(b), and (3) of this section,] The department shall utilize a first come, first serve priority basis to enroll an individual who meets the eligibility criteria established in this section.
 - (3) [(5)] If funding is not available, an individual shall be placed on the ABI long term care waiver waiting list in accordance with Section 9[7] of this administrative regulation.
 - (4) [(a)] [(6)] A certification packet shall be entered into the MWMA[portal][submitted to the department] by a case manager or support broker on behalf of the applicant.
 - (b) The packet shall contain:
 - 1. [(a)] A copy of the allocation letter sent to the applicant at the time funding was allocated for the applicant's participation in the ABI Long Term Care Waiver program;
 - 2. A [(b) An Assessment form,] MAP-351, Medicaid Waiver Assessment;
 - 3. [(c)] A statement of the need for ABI long term care waiver services which shall be signed and dated by a physician on a MAP 10, Waiver Services Physician's Recommendation form;
 - 4. [(d)] A MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form[, MAP-350]; and
 - 5. [(e)] A person-centered service plan[of Care form, MAP-109; and
 - (f) The ABI recipient's MAP-24C, Admittance, Discharge or Transfer of an Individual in the ABI/SCL Program form].
 - (5) [(7)] An individual shall receive notification of potential funding allocated for the ABI long term care waiver services for the individual in accordance with this section.
 - (6) [(8)] An individual shall meet the patient status criteria for nursing facility services established in 907 KAR 1:022, including nursing facility services for a brain injury.
 - (7) [(9)] An individual shall:
 - (a) Have a primary diagnosis that indicates an ABI with structural, non-degenerative brain injury;
 - (b) Be medically stable;
 - (c) Meet Medicaid eligibility requirements established in 907 KAR 20:010[1:605];
 - (d) Exhibit:
 - 1. Cognitive damage;
 - 2. Behavioral damage;
 - 3. Motor damage; or

4. Sensory damage;
(e) Have a rating of at least four (4) or above on the Family Guide to the Rancho Levels of Cognitive Functioning, ~~The Revised Levels – Third Edition~~; and

(f) Receive notification of approval from the department.

~~(8)~~~~(40)~~ The basis of an eligibility determination for participation in the ABI long term care waiver program shall be the:

(a) Presenting problem;

(b) Person-centered service plan~~[of care goal]~~;

(c) Expected benefit of the admission;

(d) Expected outcome;

(e) Service required; and

(f) Cost effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.

~~(9)~~~~(41)~~ An ABI long term care waiver service shall not be furnished to an individual if the individual is:

(a) An inpatient of a hospital, nursing facility, or an intermediate care facility for individuals with an intellectual~~[mental retardation or a developmental]~~ disability; or

(b) Receiving a service in another 1915(c) home and community based services waiver program.

~~(10)~~~~(42)~~ The department shall make:

(a) An initial evaluation to determine if an individual meets the nursing facility level of care criteria established in 907 KAR 1:022; and

(b) A determination of whether to admit an individual into the ABI long term care waiver program.

~~(11)~~~~(43)~~ To maintain eligibility as a participant~~[an ABI recipient]~~:

(a) An individual shall maintain Medicaid eligibility requirements established in 907 KAR 20:010~~[4:605]~~;

(b) A reevaluation shall be conducted at least once every twelve (12) months to determine if the individual continues to meet the patient status criteria for nursing facility services established in 907 KAR 1:022; and

(c) Progress toward outcomes identified in the approved person-centered service plan~~[of care]~~ shall not be required.

~~(12)~~~~(14)~~ ~~An ABI case manager or support broker provider shall notify the local DCBS office and the department using a MAP-24C, Admittance, Discharge or Transfer of an Individual in the ABI/SCL Program form, if the ABI recipient is:~~

~~(a) Admitted to the ABI long term care waiver program;~~

~~(b) Discharged from the ABI long term care waiver program;~~

~~(c) Temporarily discharged from the ABI long term care waiver program;~~

~~(d) Admitted to a nursing facility;~~

~~(e) Changing the primary provider; or~~

~~(f) Changing the case management agency.~~

~~(45)~~ The department shall exclude an individual from receiving an ABI long term care waiver service for whom the average cost of ABI waiver service is reasonably expected to exceed the cost of a nursing facility service.

~~(13)~~~~(46)~~ Involuntary termination and loss of an ABI long term care waiver program placement shall be in accordance with 907 KAR 1:563 and shall be initiated if:

(a) An individual fails to initiate an ABI long term care waiver service within sixty (60) days of notification of potential funding without good cause shown. The individual or legal representative shall have the burden of providing documentation of good cause, including:

1. A statement signed by the participant~~[recipient]~~ or legal representative;

2. Copies of letters to providers; and

3. Copies of letters from providers;

(b) A participant~~[An ABI recipient]~~ or legal representative fails to access the required service as outlined in the person-centered service plan~~[of care]~~ for a period greater than sixty (60) consecutive days without good cause shown.

1. The participant~~[recipient]~~ or legal representative shall have the burden of providing documentation of good cause including:

a. A statement signed by the participant~~[recipient]~~ or legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers.

2. Upon receipt of documentation of good cause, the department shall grant one (1) extension period, which shall not exceed sixty (60) days, to the participant~~[ABI recipient]~~ during which time period the participant~~[recipient]~~ shall initiate the ABI long term care waiver services or access the required services as outlined in the person-centered service plan~~[of care]~~. The extension shall be in writing;

(c) A participant~~[An ABI recipient]~~ changes residence outside the Commonwealth of Kentucky;

(d) A participant~~[An ABI recipient]~~ does not meet the patient status criteria for nursing facility services established in 907 KAR 1:022;

(e) A participant~~[An ABI recipient]~~ is no longer able to be safely served in the community; or

(f) A participant~~[An ABI recipient]~~ is no longer actively participating in services within the approved person-centered service plan ~~[of care]~~ as determined by the person-centered~~[interdisciplinary]~~ team.

~~(14)~~~~(47)~~ Involuntary termination of a service to a participant~~[an ABI recipient]~~ by an ABI provider shall require:

(a) Simultaneous notice, which shall:

1. Be sent at least thirty (30) days prior to the effective date of the action, to the:

a. Department;

b. Participant~~[ABI recipient]~~ or legal representative; and

c. Case manager; and

2. Include:

a. A statement of the intended action;

b. The basis for the intended action;

c. The authority by which the action is taken; and

c. The participant's~~[ABI recipient's]~~ right to appeal the intended action through the provider's appeal or grievance process; and

(b) The case manager in conjunction with the provider to:

1. Provide the participant~~[ABI recipient]~~ with the name, address, and telephone number of each current ABI provider in the state;

2. Provide assistance to the participant~~[ABI recipient]~~ in making contact with another ABI provider;

3. Arrange transportation for a requested visit to an ABI provider site;

4. Provide a copy of pertinent information to the participant~~[ABI recipient]~~ or legal representative;

5. Ensure the health, safety, and welfare of the participant~~[ABI recipient]~~ until an appropriate placement is secured;

6. Continue to provide supports until alternative services or another placement is secured; and

7. Provide assistance to ensure a safe and effective service transition.

~~(15)~~~~(48)~~ Voluntary termination and loss of an ABI long term care waiver program placement shall be initiated if a participant~~[an ABI recipient]~~ or legal representative submits a written notice of intent to discontinue services to the service provider and to the department.

(a) An action to terminate services shall not be initiated until thirty (30) calendar days from the date of the notice. ~~;~~ **and**

(b) The participant~~[ABI recipient]~~ or legal representative may reconsider and revoke the notice in writing during the thirty (30) calendar day period.

Section 4. Person-centered Service Plan Requirements. (1) A person-centered service plan shall be established:

(a) For each participant; and

(b) By the participant's person-centered service plan team.

(2) A participant's person-centered service plan shall:

(a) Be developed by:

1. The participant, the participant's guardian, or the participant's 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;

(b) 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;
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 legal 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 which the individual elects to self-direct; and
 - o. Prevents the provision of unnecessary or inappropriate services and supports; and
- (c) Includes 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.
 - (3) 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.
 - (4)(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 5. Case Management Requirements. (1) A case manager shall:
- (a)1. Be a registered nurse;
 2. Be a licensed practical nurse; or
 3. Be an individual with a bachelor's degree or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in:
 - a. Psychology;
 - b. Sociology;
 - c. Social work;
 - d. Rehabilitation counseling; or
 - e. Occupational therapy;
 - (b)1. Be independent as defined as not being employed by an agency that is providing ABI waiver services to the participant; or
 2. Be employed by or work under contract with a free-standing case management agency; and
 - (c) Have completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services.
- (2) 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 which 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; and
 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 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 service plan 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) Document services provided to a participant by entering the following into the MWMA[portal]:

1. A monthly department-approved person centered monitoring tool; and

2. A monthly entry which shall include:

a. The month and year for the time period the note covers;

b. An analysis of progress toward the participant's outcome or outcomes;

c. Identification of barriers to achievement of outcomes;

d. A projected plan to achieve the next step in achievement of outcomes;

e. The signature and title of the case manager completing the note; and

f. The date the note was generated;

(n) Document via an entry into the MWMA[portal] if a participant is:

1. Admitted to the ABI long term care waiver program;

2. Terminated from the ABI long-term care waiver program;

3. Temporarily discharged from the ABI long term care waiver program;

4. Admitted to a hospital;

5. Admitted to a nursing facility;

6. Changing the primary ABI provider;

7. Changing the case management agency;

8. Transferred to another Medicaid 1915(c) home and community based waiver service program; or

9. Relocated to a different address; and

(o) Provide information about participant-directed services to the participant or the participant's guardian:

1. At the time the initial person-centered service plan is developed; and

2. At least annually thereafter and upon inquiry from the participant or participant's guardian.

(3) A case management provider shall:

(a) Establish a human rights committee which shall:

1. Include an:

a. Individual with a brain injury or a family member of an individual with a brain injury;

b. Individual not affiliated with the ABI provider; and

c. Individual who has knowledge and experience in human rights issues;

2. Review and approve each person-centered service plan with human rights restrictions at a minimum of every six (6) months;

3. Review and approve, in conjunction with the participant's team, behavior intervention plans that contain human rights restrictions; and

4. Review the use of a psychotropic medication by a participant

without an Axis I diagnosis; and

(b) Establish a behavior intervention committee which shall:

1. Include one (1) individual who has expertise in behavior intervention and is not the behavior specialist who wrote the behavior intervention plan;

2. Be separate from the human rights committee; and

3. Review and approve, prior to implementation and at a minimum of every six (6) months in conjunction with the participant's team, an intervention plan that includes highly restrictive procedures or contain human rights restrictions; and

(c) Complete and submit a Mayo-Portland Adaptability Inventory-4 to the department for each participant:

1. Within thirty (30) days of the participant's admission into the ABI program;

2. Annually thereafter; and

3. Upon discharge from the ABI waiver program.

(4)(a) Case management for any participant who begins receiving ABI waiver services after the effective date of this administrative regulation shall be conflict free.

(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 ABI waiver services 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 ABI 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 ABI waiver services.

(5) Case management shall:

(a) Include initiation, coordination, implementation, and monitoring of the assessment or reassessment, evaluation, intake, and eligibility process;

(b) Assist a participant in the identification, coordination, and facilitation of the person centered team and person centered team meetings;

(c) Assist a participant and the person centered team to develop an individualized person-centered service plan and update it as necessary based on changes in the participant's medical condition and supports;

(d) Include monitoring of the delivery of services and the effectiveness of the person-centered service plan, which shall:

1. Be initially developed with the participant and legal representative if appointed prior to the level of care determination;

2. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

3. Include the person-centered service plan being sent to the department or its designee prior to the implementation of the effective date the change occurs with the participant;

(e) Include a transition plan that shall:

1. Be:

a. Developed within the first thirty (30) days of service;

b. Updated as changes or recertification occurs; and

c. Updated thirty (30) days prior to discharge; and

2. Include:

a. The skills or service obtained from the ABI waiver program upon transition into the community; and

b. A listing of the community supports available upon the transition;

(f) Assist a participant in obtaining a needed service outside those available by the ABI waiver;

(g) Be provided by a case manager who:

1. Meets the requirements of subsection (1) of this section;

2. (a. Is a registered nurse;

b. Is a licensed practical nurse;

c. Is an individual who has a bachelor's or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in:

(i) Psychology;

(ii) Sociology;

(iii) Social work;

(iv) Rehabilitation counseling; or

(v) Occupational therapy;

d. Is an independent case manager; or

e. Is employed by a free-standing case management agency;

2. Has completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services;

3. Shall provide a participant and legal representative with a listing of each available ABI provider in the service area;

3. Shall maintain documentation signed by a participant or legal representative of informed choice of an ABI provider and of any change to the selection of an ABI provider and the reason for the change;

4. Shall provide a distribution of the crisis prevention and response plan, transition plan, person-centered service plan, and other documents within the first thirty (30) days of the service to the chosen ABI service provider and as information is updated;

5. Shall provide twenty-four (24) hour telephone access to a participant and chosen ABI provider;

6. Shall work in conjunction with an ABI provider selected by a participant to develop a crisis prevention and response plan which shall be:

a. Individual-specific; and

b. Updated as a change occurs and at each recertification;

7. Shall assist a participant in planning resource use and assuring protection of resources;

8. Shall conduct one (1) face-to-face meeting with a participant within a calendar month occurring at a covered service site no more than fourteen (14) days apart, with one (1) visit quarterly at the participant's residence;

9. Shall ensure twenty-four (24) hour availability of services; and

10. Shall ensure that the participant's health, welfare, and safety needs are met; and

(h) Be documented by a detailed staff note in the MWMA which shall include:

1. The participant's health, safety and welfare;

2. Progress toward outcomes identified in the approved person-centered service plan;

3. The date of the service;

4. Beginning and ending time;

5. The signature and title of the individual providing the service; and

6. A quarterly summary which shall include:

a. Documentation of monthly contact with each chosen ABI provider; and

b. Evidence of monitoring of the delivery of services approved in the participant's person-centered service plan and of the effectiveness of the person-centered service plan.

(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.

Section 6. Covered Services. (1) An ABI waiver service shall:

(a) Not be covered unless it has been prior-authorized by the department; and

(b) Be provided pursuant to the participant's person-centered service plan[of care].

(2) An ABI waiver provider shall provide the following services to a participant[an ABI recipient]:

(a) Case management services in accordance with Section 4 of this administrative regulation[, which shall:

1. Include initiation, coordination, implementation, monitoring of the assessment and reassessment, and intake and eligibility process;

2. Assist an ABI recipient in the identification, coordination, and facilitation of the interdisciplinary team and interdisciplinary team meetings;

3. Assist an ABI recipient and the interdisciplinary team with the development of an individualized plan of care and with updating the plan of care as necessary based on changes in the recipient's medical condition and supports;

4. Include monitoring the delivery of services and the effectiveness of the plan of care, which shall:

a. Be initially developed with the ABI recipient and legal representative, if appointed prior to the level of care determination;

b. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

c. Include sending the ABI Plan of Care form, MAP 109, to the department or its designee prior to the implementation of the effective date the change occurs with the ABI recipient;

5. Assist an ABI recipient in obtaining a needed service outside those available by the ABI long term care waiver;

6. Be provided by a case manager who:

a. Is a registered nurse;

b. Is a licensed practical nurse;

c. Has a bachelor's or master's degree in a human services field and meets all applicable requirements of the individual's particular field, including a degree in:

(i) Psychology;

(ii) Sociology;

(iii) Social work;

(iv) Rehabilitation counseling; or

(v) Occupational therapy;

d. Is an independent case manager; or

e. Is employed by a free-standing case management agency;

7. Be provided by a case manager who:

a. Has completed case management training that is consistent with the curriculum that has been approved by the department prior to providing case management services;

b. Shall provide an ABI recipient and legal representative with a listing of each available ABI provider in the service area;

c. Shall maintain documentation signed by an ABI recipient or legal representative of informed choice of an ABI provider and of any change to the selection of an ABI provider and the reason for the change;

d. Shall, within the first thirty (30) days of the service and as information is updated, provide to the chosen ABI service provider a distribution of the:

(i) Crisis prevention and response plan;

(ii) Transition plan;

(iii) Plan of care; and

(iv) Other pertinent documents;

~~e. Shall provide twenty-four (24) hour telephone access to the ABI recipient and chosen ABI provider;~~
~~f. Shall work in conjunction with an ABI provider selected by an ABI recipient to develop a crisis prevention and response plan which shall be:~~
~~(i) Individual-specific; and~~
~~(ii) Updated as a change occurs and at each recertification;~~
~~g. Shall assist an ABI recipient in planning resource use and assuring protection of resources;~~
~~h. Shall conduct one (1) face-to-face meeting with an ABI recipient within a calendar month occurring at a covered service site, with one (1) visit quarterly occurring at the ABI recipient's residence;~~
~~i. Shall ensure twenty-four (24) hour availability of services; and~~
~~j. Shall ensure that the ABI recipient's health, welfare, and safety needs are met; and~~
~~8. Be documented by a detailed staff note which shall include:~~
~~a. A quarterly summary including documentation of:~~
~~(i) Monthly contact with each chosen ABI provider;~~
~~(ii) Evidence of monitoring of the delivery of services approved in the recipient's plan of care; and~~
~~(iii) Effectiveness of the plan of care;~~
~~b. A description of the ABI recipient's health, safety, and welfare;~~
~~c. Progress toward outcomes identified in the approved plan of care;~~
~~d. The date of the service;~~
~~e. Beginning and ending time; and~~
~~f. The signature and title of the individual providing the service];~~
~~(b) Behavioral services, which shall:~~
~~1. Be a systematic application of techniques and methods to influence or change a behavior in a desired way;~~
~~2. Include a functional analysis of the participant's[ABI recipient's] behavior including:~~
~~a. An evaluation of the impact of an ABI on:~~
~~(i) Cognition; and~~
~~(ii) Behavior;~~
~~b. An analysis of potential communicative intent of the behavior;~~
~~c. The history of reinforcement for the behavior;~~
~~d. Critical variables that precede the behavior;~~
~~e. Effects of different situations on the behavior; and~~
~~f. A hypothesis regarding the:~~
~~(i) Motivation behind the behavior;~~
~~(ii) Purpose of the behavior; and~~
~~(iii) Factors that[which] maintain the behavior;~~
~~3. Include the development of a behavioral support plan, which shall:~~
~~a. Be developed by the behavioral specialist;~~
~~b. Not be implemented by the behavior specialist who wrote the plan;~~
~~c. Be revised as necessary;~~
~~d. Define the techniques and procedures used;~~
~~e. Include the hierarchy of behavior interventions ranging from the least to the most restrictive;~~
~~f. Reflect the use of positive approaches; and~~
~~g. Prohibit the use of:~~
~~(i) Prone or supine restraint;~~
~~(ii) Corporal punishment;~~
~~(iii) Seclusion;~~
~~(iv) Verbal abuse; and~~
~~(v) Any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility;~~
~~4. Include the provision of training to other ABI providers concerning implementation of the behavioral intervention plan;~~
~~5. Include the monitoring of a participant's[an ABI recipient's] progress, which shall be accomplished through:~~
~~a. The analysis of data concerning the behavior's:~~
~~(i) Frequency;~~
~~(ii) Intensity; and~~
~~(iii) Duration[of a behavior]; and~~

b. Reports involved in implementing the behavioral service plan;
6. Be provided by a behavior specialist who shall:
a. Be:
(i) A psychologist;
(ii) A psychologist with autonomous functioning;
(iii) A licensed psychological associate;
(iv) A psychiatrist;
(v) A licensed clinical social worker;
(vi) A clinical nurse specialist with a master's degree in psychiatric nursing or rehabilitation nursing;
(vii) An advanced practice registered nurse[practitioner (ARNP)];
(viii) A board certified behavior analyst; or
(ix) A licensed professional clinical counselor; and
b. Have at least one (1) year of behavior specialist experience or provide documentation of completed coursework regarding learning and behavior principles and techniques; and
7. Be documented by a detailed staff note in the MWMA which shall include:
a. The date of the service;
b. The beginning and ending time;
c. The signature and title of the behavioral specialist; and
d. A summary of data analysis and progress of the individual related to the approved person-centered service plan[of care];
(c) Community living supports, which shall:
1. Be provided in accordance with the participant's person-centered service[recipient's] plan[of care], including:
a. A nonmedical service;
b. Supervision; or
c. Socialization;
2. Include assistance, prompting, observing, or training in activities of daily living;
3. Include activities of daily living which shall include:
a. Bathing;
b. Eating;
c. Dressing;
d. Personal hygiene;
e. Shopping; and
f. Money management;
4. Include prompting, observing, and monitoring of medications and nonmedical care not requiring a nurse or physician intervention;
5. Include socialization, relationship building, and participation in community activities according to the approved person-centered service plan[of care] which are therapeutic and not diversional in nature;
6. Accompany and assist a participant[an ABI recipient] while utilizing transportation services;
7. Include documentation in a detailed staff note in the MWMA which shall include the:
a. Progress toward goals and objectives identified in the approved person-centered service plan[of care];
b. Date of the service;
c. Beginning and ending time; and
d. Signature and title of the individual providing the service;
8. Not be provided to a participant[an ABI recipient] who receives community residential services; and
9. Be provided by a:
a. Home health agency licensed and operating in accordance with 902 KAR 20:081;
b. Community mental health center licensed and operating in accordance with 902 KAR 20:091;
c. Community habilitation program certified at least annually by the department; or
d. Supervised residential care setting certified at least annually by the department;
(d) Supervised residential care level I, which:
1. Shall be provided by:
a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department; or
b. An approved waiver provider certified at least annually by

the department;

2. Shall not be provided to a participant[an ABI recipient] unless the participant[recipient] has been authorized to receive residential care by the department's residential review committee which shall:

a. Consider applications for residential care in the order in which the applications are received;

b. Base residential care decisions on the following factors:

(i) Whether the applicant resides with a caregiver or not;

(ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior which places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or

(iii) Whether the applicant demonstrates behavior which may result in potential legal problems if not ameliorated;

c. Be comprised of three (3) Cabinet for Health and Family Services employees:

(i) With professional or personal experience with brain injury or other cognitive disabilities; and

(ii) Two (2) of whom shall not be supervised by the manager of the acquired brain injury branch; and

d. Only consider applications for a monthly committee meeting which were received no later than the close of business the day before the committee convenes;

3. Shall not have more than three (3) participants[ABI recipients] simultaneously in a home rented or owned by the ABI provider;

4. Shall provide[nineteen (19) to] twenty-four (24) hours of supervision daily unless the provider implements, pursuant to subparagraph 5. of this paragraph, an individualized plan allowing for up to five (5) unsupervised hours per day;

5. May include the provision of up to five (5) unsupervised hours per day per participant[recipient] if the provider develops an individualized plan for the participant[recipient] to promote increased independence which shall:

a. Contain provisions necessary to ensure the participant's[recipient's] health, safety, and welfare;

b. Be approved by the participant's[recipient's] treatment team, with the approval documented by the provider; and

c. Contain periodic reviews and updates based on changes, if any, in the participant's[recipient's] status;

6. Shall include assistance and training with daily living skills including:

a. Ambulating;

b. Dressing;

c. Grooming;

d. Eating;

e. Toileting;

f. Bathing;

g. Meal planning;

h. Grocery shopping;

i. Meal preparation;

j. Laundry;

k. Budgeting and financial matters;

l. Home care and cleaning;

m. Leisure skill instruction; or

n. Self-medication instruction;

7. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the individual's person-centered service plan[of care];

8. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;

9. Shall include accompanying or assisting a participant[an ABI recipient] while the participant[recipient] utilizes transportation services as specified in the participant's person-centered service[recipient's] plan[of care];

10. Shall include participation in medical appointments or follow-up care as directed by the medical staff;

11. Shall be documented by a detailed staff note in the MWMA which shall document:

a. Progress toward goals and objectives identified in the

approved person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time of the service; and

d. The signature and title of the individual providing the service;

12. Shall not include the cost of room and board;

13. Shall be provided to a participant[an ABI recipient] who:

a. Does not reside with a caregiver;

b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or

c. Demonstrates behavior that may result in potential legal problems if not ameliorated;

14. May utilize a modular home only if the:

a. Wheels are removed;

b. Home is anchored to a permanent foundation; and

c. Windows are of adequate size for an adult to use as an exit in an emergency;

15. Shall not utilize a motor home;

16. Shall provide a sleeping room which ensures that a participant[an ABI recipient]:

a. Does not share a room with an individual of the opposite gender who is not the participant's[ABI recipient's] spouse;

b. Does not share a room with an individual who presents a potential threat; and

c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the participant's[ABI recipient's] health and comfort; and

17. Shall provide service and training to obtain the outcomes for the participant[ABI recipient] as identified in the approved person-centered service plan[of care];

(e) Supervised residential care level II, which[-1-] shall:

1. Meet the requirements established in paragraph (d) of this subsection except for the requirements established in paragraph (d)4 and 5;

2. [Be provided by:

a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by the department; or

b. An approved waiver provider certified at least annually by the department;

2. Shall not be provided to an ABI recipient unless the recipient has been authorized to receive residential care by the department's residential review committee which shall:

a. Consider applications for residential care in the order in which the applications are received;

b. Base residential care decisions on the following factors:

(i) Whether the applicant resides with a caregiver or not;

(ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior which places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or

(iii) Whether the applicant demonstrates behavior which may result in potential legal problems if not ameliorated;

c. Be comprised of three (3) Cabinet for Health and Family Services employees:

(i) With professional or personal experience with brain injury or other cognitive disabilities; and

(ii) Two (2) of whom shall not be supervised by the manager of the acquired brain injury branch; and

d. Only consider applications for a monthly committee meeting which were received no later than the close of business the day before the committee convenes;

3. Shall not have more than three (3) ABI recipients simultaneously in a home rented or owned by the ABI provider;

4. Shall Provide twelve (12) to eighteen (18) hours of daily supervision, the amount of which shall:

a. Be based on the participant's[recipient's] needs;

b. Be approved by the participant's[recipient's] treatment team; and

c. Be documented in the participant's person-centered service[recipient's] plan [of care] which shall also contain periodic reviews and updates based on changes, if any, in the participant's[recipient's] status; and

3.[5. Shall include assistance and training with daily living skills including:

- a. Ambulating;
- b. Dressing;
- c. Grooming;
- d. Eating;
- e. Toileting;
- f. Bathing;
- g. Meal planning;
- h. Grocery shopping;
- i. Meal preparation;
- j. Laundry;
- k. Budgeting and financial matters;
- l. Home care and cleaning;
- m. Leisure skill instruction; or
- n. Self-medication instruction;

6. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the individual's plan of care;

7. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;

8. Shall include accompanying or assisting an ABI recipient while the recipient utilizes transportation services as specified in the recipient's plan of care.

9. Shall include participation in medical appointments or follow-up care as directed by the medical staff;

10. Shall] Include provision of twenty-four (24) hour on-call support; [11. Shall be documented by a detailed staff note which shall document:

a. Progress toward goals and objectives identified in the approved plan of care;

b. The date of the service;

c. The beginning and ending time of the service; and

d. The signature and title of the individual providing the service;

12. Shall not include the cost of room and board;

13. Shall be provided to an ABI recipient who:

a. Does not reside with a caregiver;

b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or

c. Demonstrates behavior that may result in potential legal problems if not ameliorated;

14. May utilize a modular home only if the:

a. Wheels are removed;

b. Home is anchored to a permanent foundation; and

c. Windows are of adequate size for an adult to use as an exit in an emergency;

15. Shall not utilize a motor home;

16. Shall provide a sleeping room which ensures that an ABI recipient:

a. Does not share a room with an individual of the opposite gender who is not the ABI recipient's spouse;

b. Does not share a room with an individual who presents a potential threat; and

c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the ABI recipient's health and comfort; and

17. Shall provide service and training to obtain the outcomes for the ABI recipient as identified in the approved plan of care;]

(f) Supervised residential care level III, which[:

4.] shall:

1. Meet the requirements established in paragraph (d) of this subsection except for the requirements established in paragraph (d)4 and 5;

2.[be provided by:

a. A community mental health center licensed and operating in accordance with 902 KAR 20:091 and certified at least annually by

the department; or

b. An approved waiver provider certified at least annually by the department;

2. Shall not be provided to an ABI recipient unless the recipient has been authorized to receive residential care by the department's residential review committee which shall:

a. Consider applications for residential care in the order in which the applications are received;

b. Base residential care decisions on the following factors:

(i) Whether the applicant resides with a caregiver or not;

(ii) Whether the applicant resides with a caregiver but demonstrates maladaptive behavior which places the applicant at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the applicant's behavior or the risk it poses, resulting in the need for removal from the home to a more structured setting; or

(iii) Whether the applicant demonstrates behavior which may result in potential legal problems if not ameliorated;

c. Be comprised of three (3) Cabinet for Health and Family Services employees:

(i) With professional or personal experience with brain injury or other cognitive disabilities; and

(ii) Two (2) of whom shall not be supervised by the manager of the acquired brain injury branch; and

d. Only consider applications for a monthly committee meeting which were received no later than the close of business the day before the committee convenes;

3. May] Be provided in a single family home, duplex, or apartment building to a participant[an ABI recipient] who lives alone or with an unrelated roommate;

3.[4. Shall] Not be provided to more than two (2) participants[ABI recipients] simultaneously in one (1) apartment or home;

4.[5. Shall] Not be provided in more than two (2) apartments in one (1) building;

5.[6. Shall,] If provided in an apartment building, have staff:

a. Available twenty-four (24) hours per day and seven (7) days per week; and

b. Who do not reside in a dwelling occupied by a participant[an ABI recipient]; and

6.[7. Shall] Provide less than twelve (12) hours of supervision or support in the home based on an individualized plan developed by the provider to promote increased independence which shall:

a. Contain provisions necessary to ensure the participant's[recipient's] health, safety, and welfare;

b. Be approved by the participant's[recipient's] treatment team, with the approval documented by the provider; and

c. Contain periodic reviews and updates based on changes, if any, in the participant's[recipient's] status;[8. Shall include assistance and training with daily living skills including:

a. Ambulating;

b. Dressing;

c. Grooming;

d. Eating;

e. Toileting;

f. Bathing;

g. Meal planning;

h. Grocery shopping;

i. Meal preparation;

j. Laundry;

k. Budgeting and financial matters;

l. Home care and cleaning;

m. Leisure skill instruction; or

n. Self-medication instruction;

9. Shall include social skills training including the reduction or elimination of maladaptive behaviors in accordance with the individual's plan of care;

10. Shall include provision or arrangement of transportation to services, activities, or medical appointments as needed;

11. Shall include accompanying or assisting an ABI recipient while the recipient utilizes transportation services as specified in the recipient's plan of care;

12. Shall include participation in medical appointments or

follow-up care as directed by the medical staff;

13. Shall be documented by a detailed staff note which shall document:

- a. Progress toward goals and objectives identified in the approved plan of care;
- b. The date of the service;
- c. The beginning and ending time of the service;
- d. The signature and title of the individual providing the service;

and
e. Evidence of at least one (1) daily face-to-face contact with the ABI recipient;

14. Shall not include the cost of room and board;

15. Shall be provided to an ABI recipient who:

- a. Does not reside with a caregiver;
- b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or
- c. Demonstrates behavior that may result in potential legal problems if not ameliorated;

16. May utilize a modular home only if the:
a. Wheels are removed;

- b. Home is anchored to a permanent foundation; and
- c. Windows are of adequate size for an adult to use as an exit in an emergency;

17. Shall not utilize a motor home;

18. Shall provide a sleeping room which ensures that an ABI recipient:

- a. Does not share a room with an individual of the opposite gender who is not the ABI recipient's spouse;
- b. Does not share a room with an individual who presents a potential threat; and
- c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress, and clean bed linens as required for the ABI recipient's health and comfort; and

19. Shall provide service and training to obtain the outcomes for the ABI recipient as identified in the approved plan of care;]

(g) Counseling services, which:

1. Shall be designed to help a participant[an ABI long term care waiver recipient] resolve personal issues or interpersonal problems resulting from the participant's[recipient's] ABI;

2. Shall assist a family member in implementing a participant's[an ABI long term care waiver recipient's] approved person-centered service plan[of care];

3. In a severe case, shall be provided as an adjunct to behavioral programming;

4. Shall include substance use[abuse] or chemical dependency treatment, if needed;

5. Shall include building and maintaining healthy relationships;

6. Shall develop social skills or the skills to cope with and adjust to the brain injury;

7. Shall increase knowledge and awareness of the effects of an ABI;

8. May include group counseling if the service is:

a. Provided to a maximum of twelve (12) participants[ABI recipients]; and

b. Included in the participant's[recipient's] approved person-centered service plan[of care] for:

(i) Substance use[abuse] or chemical dependency treatment;

(ii) Building and maintaining healthy relationships;

(iii) Developing social skills;

(iv) Developing skills to cope with and adjust to a brain injury, including the use of cognitive remediation strategies consisting of the development of compensatory memory and problem solving strategies, and the management of impulsivity; and

(v) Increasing knowledge and awareness of the effects of the acquired brain injury upon the participant's[ABI recipient's] functioning and social interactions;

9. Shall be provided by:

- a. A psychiatrist;
- b. A psychologist;
- c. A psychologist with autonomous functioning;

d. A licensed psychological associate;

e. A licensed clinical social worker;

f. A clinical nurse specialist with a master's degree in psychiatric nursing;

g. An advanced practice registered nurse[practitioner (ARNP)];

h. A certified alcohol and drug counselor;

i. A licensed marriage and family therapist;[or]

j. A licensed professional clinical counselor;

k. A licensed clinical alcohol and drug counselor associate effective and contingent upon approval by the Centers for Medicare and Medicaid Services; or

l. A licensed clinical alcohol and drug counselor effective and contingent upon approval by the Centers for Medicare and Medicaid Services; and

10. Shall be documented by a detailed staff note in the MWMA which shall include:

a. Progress toward the goals and objectives established in the person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(h) Family training, which shall:

1. Provide training and counseling services for the families of individuals served in the ABI long term care waiver. Training to family or other responsible persons shall include:

a. Interpretation or explanation of medical examinations and procedures;

b. Treatment regimens;

c. Use of equipment specified in the person-centered service plan[of care]; or

d. Advising how to assist the participant;

2. Include updates as needed to safely maintain the participant at home;

3. Include specified goals in the participant's person-centered service[ABI recipient's] plan[of care];

4. Be training provided to family that may include a person who:

a. Lives with, or provides care to, a participant[and ABI long term care waiver recipient]; and

b. Is a:

(i) Parent;

(ii) Spouse;

(iii) Child;

(iv) Relative;

(v) Foster family; or

(vi) In-law;

5. Not include an individual who is employed to care for the participant[consumer];

6. Be provided by an approved ABI waiver provider that is certified at least annually and which may include:

a. An occupational therapist;

b. A certified occupational therapy assistant;

c. A licensed practical nurse;

d. A physical therapist;

e. A physical therapist assistant;

f. A registered nurse;

g. A speech-language pathologist;

h. A psychiatrist;

i. A psychologist;

j. A psychologist with autonomous functioning;

k. A licensed psychological associate;

l. A clinical nurse specialist with a master's degree in:

(i) Psychiatric nursing; or

(ii) Rehabilitative nursing;

m. An advanced practice registered nurse[practitioner (ARNP)];

n. A certified alcohol and drug counselor;

o. A licensed professional clinical counselor;

p. A board certified behavior analyst;

q. A licensed clinical social worker;[or]

r. A licensed marriage and family therapist;

s. A licensed clinical alcohol and drug counselor associate effective and contingent upon approval by the Centers for

Medicare and Medicaid Services; or

t. A licensed clinical alcohol and drug counselor effective and contingent upon approval by the Centers for Medicare and Medicaid Services; and

7. Be documented by a detailed staff note in the MWMA which shall include:

a. Progress toward the goals and objectives established in the person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(i) Nursing supports, which shall include:

1.a. A physician order to monitor medical conditions; or

b. A physician order for training and oversight of medical procedures;

2. The monitoring of specific medical conditions;

3. Services that shall be provided by:

a. A registered nurse who meets the definition established in KRS 314.011(5); or

b. A licensed practical nurse as defined by KRS 314.011(9) who works under the supervision of a registered nurse; and

4. Documentation by a detailed staff note in the MWMA which shall include:

a. Progress toward the goals and objectives established in the person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(j) Occupational therapy, which shall be:

1. A physician-ordered evaluation of a participant's[an ABI recipient's] level of functioning by applying diagnostic and prognostic tests;

2. Physician-ordered services in a specified amount and duration to guide a participant[an ABI recipient] in the use of therapeutic, creative, and self-care activities to assist the participant[ABI recipient] in obtaining the highest possible level of functioning;

3. Provided by an occupational therapist or an occupational therapy assistant if supervised by an occupational therapist in accordance with 201 KAR 28:130; and

4. Documented by a detailed staff note in the MWMA which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(k) A physical therapy service, which shall be:

1. A physician-ordered evaluation of a participant[an ABI recipient] by applying muscle, joint, and functional ability tests;

2. Physician-ordered treatment in a specified amount and duration to assist a participant[an ABI recipient] in obtaining the highest possible level of functioning;

3. Training of another ABI provider to improve the level of functioning of the participant[recipient] in that provider's service setting;

4. Provided by a physical therapist or a physical therapist assistant supervised by a physical therapist in accordance with 201 KAR 22:001 and 201 KAR 22:020; and

5. Documented by a detailed staff note in the MWMA, which shall include:

a. Progress made toward outcomes identified in the person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time of the service; and

d. The signature and title of the individual providing the service;

(l) A respite service, which shall:

1. Be provided only to a participant[an ABI long-term care waiver recipient] unable to administer self-care;

2. Be provided by a:

a. Nursing facility;

b. Community mental health center;

c. Home health agency;

d. Supervised residential care provider;

e. Adult day training provider; or

f. Adult day health care provider;

3. Be provided on a short-term basis due to the absence or need for relief of a non-paid primary caregiver[an individual providing care to an ABI long-term care waiver recipient];

4. Be limited to 5,760 fifteen (15) minute units per one (1)[calendar] year authorized person-centered service plan period unless an individual's non-paid primary[usual] caregiver is unable to provide care due to a:

a. Death in the family;

b. Serious illness; or

c. Hospitalization;

5. Not be provided to a participant[an ABI long-term care waiver recipient] who receives supervised residential care;

6. Not include the cost of room and board if provided in a nursing facility; and

7. Be documented by a detailed staff note in the MWMA, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(m) Speech-language pathology[therapy] services, which shall be:

1. A physician-ordered evaluation of a participant[an ABI recipient] with a speech, hearing, or language disorder;

2. A physician-ordered habilitative service in a specified amount and duration to assist a participant[an ABI recipient] with a speech and language disability in obtaining the highest possible level of functioning;

3. Provided by a speech-language pathologist; and

4. Documented by a detailed staff note in the MWMA, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan[of care];

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(n) Adult day training services, which shall:

1. Be provided by:

a. An adult day training center that[which] is certified at least annually by the department;

b. An outpatient rehabilitation facility that[which] is licensed and operating in accordance with 902 KAR 20:190; or

c. A community mental health center licensed and operating in accordance with 902 KAR 20:091;

2. Focus on enabling the participant[individual] to attain or maintain the participant's[individual's] maximum functional level and reintegrate the participant[individual] into the community;

3. Not exceed a staffing ratio of five (5) participants[ABI recipients] per one (1) staff person [unless a participant[an ABI recipient][requires individualized special service]];

4. Include the following services:

a. Social skills training related to problematic behaviors identified in the participant's person-centered service[recipient's] plan[of care];

b. Sensory or motor development;

c. Reduction or elimination of a maladaptive behavior;

d. Prevocational; or

e. Teaching concepts and skills to promote independence including:

(i) Following instructions;

(ii) Attendance and punctuality;

(iii) Task completion;

(iv) Budgeting and money management;

(v) Problem solving; or

(vi) Safety;

5. Be provided in a nonresidential setting;

6. Be developed in accordance with a participant's[an ABI waiver service recipient's] overall approved person-centered service plan[of care];

7. Reflect the recommendations of a participant's person-centered team~~[an ABI-waiver service recipient's interdisciplinary team]~~;

8. Be appropriate:

a. Given a participant's~~[an ABI-waiver service recipient's]~~:

(i) Age;

(ii) Level of cognitive and behavioral function; and

(iii) Interest;

b. Given a participant's~~[an ABI-waiver service recipient's]~~ ability prior to and after the participant's~~[recipient's]~~ injury; and

c. According to the approved person-centered service plan~~[of care]~~ and be therapeutic in nature and not diversional;

9. Be coordinated with the occupational, speech, or other rehabilitation therapy included in a participant's person-centered service~~[an ABI long-term care waiver recipient's plan[of care]]~~;

10. Provide a participant~~[an ABI long-term care waiver recipient]~~ with an organized framework within which to function in the participant's~~[recipient's]~~ daily activities;

11. Entail frequent assessments of a participant's~~[an ABI long-term care waiver recipient's]~~ progress and be appropriately revised as necessary; and

12. Be documented by a detailed staff note in the MWMA, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan~~[of care]~~;

b. The date of the service;

c. The beginning and ending time; and

d. The signature and title of the individual providing the service;

(o) Adult day health care services, which shall:

1. Be provided by an adult day health care center that is licensed and operating in accordance with 902 KAR 20:066; and

2. Include the following basic services and necessities provided to a participant~~[Medicaid ABI long-term care waiver recipient]~~ during the posted hours of operation:

a. Skilled nursing services provided by a registered nurse or licensed practical nurse, including:

(i) Ostomy care;

(ii) Urinary catheter care;

(iii) Decubitus care;

(iv) Tube feeding;

(v) Venipuncture;

(vi) Insulin injections;

(vii) Tracheotomy care; or

(viii) 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. Supervision by a registered nurse;

e. Daily activities that are appropriate, given a participant's~~[an ABI long-term care waiver recipient's]~~:

(i) Age;

(ii) Level of cognitive and behavioral function; and

(iii) Interest; and

f. Routine services that meet the daily personal and health care needs of a participant~~[an ABI long-term care waiver 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 ABI long-term care waiver recipient]~~;

3. Include developing, implementing, and maintaining nursing policies for nursing or medical procedures performed in the adult day health care center;

4. Focus on enabling the participant~~[individual]~~ to attain or maintain the participant's~~[individual's]~~ maximum functional level and reintegrate a participant~~[an individual]~~ into the community by providing the following training[:];

a. Social skills training related to problematic behaviors identified in the participant's person-centered service~~[ABI long-term care waiver recipient's plan[of care]]~~;

b. Sensory or motor development;

c. Reduction or elimination of a maladaptive behavior per the participant's person-centered service~~[ABI long-term care waiver recipient's plan[of care]]~~;

d. Prevocational services; or

e. Teaching concepts and skills to promote independence including:

(i) Following instructions;

(ii) Attendance and punctuality;

(iii) Task completion;

(iv) Budgeting and money management;

(v) Problem solving; or

(vi) Safety;

5. Be provided in a nonresidential setting;

6. Be developed in accordance with a participant's~~[an ABI long-term care waiver recipient's]~~ overall approved person-centered service plan~~[of care]~~, therapeutic in nature, and not diversional;

7. Reflect the recommendations of a participant's person-centered~~[an ABI long-term care waiver recipient's interdisciplinary team]~~;

8. Include ancillary services in accordance with 907 KAR 1:023 if ordered by a physician, physician assistant, or advanced practice registered nurse~~[practitioner]~~ in a participant's~~[an ABI long-term care waiver recipient's]~~ adult day health care plan of treatment. Ancillary services shall:

a. Consist of evaluations or reevaluations for the purpose of developing a plan that~~[which]~~ shall be carried out by the participant~~[ABI long-term care waiver recipient]~~ or adult day health care center staff;

b. Be reasonable and necessary for the participant's~~[ABI long-term care waiver recipient's]~~ condition;

c. Be rehabilitative in nature;

d. Include:

(i) Physical therapy provided by a physical therapist or physical therapist assistant;

(ii) Occupational therapy provided by an occupational therapist or occupational therapy assistant; or

(iii) Speech-language pathology services~~[therapy]~~ provided by a speech-language pathologist; and

e. Comply with the physical, occupational, and speech-language pathology service~~[therapy]~~ requirements established in~~[Technical Criteria for Reviewing Ancillary Services for Adults in accordance with]~~ 907 KAR 1:030, Section~~[Sections]~~ 3 ~~[and 6]~~;

9. Be provided to a participant~~[an ABI long-term care waiver recipient]~~ by the health team in an adult day health care center, which may include:

a. A physician;

b. A physician assistant;

c. An advanced practice registered nurse~~[practitioner (ARNP)]~~;

d. A registered nurse;

e. A licensed practical nurse;

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-language pathologist;

l. A social worker;

m. A nutritionist;

n. A health aide;

o. An LPCC;

p. A licensed marriage and family therapist;

q. A certified psychologist with autonomous functioning; or

r. A licensed psychological associate;

10. Be provided pursuant to a plan of treatment and developed annually in accordance with 902 KAR 20:066 and from information in the MAP 351, Medicaid Waiver Assessment and revised as needed; and

11. Be documented by a detailed staff note in the MWMA, which shall include:

a. Progress toward goals and objectives identified in the approved person-centered service plan~~[of care]~~;

b. The date of the service;

c. The beginning and ending time;
d. The signature and title of the individual providing the service;
and
e. A monthly summary that assesses the participant's status related to the approved person-centered service plan[of care];
(p) Supported employment, which shall be:
1. Intensive, ongoing services for a participant[an ABI long term care waiver recipient] to maintain paid employment in an environment in which an individual without a disability is employed;
2. Provided by a:
a. Supported employment provider;
b. Sheltered employment provider; or
c. Structured day program provider;
3. Provided one-on-one;
4. Unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 99-457 (34 C.F.R. Parts 300 to 399), proof of which shall be documented in the participant's[ABI long term care waiver recipient's] file;
5. Limited to forty (40) hours per week alone or in combination with adult day training or adult day health services;
6. An activity needed to sustain paid work by a participant[an ABI long term care waiver recipient] receiving waiver services, including:
a. Supervision; and
b. Training;
7. Exclusive of work performed directly for the supported employment provider; and
8. Documented by a time and attendance record, which shall include:
a. Progress toward the goals and objectives identified in the person-centered service plan[of care];
b. The date of service;
c. The beginning and ending time; and
d. The signature and title of the individual providing the service;
(q) Specialized medical equipment and supplies, which shall:
1. Include durable and nondurable medical equipment, devices, controls, appliances, or ancillary supplies;
2. Enable a participant[an ABI recipient] to increase his or her ability to perform daily living activities or to perceive, control, or communicate with the environment;
3. Be ordered by a physician, documented in a participant's person-centered service plan, entered into the MWMA[portal] by the participant's case manager or support broker, and[submitted on a Request for Equipment Form, MAP-95, and] include three (3) estimates if the equipment is needed for vision or[and] hearing;
4. Include equipment necessary for the proper functioning of specialized items;
5. Not be available through the department's durable medical equipment, vision, or hearing programs;
6. Not be necessary for life support;
7. Meet applicable standards of manufacture, design, and installation; and
8. Exclude those items which are not of direct medical or remedial benefit to a participant[an ABI recipient];
(r) Environmental and minor home adaptations, which shall:
1. Be provided in accordance with applicable state and local building codes;
2. Be provided to a participant[an ABI recipient] if:
a. Ordered by a physician;
b. Prior-authorized by the ABIB;
c. Specified in the participant's approved person-centered service plan and entered into the MWMA[portal][Submitted on a Request for Equipment Form, MAP-95], by the participant's[a] case manager or support broker;
d. [Specified in an ABI long term care waiver recipient's approved plan of care; or] Necessary to enable the participant[an ABI recipient] to function with greater independence within the participant's[recipient's] home; and
e. [Without the modification, the participant[ABI recipient] requires institutionalization;
3. Not include a vehicle modification;
4. Be limited to no more than \$2,000 for a participant[an ABI recipient] in a twelve (12) month period; and

5. If entailing:
a. Electrical work, be provided by a licensed electrician; or
b. Plumbing work, be provided by a licensed plumber;
(s) Assessment services, which shall:
1. Be a comprehensive assessment that[which] shall identify a participant's[an ABI long term care waiver recipient's] needs and the services that the participant's[recipient's] family cannot manage or arrange for the participant[recipient];
2. Evaluate a participant's[an ABI long term care waiver recipient's] physical health, mental health, social supports, and environment;
3. Be requested by an individual requesting ABI services or a family or legal representative of the individual;
4. Be conducted by an ABI case manager or support broker;
5. Be conducted within seven (7) calendar days of receipt of the request for assessment;
6. Include at least one (1) face-to-face contact with the participant[ABI long term care waiver recipient] and, if appropriate, the participant's[recipient's] family by the assessor in the participant's[ABI long term care waiver recipient's] home; and
7. Not be reimbursable if the individual does not receive a level of care certification; or
(t) Reassessment services, which shall:
1. Be performed at least every twelve (12) months;
2. Be conducted using the same procedures as for an assessment service;
3. Be conducted by an ABI case manager or support broker and submitted to 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;
4. Not be reimbursable if conducted during a period that the participant[ABI long term care waiver recipient] is not covered by a valid level of care certification; and
5. Not be retroactive.

Section 7.[5:] Exclusions of the Acquired Brain Injury Waiver Program. A condition included in the following list shall not be considered an acquired brain injury requiring specialized rehabilitation:

(1) A stroke treatable in a nursing facility providing routine rehabilitation services;
(2) A spinal cord injury for which there is no known or obvious injury to the intracranial central nervous system;
(3) Progressive dementia or another condition related to mental impairment that is of a chronic degenerative nature, including:
(a) Senile dementia;
(b) Organic brain disorder;
(c) Alzheimer's disease;
(d) Alcoholism; or
(e) Another addiction;
(4) A depression or a psychiatric disorder in which there is no known or obvious central nervous system damage;
(5) A birth defect;
(6) An intellectual disability[Mental retardation] without an etiology to an acquired brain injury; or
(7) A condition which causes an individual to pose a level of danger or an aggression that[which] is unable to be managed and treated in a community.

Section 8.[6:] Incident Reporting Process. (1)(a) There shall be two (2) classes of incidents.

(b) The following shall be the two (2) classes of incidents:

1. An incident; or
2. A critical incident.
(2) An incident shall be any occurrence that impacts the health, safety, welfare, or lifestyle choice of a participant and includes:
(a) A minor injury;
(b) A medication error without a serious outcome; or
(c) A behavior or situation that is not a critical incident.
(3) A critical incident shall be an alleged, suspected, or actual occurrence of an incident that:
(a) Can reasonably be expected to result in harm to a

participant; and

(b) Shall include:

1. Abuse, neglect, or exploitation;
2. A serious medication error;
3. Death;
4. A homicidal or suicidal ideation;
5. A missing person; or
6. Other action or event that the provider determines may result in harm to the participant.

(4)(a) If an incident occurs, the ABI provider shall:

1. Report the incident by making an entry into the MWMA[portal] that includes details regarding the incident; and
2. Be immediately assessed for potential abuse, neglect, or exploitation.

(b) If an assessment of an incident indicates that the potential for abuse, neglect, or exploitation exists:

1. **The individual who discovered or witnessed the incident shall immediately act to ensure the health, safety, or welfare of the at-risk participant;**

2. The incident shall immediately be considered a critical incident;

3. The critical incident procedures established in subsection (5) of this section shall be followed; and

4. The ABI provider shall report the incident to the participant's case manager and participant's guardian, if the participant has a guardian, within twenty-four (24) hours of discovery of the incident.

(5)(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 via the MWMA[portal] by the individual who witnessed or discovered the critical incident within eight (8) hours of discovery.

(c) The ABI 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) Axis I diagnosis or diagnoses;

(ii) Axis II diagnosis or diagnoses;

(iii) Axis III diagnosis or diagnoses;

(iv) A listing of recent medical concerns;

(v) An analysis of causal factors; and

(vi) Recommendations for preventing future occurrences.

(6) **If a critical incident does not require reporting of abuse, neglect, or exploitation, the critical incident shall be reported via the MWMA[portal] within eight (8) hours of discovery.**

(7)(a) Following a death of a participant receiving ABI services from an ABI provider, the ABI provider 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. The most recent psychological evaluation of the participant;

9. A full life history of the participant including any update from the last version of the life history;

10. 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;

11. Emergency medical services notes regarding the participant if available;

12. The police report if available;

13. A copy of:

a. The participant's advance directive, medical order for scope of treatment, living will, or health care directive if applicable;

b. Any functional assessment of behavior or positive behavior support plan regarding the participant that has been in place over any part of the past twelve (12) months; and

c. The cardiopulmonary resuscitation and first aid card for any ABI provider's staff member who was present at the time of the incident that resulted in the participant's death;

14. A record of all medical appointments or emergency room visits by the participant within the past twelve (12) months; and

15. A record of any crisis training for any staff member present at the time of the incident which resulted in the participant's death.

(7)(8)(a) An ABI provider shall report a medication error to the MWMA[portal].

(b) An ABI provider shall document all medication error details on a medication error log retained on file at the ABI provider site[documented on an Incident Report form, MAP-045].

(2) There shall be three (3) classes of incidents as follows:

(a) A class I incident which shall:

1. Be minor in nature and not create a serious consequence;

2. Not require an investigation by the provider agency;

3. Be reported within twenty-four (24) hours to the:

a. Case manager; or

b. Support broker;

4. Be reported to the guardian as directed by the guardian; and

5. Be retained on file at the:

a. Provider and case management agency; or

b. Support brokerage agency;

(b) A class II incident which shall:

1. a. Be serious in nature;

b. Include a medication error; or

c. Involve the use of a physical or chemical restraint;

2. Require an investigation which shall:

a. Be initiated by the provider agency within twenty-four (24) hours of discovery; and

b. Involve the case manager or support broker; and

3. Be reported to the following by the provider agency:

a. The case manager or support broker within twenty-four (24) hours of discovery;

b. The guardian within twenty-four (24) hours of discovery; and

c. ABIB within twenty-four (24) hours of discovery followed by:

(i) A complete written report of the incident investigation; and

(ii) Follow-up within ten (10) calendar days of discovery; and

(c) A class III incident which shall:

1. a. Be grave in nature;

b. Involve suspected:

(i) Abuse;

(ii) Neglect; or

(iii) Exploitation;

c. Involve a medication error which requires a medical intervention; or

d. Be a death;

2. Be immediately investigated by the provider agency, and the investigation shall involve the case manager or support broker; and

3. Be reported by the provider agency to:

a. The case manager or support broker within eight (8) hours of discovery;

b. DCBS, immediately upon discovery, if involving suspected

abuse, neglect, or exploitation in accordance with KRS Chapter 209;

- c. The guardian within eight (8) hours of discovery; and
- d. ABIB within eight (8) hours of discovery followed by:
 - (i) A complete written report of the incident investigation; and
 - (ii) Follow-up within seven (7) calendar days of discovery. If an incident occurs after 5 p.m. EST on a weekday or occurs on a weekend or holiday, notification to ABIB shall occur on the following business day.
- (3) The following documentation with a complete written report shall be submitted for a death:
 - (a) A current plan of care;
 - (b) A current list of prescribed medications including PRN medications;
 - (c) A current crisis plan;
 - (d) Medication administration documentation for the current and previous month;
 - (e) Staff notes from the current and previous month including details of physician and emergency room visits;
 - (f) Any additional information requested by the department;
 - (g) A coroner's report; and
 - (h) If performed, an autopsy report].

Section 9.7. ABI Long Term Care Waiver Waiting List. (1) An individual eighteen (18) years of age or older applying for an ABI long term care waiver service shall be placed on a statewide ABI long term care waiver waiting list that[which] shall be maintained by the department.

(2) In order to be placed on the ABI long term care waiver waiting list, an individual or the individual's representative shall:

(a) Apply for 1915(c) home and community based waiver services via the MWMA[portal];

(b) Complete and upload into the MWMA[portal] a MAP – 115 Application Intake – Participant Authorization; and

(c) Upload into the MWMA[portal][submit to the department] a completed: (a) MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver Services Program; and (b) MAP 10, Waiver Services Physician's Recommendation form that has been signed by a physician.

(3) The order of placement on the ABI long term care waiver waiting list shall be determined by the:

(a) Chronological date of complete application information regarding the individual being entered into the MWMA[portal][receipt of the MAP 10, Waiver Services Physician's Recommendation form];

(b) Category of need of the individual as follows:

1. Emergency. An emergency shall exist if an immediate service is indicated as determined by:

a. The individual currently is demonstrating behavior related to the individual's acquired brain injury that places the participant[recipient], caregiver, or others at risk of significant harm; or

b. The individual is demonstrating behavior related to the individual's acquired brain injury which has resulted in the individual's arrest; or

2. Nonemergency; and

(c)[The] Emergency Committee, which shall consider applications for the Acquired Brain Injury long term care waiver program for emergency placement. The Emergency Committee meetings shall regularly occur during the fourth week of each month. To be considered at the monthly committee meeting, an application shall be received by the department no later than three (3) business days before the scheduled committee meeting.

1. The Emergency Review Committee shall be comprised of three (3) program staff of the cabinet.

a. Each member shall have professional or personal experience with brain injuries or other cognitive disabilities.

b. At least two (2) members shall not be supervised by the branch manager of the Acquired Brain Injury Branch.

(4) In determining chronological status, the original date of the individual's complete application information being entered into the MWMA[portal][receipt of the MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver

Services Program form, and the MAP 10, Waiver Services Physician's Recommendation form,] shall:

(a) Be maintained; and

(b) Not change[changed] if an individual is moved from one (1) category of need to another.

(5) A written statement by a physician or other qualified mental health professional shall be required to support the validation of risk of significant harm to an individual or caregiver, or the nature of the individual's medical need.

(6) Written documentation by law enforcement or court personnel shall be required to support the validation of a history of arrest.

~~(7)[If multiple applications are received on the same date, a lottery shall be held to determine placement on the waiting list within each category of need.]~~

(8) A written notification of placement on the waiting list shall be mailed to the individual or the individual's legal representative and case management provider if identified.

~~(8) [(9)]~~ Maintenance of the ABI long term care waiver waiting list shall occur as follows:

(a) The department shall, at a minimum, update the waiting list annually; and

(b) If an individual is removed from the ABI long term care waiver waiting list, written notification shall be mailed by the department to the:

1. Individual;
2. Individual's legal representative; and
3. ABI case manager.

~~(9) [(40)]~~ Reassignment of category of need shall be completed based on the updated information and validation process.

~~(10) [(44)]~~ An individual or legal representative may submit a request for consideration of movement from one (1) category of need to another at any time an individual's status changes.

~~(11) [(42)]~~ An individual shall be removed from the ABI long term care waiver waiting list if:

(a) After a documented attempt, the department is unable to locate the individual or the individual's legal representative;

(b) The individual is deceased; ~~or~~

(c) The individual or individual's legal representative refuses the offer of ABI long term care waiver services and does not request to be maintained on the ABI long term care waiver waiting list; or

~~(d) [An ABI placement for services offer is refused by the individual or legal representative; or~~

~~(e) The individual does not access services without demonstration of good cause within sixty (60) days of the placement allocation date.~~

1. The individual or individual's legal representative shall have the burden of providing documentation of good cause including:

a. A signed statement by the individual or the legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers.

2. Upon receipt of documentation of good cause, the department shall grant one (1) sixty (60) day extension in writing.

~~(12) [(43)] [If an individual is removed from the ABI long term care waiver waiting list, written notification shall be mailed by the department to the:~~

~~(a) Individual or to the individual's legal representative; and~~

~~(b) ABI case manager.~~

~~(13) [(14)]~~ The removal of an individual from the ABI long term care waiver waiting list shall not prevent the submittal of a new application at a later date.

~~(13) [(14)] [(15)]~~ Potential funding allocated for services for an individual shall be based upon:

(a) The individual's category of need; and

(b) The individual's chronological date of placement on the ABI long term care waiver waiting list.

Section 10. Participant-[8.—Consumer] Directed Services[Option]. (1) Covered services and supports provided to a participant receiving PDS[an ABI long term care waiver recipient

participating in CDO] shall include:

- (a) A home and community support service, which shall:
 1. Be available only as a participant ~~[under the consumer]~~ directed service ~~[option]~~;
 2. Be provided in the participant's ~~[consumer's]~~ home or in the community;
 3. Be based upon therapeutic goals and not be diversional in nature;
 4. Not be provided to an individual if the same or similar service is being provided to the individual by a non-PDS[CDO] acquired brain injury service; and
 - 5.a. Be respite for the primary caregiver; or
 - b. Be supports and assistance related to chosen outcomes to facilitate independence and promote integration into the community for an individual residing in the individual's own home or the home of a family member and may include:
 - (i) Routine household tasks and maintenance;
 - (ii) Activities of daily living;
 - (iii) Personal hygiene;
 - (iv) Shopping;
 - (v) Money management;
 - (vi) Medication management;
 - (vii) Socialization;
 - (viii) Relationship building;
 - (ix) Meal planning;
 - (x) Meal preparation;
 - (xi) Grocery shopping; or
 - (xii) Participation in community activities;
 - (b) Goods and services, which shall:
 1. Be individualized;
 2. Be utilized to reduce the need for personal care or to enhance independence within the home or community of the participant ~~[recipient]~~;
 3. Not include experimental goods or services; and
 4. Not include chemical or physical restraints; and
 - (c) A community day support service, which shall:
 1. Be available only as a participant-directed service ~~[under the consumer-directed option]~~;
 2. Be provided in a community setting;
 3. Be tailored to the participant's ~~[consumer's]~~ specific personal outcomes related to the acquisition, improvement, and retention of skills and abilities to prepare and support the participant ~~[consumer]~~ for:
 - a. Work or community activities;
 - b. Socialization; and
 - c. Leisure or retirement activities;
 4. Be based upon therapeutic goals and not be diversional in nature; and
 5. Not be provided to an individual if the same or similar service is being provided to the individual by a non-PDS[CDO] acquired brain injury service.
 - (2) To be covered, a PDS[CDO-service] shall be specified in a participant's person-centered service ~~[consumer's] plan~~ ~~[of care]~~.
 - (3) Reimbursement for a PDS[CDO-service] shall not exceed the department's allowed reimbursement for the same or a similar service provided in a non-PDS[CDO] ABI setting.
 - (4) A participant ~~[consumer]~~, including a married participant ~~[consumer]~~, shall choose a provider and the choice of PDS[CDO] provider shall be documented in the participant's person-centered service ~~[consumer's] plan~~ ~~[of care]~~.
 - (5)(a) A participant ~~[consumer]~~ may designate a representative to act on the participant's ~~[consumer's]~~ behalf.
 - (b) The PDS[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 ~~[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 receiving 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 person-centered service ~~[consumer's] plan~~ ~~[of care]~~ indicates the participant ~~[consumer]~~ requires more hours of service than the program can provide, jeopardizing 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 threatens or intimidates a support broker or other PDS[CDO] staff.
- (8) The department may terminate a participant ~~[consumer]~~ from receiving PDS ~~[CDO-services]~~ if the department determines that the participant's PDS ~~[consumer's-CDO]~~ provider has not adhered to the person-centered service plan ~~[of care]~~.
- (9) Except as provided in subsection (7) of this section, prior to a participant's ~~[consumer's]~~ termination from receiving 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 ~~[form]~~ terminating the participant ~~[consumer]~~ from receiving 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 ABI 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 the participant ~~[consumer]~~ failed to pay patient liability, inform the participant ~~[consumer]~~ of the right to appeal the department's decision in accordance with Section 13[44] of this administrative regulation.
- (11) A PDS[CDO] provider shall:
 - (a) Be selected by the participant ~~[consumer]~~;
 - (b) Submit a completed Kentucky Participant-Consumer ~~[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 a criminal background check conducted by:
 1. The Administrative Office of the Courts if the individual is a Kentucky resident; or
 2. An equivalent out-of-state agency if the individual resided or worked outside Kentucky during the year prior to selection as a provider of PDS[CDO-services];
 - (i) Submit to a check of the Central Registry maintained in accordance with 922 KAR 1:470 and not be found on the registry.
 1. A participant ~~[consumer]~~ may employ a provider prior to a Central Registry check result being obtained for up to thirty (30) days.
 2. If a participant ~~[consumer]~~ does not obtain a Central Registry check result within thirty (30) days of employing a provider, the participant ~~[consumer]~~ shall cease employment of the provider until a favorable result is obtained;
 - (j) Submit to a check of the:
 1. Nurse Aide Abuse Registry maintained in accordance with

906 KAR 1:100 and not be found on the registry; and

2. Caregiver Misconduct Registry in accordance with 922 KAR 5:120 and not be found on the registry;

(k) Not have pled guilty or been convicted of committing a sex crime or violent crime as defined in KRS 17.165(1) through (3);

(l) 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];

(m) Be approved by the department;

(n) Maintain and submit timesheets documenting hours worked; and

(o) Be a friend, spouse, parent, family member, other relative, employee of a provider agency, or other person hired by the participant[consumer].

(12) A parent, parents combined, or a spouse shall not provide more than forty (40) hours of services in a calendar week (Sunday through Saturday) regardless of the number of family members who receive waiver services.

(13)(a) The department shall establish a budget for a participant[consumer] based on the individual's historical costs in any Medicaid waiver program minus five (5) percent to cover costs associated with administering participant[the consumer] directed services[option].

(b) If no historical cost exists for the participant[consumer], the participant's[consumer's] budget shall equal the average per capita historical costs of a participant[an ABI waiver recipient] participating in the ABI waiver program established by 907 KAR 3:090 minus five (5) percent.

(c)[(b)] Cost of services authorized by the department for the participant's[individual's] prior year person-centered service plan [of care] but not utilized may be added to the budget if necessary to meet the individual's needs.

(d)[(e)] The department may adjust a participant's[consumer's] budget based on the participant's[consumer's] needs and in accordance with paragraphs[(d) and] (e) and (f) of this subsection.

(e)[(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.

(f)[(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; or

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.

(g)[(f)] A participant's[consumer's] budget shall not exceed the average per capita cost of services provided to individuals with a brain injury in a nursing facility.

(14) Unless approved by the department pursuant to subsection (13)(c)[(b)] through (f)[(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 needed assistance to a participant[consumer] with any aspect of PDS[CDO] or blended services;

(b) Be available by phone or in person to a participant[consumer] twenty-four (24) hours per day, seven (7) days per week to assist the participant[consumer] in obtaining community resources as needed;

(c) Comply with 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 person-centered service plan[of care] using person-centered planning principles.

(16) For a[CDO] participant receiving PDS, a support broker may conduct an assessment or reassessment.

(17) **Services provided by a support broker shall meet the conflict free requirements established for case management in Section 5(4) of this administrative regulation.**

(18) Financial management services shall:

(a) Include managing, directing, or dispersing a participant's[consumer's] funds identified in the participant's[consumer's] approved PDS[CDO] budget;

(b) Include payroll processing associated with an individual hired by a participant[consumer] or the participant's[consumer's] representative;

(c) Include withholding local, state, and federal taxes and making payments to appropriate tax authorities on behalf of a participant[consumer];

(d) Be performed by an entity:

1. Enrolled as a Medicaid provider in accordance with 907 KAR 1:672; and

2. With at least two (2) years of experience working with acquired brain injury; and

(e) Include preparing fiscal accounting and expenditure reports for:

1. A participant[consumer] or participant's[consumer's] representative; and

2. The department.

Section 11.[9.] Reimbursement and Coverage. (1) The department shall reimburse a participating provider for a service provided to a Medicaid eligible person who meets the ABI long term care waiver program requirements as established in this administrative regulation.

(2) The department shall reimburse an ABI participating long term waiver provider for a prior-authorized ABI long term waiver service[;] if the service is:

(a) Included in the person-centered service plan;

(b)[of care and is] Medically necessary; and

(c)[(b)] Essential to provide an alternative to institutional care to an individual with an acquired brain injury who[that] requires maintenance services.

(3)[Exclusions to acquired brain injury long term care waiver program.] Under the ABI long term care waiver program, the department shall not reimburse a provider for a service provided:

(a) To an individual who does not meet the criteria established in Section 3 of this administrative regulation; or

(b) Which has not been prior authorized as a part of the person-centered service plan[of care].

(4)[Payment Amounts.]

(a) A participating ABI long term care waiver service provider shall be reimbursed a fixed rate for reasonable and medically necessary services for a prior-authorized unit of service provided to a participant[recipient].

(b) A participating ABI long term care waiver service provider certified in accordance with this administrative regulation shall be reimbursed at the lesser of:

1. The provider's usual and customary charge; or

2. The Medicaid fixed upper payment limit per unit of service as established in subsection (5) of this section.

(5)[Fixed upper payment limits.]

(a) The unit amounts, fixed upper payment limits, and other limits[rates] established in the following table shall apply[this subsection shall be the fixed upper payment limits, in effect on November 10, 2008, for ABI long term care waiver services in conjunction with the corresponding units of service]:

Service	Unit of Service	Upper Payment Limit
Case Management	1 month	\$375.00 - limited to one (1) unit per member per month

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Community Living Supports	15 minutes	\$5.56 - limited to 160 units per member, per calendar week.
Respite Care	5 minutes	\$4.00 - limited to 5,760 units, equal to 1440 hours, per member, per calendar year, except as provided in paragraph (c) of this subsection
Adult Day Health Care	15 minutes	\$3.19 - limited to 160 units per member, per calendar week.
Adult Day Training	15 minutes	\$4.03 - limited to 160 units per member, per calendar week alone or in combination with supported employment services.
Supported Employment	15 minutes	\$7.98 - limited to 160 units per member, per calendar week alone or in combination with adult day training.
Behavior Programming	15 minutes	\$33.61 - limited to 80 units per member, per calendar month for the first three (3) months; after initial three (3) months limited to forty-eight (48) units per member, per month.
Counseling – Individual	15 minutes	\$23.84 - limited to 52 units per member, per month.
Counseling – Group	15 minutes	\$5.75 - limited to 48 units per member, per calendar month.
Occupational Therapy	15 minutes	\$25.90 - limited to 52 units per member, per calendar month.
Speech Therapy	15 minutes	\$28.41 - limited to 52 units per member, per calendar month
Specialized Medical Equipment and Supplies (see paragraph (b) of this subsection)	Per Item	As negotiated by the department
Environmental Modification	Per Modification	Actual cost not to exceed \$2,000 per member, per calendar year.
Supervised Residential Level I	(1) calendar day	\$200.00 - Limited to one (1) unit per member, per calendar day
Supervised Residential Level II	(1) calendar day	\$150.00 - Limited to one (1) unit per member, per calendar day
Supervised Residential Level III	(1) calendar day	\$75.00 - Limited to one (1) unit per member, per calendar day
Nursing Supports	15 minutes	\$25.00 - Limited to 28 units per member, per calendar week
Family Training	15 minutes	\$25.00 - Limited to 8 units per member, per calendar week
Physical Therapy	15 minutes	\$25.00 - Limited to 52 units per member, per calendar month.
Assessment	One (1) unit equals	\$100.00

	entire process	
Assessment or Reassessment	One (1) unit equals entire process	\$100.00
Participant-[Consumer] Directed Services[Options]:		
Home and Community Supports		Service limited by dollar amount prior authorized by QIO based on DMS approved participant[consumer] budget
Community Day Supports		Service limited by dollar amount prior authorized by QIO based on DMS approved participant[consumer] budget
Goods and Services		Service limited by dollar amount prior authorized by DMS based on DMS approved participant[consumer] budget
Support Broker	One (1) unit equal to one (1) calendar month	\$375.00 - Limited to one (1) unit per member, per calendar month
Financial Management Services	Fifteen (15) minutes	\$12.50 Limited to eight (8) units per member, per calendar month

(b) Specialized medical equipment and supplies shall be reimbursed on a per item basis based on a reasonable cost as negotiated by the department if they meet the following criteria:

1. They are not covered through the Medicaid durable medical equipment program established in 907 KAR 1:479; and
2. They are provided to an individual participating in the ABI waiver program.

(c) Respite care may exceed 1,440 hours in a twelve (12) month period if an individual's usual caregiver is unable to provide care due to a:

1. Death in the family;
2. Serious illness; or
3. Hospitalization.

(d) If supported employment services are provided at a work site in which persons without disabilities are employed, payment shall be made only for the supervision and training required as the result of the participant's[ABI-recipient's] disabilities and shall not include payment for supervisory activities normally rendered.

(e)1. The department shall only pay for supported employment services for an individual if supported employment services are unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III).

2. For an individual receiving supported employment services, documentation shall be maintained in the individual's record demonstrating that the services are not currently available under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III).

(6)[Payment Exclusions.] Payment shall not include:

(a) The cost of room and board[,] unless provided as part of respite care in a Medicaid certified nursing facility. If a participant[an ABI-recipient] is placed in a nursing facility to receive respite care, the department shall pay the nursing facility its per diem rate for that individual;

(b) The cost of maintenance, upkeep, an improvement, or an environmental modification to a group home or other licensed facility;

(c) The cost of a service that is not listed in the approved

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person-centered service plan[of care]; or

(d) A service provided by a family member unless provided as[under] an approved participant-directed service[through consumer-directed option].

(7)[Records Maintenance.] A participating provider shall:

(a) Maintain fiscal and service records for a period of at least six (6) years. **If the Secretary of the United States Department of Health and Human Services requires a longer document retention period, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.** [and]

(b) Provide, as requested by the department, a copy of, and access to, each record of the ABI Waiver Program retained by the provider pursuant to paragraph (a) of this subsection or 907 KAR 1:672[, Sections 2, 3, and 4]; and

(c) Upon request, make available service and financial records to a representative or designee of the:

1. Commonwealth of Kentucky, Cabinet for Health and Family Services;
2. United States Department for Health and Human Services, Comptroller General;
3. United States Department for Health and Human Services, Centers for Medicare and Medicaid Services (CMS);
4. General Accounting Office;
5. Commonwealth of Kentucky, Office of the Auditor of Public Accounts; or
6. Commonwealth of Kentucky, Office of the Attorney General.

Section 12.[40:] Electronic Signature Usage.[(4)] 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) An ABI long term care waiver provider which chooses to use electronic signatures shall:

(a) Develop and implement a written security policy which 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 which 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 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 13.[44:] Appeal Rights. (1) An appeal of a department decision regarding a Medicaid beneficiary based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision regarding a provider based upon an application of this administrative regulation:

(a) Regarding a provider's reimbursement shall be in accordance with 907 KAR 1:671, Sections 8 and 9; or

(b) Not regarding a provider's reimbursement shall be in accordance with 907 KAR 1:671.

Section 14.[42:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "MAP 10, Waiver Services Physician's Recommendation", June 2015[July 2008 edition];

(b) "MAP – 115 Application Intake – Participant Authorization", May 2015;

(c) "MAP – 116 Service Plan – Participant Authorization", May 2015;

(d) "MAP – 531 Conflict-Free Case Management Exemption", October[May] 2015;

(e)[MAP-24C, Admittance, Discharge or Transfer of an Individual in the ABI/SCL Program", July 2008 edition; (c) "MAP-26, Program Application Kentucky Medicaid Program Acquired Brain Injury (ABI) Waiver Services Program", July 2008 edition; (d) "MAP-045, Incident Report", July 2008 edition;

(e) "MAP 95, Request for Equipment Form", June 2007 edition; (f) "MAP 109 Plan of Care/Prior Authorization for Waiver Services", July 2008 edition; (g) "MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form", June 2015[July 2008 edition];

(f)[(h)] "MAP 351, Medicaid Waiver Assessment", July 2015 [2008 edition];

(g)[(i)] "MAP-2000, Initiation/Termination of Participant-[Consumer] Directed Services[Option] (CDO)", June 2015[July 2008 edition];

(h)[(j)] "Mayo-Portland Adaptability Inventory-4", March 2003 [edition];

(i)[(k)] "Family Guide to the Rancho Levels of Cognitive Functioning", August 2006;

(j)[The Revised Levels - Third Edition", 1998; and (l)] "Kentucky Participant-[Consumer] Directed Services[Option] Employee Provider Contract", June 2015; and

(k) "MAP 4100a Acquired Brain Injury Waiver Program Provider Information and Services", September 2009[revised April 49, 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 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: November 12, 2015

FILED WITH LRC: November 13, 2015 at noon

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.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, December 9, 2015)

907 KAR 10:020. Coverage provisions and requirements regarding outpatient psychiatric hospital services.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

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, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program outpatient services provided by psychiatric hospitals.

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

(2) "Approved behavioral health services provider" means:

- (a) A physician;
- (b) A psychiatrist;

(c) An advanced practice registered nurse;
 (d) A physician assistant;
 (e) A licensed psychologist;
 (f) A licensed psychological practitioner;
 (g) A certified psychologist with autonomous functioning;
 (h) A licensed clinical social worker;
 (i) A licensed professional clinical counselor;
 (j) A licensed marriage and family therapist;
 (k) A licensed psychological associate;
 (l) A certified psychologist;
 (m) A marriage and family therapy associate;
 (n) A certified social worker;
 (o) A licensed professional counselor associate;
 (p) A licensed professional art therapist;
 (q) A licensed professional art therapist associate;
 (r) A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation;
 (s) A licensed clinical alcohol and drug counselor associate in accordance with Section 12 of this administrative regulation; or
 (t) A certified alcohol and drug counselor.
 (3) "Behavioral health practitioner under supervision" means an individual who is:
 (a) 1. A licensed professional counselor associate;
 2. A certified social worker;
 3. A marriage and family therapy associate;
 4. A licensed professional art therapist associate;
 5. A licensed assistant behavior analyst;
 6. A physician assistant;
 7. A certified alcohol and drug counselor; or
 8. A licensed clinical alcohol and drug counselor associate in accordance with Section 12 of this administrative regulation; and
 (b) Employed by or under contract with the same billing provider as the billing supervisor.
 (4) "Billing provider" means the individual who, group of individual providers that, or organization that:
 (a) Is authorized to bill the department or a managed care organization for a service; and
 (b) Is eligible to be reimbursed by the department or a managed care organization for a service.
 (5) "Billing supervisor" means an individual who is:
 (a) 1. A physician;
 2. A psychiatrist;
 3. An advanced practice registered nurse;
 4. A licensed psychologist;
 5. A licensed clinical social worker;
 6. A licensed professional clinical counselor;
 7. A licensed psychological practitioner;
 8. A certified psychologist with autonomous functioning;
 9. A licensed marriage and family therapist;
 10. A licensed professional art therapist; **or**
 11. A licensed behavior analyst; **or**
12. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation; and
 (b) Employed by or under contract with the same billing provider as the behavioral health practitioner under supervision who renders services under the supervision of the billing supervisor.
 (6) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).
 (7) **"Certified prevention specialist" means an individual who is currently certified as a certified prevention specialist by the Kentucky Certification Board for Prevention Professionals.**
 (8) "Certified psychologist" means an individual who is **[recognized as]** a certified psychologist **pursuant to KRS 319.056 [in accordance with 201 KAR Chapter 26].**
 (9) **[8]** "Certified psychologist with autonomous functioning" means an individual who is a certified psychologist with autonomous functioning pursuant to KRS 319.056.
 (10) **[9]** "Certified social worker" means an individual who meets the requirements established in KRS 335.080.
 (11) **[10]** "Community support associate" means a

paraprofessional who meets the application, training, and supervision requirements of 908 KAR 2:250.
[12] [(11)] "Department" means the Department for Medicaid Services or its designee.
[13] [(12)] "Electronic signature" is defined by KRS 369.102(8).
[14] [(13)] "Enrollee" means a recipient who is enrolled with a managed care organization.
[15] [(14)] "Face-to-face" means occurring:
 (a) In person; or
 (b) If authorized by 907 KAR 3:170, via a real-time, electronic communication that involves two (2) way interactive video and audio communication.
[16] [(15)] "Federal financial participation" is defined by 42 C.F.R. 400.203.
[17] [(16)] "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).
[18] [(17)] "Licensed behavior analyst" is defined by KRS 319C.010(6).
[19] [(18)] "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).
[20] [(19)] "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).
[21] [(20)] "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.
[22] [(21)] "Licensed marriage and family therapist" is defined by KRS 335.300(2).
[23] [(22)] "Licensed professional art therapist" is defined by KRS 309.130(2).
[24] [(23)] "Licensed professional art therapist associate" is defined by KRS 309.130(3).
[25] [(24)] "Licensed professional clinical counselor" is defined by KRS 335.500(3).
[26] [(25)] "Licensed professional counselor associate" is defined by KRS 335.500(4).
[27] [(26)] "Licensed psychological associate" means an individual who:
 (a) Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and
 (b) Meets the licensed psychological associate requirements established in 201 KAR Chapter 26.
[28] [(27)] "Licensed psychological practitioner" means an individual who meets the requirements established in KRS 319.053.
[29] [(28)] "Licensed psychologist" means an individual who:
 (a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and
 (b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.
[30] [(29)] "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.
[31] [(30)] "Marriage and family therapy associate" is defined by KRS 335.300(3).
[32] [(31)] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
[33] [(32)] "Peer support specialist" means an individual who meets the peer **support** specialist qualifications established in:
 (a) 908 KAR 2:220;
 (b) 908 KAR 2:230; or
 (c) 908 KAR 2:240.
[34] [(33)] "Person-centered service plan" means a plan of services for a recipient that meets the requirements established in 42 C.F.R. 441.540.
[35] [(34)] "Physician" is defined by KRS 205.510(11).
[36] [(35)] "Physician assistant" is defined by KRS 311.840(3).
[37] [(36)] "Provider" is defined by KRS 205.8451(7).
[38] [(37)] "Provider abuse" is defined by KRS 205.8451(8).
[39] [(38)] "Recipient" is defined by KRS 205.8451(9).
[40] [(39)] "Recipient abuse" is defined by KRS 205.8451(10).
[41] [(40)] "Recipient's representative" means:

(a) For a recipient who is authorized by Kentucky law to provide written consent, an individual acting on behalf of, and with written consent from, the recipient; or

(b) A legal guardian.

(42) "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(8).

(43)[(41)] "Section 504 plan" means a plan developed under the auspices of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (Section 504), to ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives accommodations to ensure the child's academic success and access to the learning environment.

Section 2. General Coverage Requirements. (1) For the department to reimburse for a service covered under this administrative regulation, the service shall be:

(a) Medically necessary; and

(b) Provided:

1. To a recipient; and

2. By a psychiatric hospital that meets the provider participation requirements established in Section 3 of this administrative regulation.

(2)(a) Face-to-face contact between a practitioner and a recipient shall be required for each service except for:

1. Collateral outpatient therapy for a recipient under the age of twenty-one (21) years if the collateral outpatient therapy is in the recipient's plan of care;

2. A family outpatient therapy service in which the corresponding current procedural terminology code establishes that the recipient is not present;

3. A psychological testing service comprised of interpreting or explaining results of an examination or data to family members or others in which the corresponding current procedural terminology code establishes that the recipient is not present; or

4. A service planning activity in which the corresponding current procedural terminology code establishes that the recipient is not present.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(3) A billable unit of service shall be actual time spent delivering a service in a face-to-face encounter **except for any component of service planning that does not require the presence of the recipient or recipient's representative.**

(4) A service shall be:

(a) Stated in the recipient's plan of care; and

(b) Provided in accordance with the recipient's plan of care.

(5)(a) A psychiatric hospital shall establish a plan of care for each recipient receiving outpatient services from the psychiatric hospital.

(b) A plan of care shall meet the master treatment plan requirements established in 902 KAR 20:180.

Section 3. Provider Participation. (1)(a) To be eligible to provide services under this administrative regulation, a psychiatric hospital shall:

1. Be currently enrolled as a provider in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

2. Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3. Be licensed as a psychiatric hospital to provide outpatient behavioral health services in accordance with 902 KAR 20:180; and

4. Have:

a. For each service it provides, the capacity to provide the full range of the service as established in this administrative regulation;

b. Documented experience in serving individuals with behavioral health disorders;

c. The administrative capacity to ensure quality of services;

d. A financial management system that provides documentation of services and costs; and

e. The capacity to document and maintain individual health

records.

(b) The documentation referenced in paragraph (a)4.b. of this subsection shall be subject to audit by:

1. The department;

2. The Cabinet for Health and Family Services, Office of Inspector General;

3. A managed care organization, if the psychiatric hospital is enrolled in its network;

4. The Centers for Medicare and Medicaid Services;

5. The Kentucky Office of the Auditor of Public Accounts; or

6. The United States Department of Health and Human Services, Office of the Inspector General.

(2) In accordance with 907 KAR 17:015, Section 3(3), a psychiatric hospital which provides a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(3) A psychiatric hospital shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the act.

Section 4. Covered Services. (1) Except as specified in the requirements stated for a given service, the services covered may be provided for a:

(a) Mental health disorder;

(b) Substance use disorder; or

(c) Co-occurring mental health and substance use disorders.

(2) The following services shall be covered under this administrative regulation in accordance with the following requirements:

(a) A screening, crisis intervention, or intensive outpatient program service provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed clinical social worker;

5. A licensed professional clinical counselor;

6. A licensed professional art therapist;

7. A licensed marriage and family therapist;

8. A physician;

9. A psychiatrist;

10. An advanced practice registered nurse;

11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

12. A certified psychologist working under the supervision of a board-approved licensed psychologist;

13. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation; or

14. A behavioral health practitioner under supervision~~;~~

~~a. In accordance with Section 12 of this administrative regulation; and~~

~~b.]~~ except for a licensed assistant behavior analyst;

(b) An assessment provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;

3. A certified psychologist with autonomous functioning;

4. A licensed clinical social worker;

5. A licensed professional clinical counselor;

6. A licensed professional art therapist;

7. A licensed marriage and family therapist;

8. A physician;

9. A psychiatrist;

10. An advanced practice registered nurse;

11. A licensed behavior analyst;

12. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

13. A certified psychologist working under the supervision of a board-approved licensed psychologist;

14. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation; or

15. A behavioral health practitioner under supervision~~in~~

~~accordance with Section 12 of this administrative regulation];~~

(c) Psychological testing provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed psychological associate working under the supervision of a board-approved licensed psychologist; or

5. A certified psychologist working under the supervision of a board-approved licensed psychologist;

(d) Day treatment or mobile crisis services provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed clinical social worker;
5. A licensed professional clinical counselor;
6. A licensed professional art therapist;
7. A licensed marriage and family therapist;
8. A physician;
9. A psychiatrist;
10. An advanced practice registered nurse;
11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

12. A certified psychologist working under the supervision of a board-approved licensed psychologist;

13. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation;
14. A behavioral health practitioner under supervision;

~~a.] except for a licensed assistant behavior analyst; and~~

~~b. In accordance with Section 12 of this administrative regulation]; or~~

15. ~~a.~~ A peer support specialist working under the supervision of an approved behavioral health services provider; ~~or~~

~~b. A registered alcohol and drug peer support specialist working under the supervision of an approved behavioral health services provider[in accordance with Section 12 of this administrative regulation];~~

(e) Peer support provided by a:

1. Peer support specialist working under the supervision of an approved behavioral health services provider; ~~or~~

~~2. Registered alcohol and drug peer support specialist working under the supervision of an approved behavioral health services provider[in accordance with Section 12 of this administrative regulation];~~

(f) Individual outpatient therapy, group outpatient therapy, or collateral outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed clinical social worker;
5. A licensed professional clinical counselor;
6. A licensed professional art therapist;
7. A licensed marriage and family therapist;
8. A physician;
9. A psychiatrist;
10. An advanced practice registered nurse;
11. A licensed behavior analyst;

12. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

13. A certified psychologist working under the supervision of a board-approved licensed psychologist;

14. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation; or

15. A behavioral health practitioner under supervision ~~[in accordance with Section 12 of this administrative regulation];~~

(g) Family outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed clinical social worker;
5. A licensed professional clinical counselor;
6. A licensed professional art therapist;
7. A licensed marriage and family therapist;
8. A physician;

9. A psychiatrist;

10. An advanced practice registered nurse;

11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;

12. A certified psychologist working under the supervision of a board-approved licensed psychologist;

13. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation; or

14. A behavioral health practitioner under supervision;

~~a.] except for a licensed assistant behavior analyst; and
b. In accordance with Section 12 of this administrative regulation;]~~

(h) Service planning provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed clinical social worker;
5. A licensed professional clinical counselor;
6. A licensed professional art therapist;
7. A licensed marriage and family therapist;
8. A physician;
9. A psychiatrist;
10. An advanced practice registered nurse;
11. A licensed behavior analyst;
12. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
13. A certified psychologist working under the supervision of a board-approved licensed psychologist; or
14. A behavioral health practitioner under supervision except for:

- a. A certified alcohol and drug counselor; or
- b. A licensed clinical alcohol and drug counselor associate in accordance with Section 12 of this administrative regulation;

(i) A screening, brief intervention, and referral to treatment for a substance use disorder or SBIRT provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed clinical social worker;
5. A licensed professional clinical counselor;
6. A licensed professional art therapist;
7. A licensed marriage and family therapist;
8. A physician;
9. A psychiatrist;
10. An advanced practice registered nurse;
11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
12. A certified psychologist working under the supervision of a board-approved licensed psychologist;
13. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation; or
14. A behavioral health practitioner under supervision;

~~a.] except for a licensed assistant behavior analyst; and
b. In accordance with Section 12 of this administrative regulation;]~~

(j) Assertive community treatment provided by:

1. A licensed psychologist;
2. A licensed psychological practitioner;
3. A certified psychologist with autonomous functioning;
4. A licensed clinical social worker;
5. A licensed professional clinical counselor;
6. A licensed professional art therapist;
7. A licensed marriage and family therapist;
8. A physician;
9. A psychiatrist;
10. An advanced practice registered nurse;
11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
12. A certified psychologist working under the supervision of a board-approved licensed psychologist;
13. A behavioral health practitioner under supervision except for a:

- a. Licensed assistant behavior analyst;

- b. Certified alcohol and drug counselor; or
- c. Licensed clinical alcohol and drug counselor associate **in accordance with Section 12 of this administrative regulation;**

14. A peer support specialist working under the supervision of an approved behavioral health services provider except for a:

- a. Licensed clinical alcohol and drug counselor **in accordance with Section 12 of this administrative regulation;**

- b. Licensed clinical alcohol and drug counselor associate **in accordance with Section 12 of this administrative regulation;**
- or

- c. Certified alcohol and drug counselor; or
- 15. A community support associate;
- (k) Comprehensive community support services provided by:
 1. A licensed psychologist;
 2. A licensed psychological practitioner;
 3. A certified psychologist with autonomous functioning;
 4. A licensed clinical social worker;
 5. A licensed professional clinical counselor;
 6. A licensed professional art therapist;
 7. A licensed marriage and family therapist;
 8. A physician;
 9. A psychiatrist;
 10. An advanced practice registered nurse;
 11. A licensed behavior analyst;
 12. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
 13. A certified psychologist working under the supervision of a board-approved licensed psychologist;
 14. A behavioral health practitioner under supervision except for a:

- a. Licensed clinical alcohol and drug counselor associate **in accordance with Section 12 of this administrative regulation;**
- or

- b. Certified alcohol and drug counselor; or
- 15. A community support associate;
- (l) Therapeutic rehabilitation program services provided by:
 1. A licensed psychologist;
 2. A licensed psychological practitioner;
 3. A certified psychologist with autonomous functioning;
 4. A licensed clinical social worker;
 5. A licensed professional clinical counselor;
 6. A licensed professional art therapist;
 7. A licensed marriage and family therapist;
 8. A physician;
 9. A psychiatrist;
 10. An advanced practice registered nurse;
 11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
 12. A certified psychologist working under the supervision of a board-approved licensed psychologist;
 13. A behavioral health practitioner under supervision except for a:

- a. Licensed assistant behavior analyst;
 - b. Licensed clinical alcohol and drug counselor associate **in accordance with Section 12 of this administrative regulation;**
- or

- c. Certified alcohol and drug counselor; or
 - 14. A peer support specialist working under the supervision of an approved behavioral health services provider except for a:
 - a. Licensed clinical alcohol and drug counselor **in accordance with Section 12 of this administrative regulation;**
 - b. Licensed clinical alcohol and drug counselor associate **in accordance with Section 12 of this administrative regulation;**
- or

- c. Certified alcohol and drug counselor; or
- (m) Partial hospitalization provided by:
 1. A licensed psychologist;
 2. A licensed professional clinical counselor;
 3. A licensed clinical social worker;
 4. A licensed marriage and family therapist;
 5. A physician;
 6. A psychiatrist;
 7. An advanced practice registered nurse;

- 8. A licensed psychological practitioner;
- 9. A certified psychologist with autonomous functioning;
- 10. A licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation;
- 11. A licensed psychological associate working under the supervision of a board-approved licensed psychologist;
- 12. A certified psychologist working under the supervision of a board-approved licensed psychologist; or
- 13. A behavioral health practitioner under supervision ~~of~~ **a.] except for a licensed assistant behavioral analyst[; and b. In accordance with Section 12 of this administrative regulation].**

- (3)(a) A screening shall:
 1. Determine the likelihood that an individual has a mental health disorder, substance use disorder, or co-occurring disorders;
 2. Not establish the presence or specific type of disorder; and
 3. Establish the need for an in-depth assessment.
- (b) An assessment shall:
 1. Include gathering information and engaging in a process with the individual that enables the practitioner to:
 - a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;
 - b. Determine the individual's readiness for change;
 - c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and
 - d. Engage the individual in the development of an appropriate treatment relationship;
 2. Establish or rule out the existence of a clinical disorder or service need;
 3. Include working with the individual to develop a plan of care; and
 4. Not include psychological or psychiatric evaluations or assessments.

- (c) Psychological testing shall:
 1. Include:
 - a. A psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities; and
 - b. Interpretation and a written report of testing results; and
 2. Be performed by an individual who has met the requirements of KRS Chapter 319 related to the necessary credentials to perform psychological testing.

- (d) Crisis intervention:
 1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:
 - a. The recipient; or
 - b. Another individual;
 2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for individuals;
 3. Shall be provided:
 - a. On-site at the psychiatric hospital;
 - b. As an immediate relief to the presenting problem or threat; and
 - c. In a face-to-face, one-on-one encounter between the provider and the recipient;
 4. Shall be followed by a referral to non-crisis services if applicable; and

- 5. May include:
 - a. Further service prevention planning that includes:
 - (i) Lethal means reduction for suicide risk; or
 - (ii) Substance use disorder relapse prevention; or
 - b. Verbal de-escalation, risk assessment, or cognitive therapy.
- (e) Mobile crisis services shall:
 1. Be available twenty-four (24) hours per day, seven (7) days per week, every day of the year;
 2. Ensure access to a board-certified or board-eligible psychiatrist twenty-four (24) hours per day, seven (7) days per week, every day of the year;
 3. Be provided for a duration of less than twenty-four (24) hours;
 4. Not be an overnight service;
 5. Be a multi-disciplinary team-based intervention in a home or

community setting that ensures access to mental health and substance use disorder services and supports to:

- (i) Reduce symptoms or harm; or
- (ii) Safely transition an individual in an acute crisis to the appropriate least restrictive level of care;
6. Involve all services and supports necessary to provide:
 - a. Integrated crisis prevention;
 - b. Assessment and disposition;
 - c. Intervention;
 - d. Continuity of care recommendations; and
 - e. Follow-up services; and
7. Be provided face-to-face ~~in a home or community setting~~.

(f)1. Day treatment shall be a non-residential, intensive treatment program for an individual under the age of twenty-one (21) years who has:

- a. A mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders; and
- b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment shall:

- a. Consist of an organized, behavioral health program of treatment and rehabilitative services;
- b. Include:
 - (i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;
 - (ii) Behavior management and social skills training;
 - (iii) Independent living skills that correlate to the age and developmental stage of the recipient; or
 - (iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and
- c. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and on non-instructional weekdays during the school year including scheduled school breaks;

(iii) In coordination with the recipient's individualized educational plan or Section 504 plan if the recipient has an individualized educational plan or Section 504 plan;

(iv) Under the supervision of a licensed or certified approved behavioral health services provider ~~in accordance with Section 12 of this administrative regulation~~ or a behavioral health practitioner working under clinical supervision ~~in accordance with Section 12 of this administrative regulation~~; and

(v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, a psychiatric hospital shall have:

- a. The capacity to employ staff authorized to provide day treatment services in accordance with this section and to coordinate the provision of services among team members; and
- b. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education plan.

(g)1. Peer support services shall:

- a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;

(ii) A parent who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders[disorder] to a parent or family member of a child sharing a similar mental health disorder,

substance use disorder, or co-occurring mental health and substance use disorders[disorder] in order to bring about a desired social or personal change; or

(iii) A family member who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders[disorder] to a parent or family member of a child sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders[disorder] in order to bring about a desired social or personal change; or

(iv) A registered alcohol and drug peer support specialist who is experiencing or has experienced a substance use disorder to a recipient by sharing a similar substance use disorder in order to bring about a desired social or personal change;

- b. Be an evidence-based practice;
- c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;
- d. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

e. Be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

f. Be identified in each recipient's plan of care; and

g. Be designed to contribute directly to the recipient's individualized goals as specified in the recipient's plan of care.

2. To provide peer support services, a psychiatric hospital shall:

- a. Have demonstrated:

(i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

- b. Employ:

(i) Peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240; or

(ii) Registered alcohol and drug peer support specialists;

c. Use an approved behavioral health services provider ~~in accordance with Section 12 of this administrative regulation~~ to supervise;

(i) Peer support specialists; or

(ii) Registered alcohol and drug peer support specialists;

d. Have the capacity to coordinate the provision of services among team members; and

e. Have the capacity to provide on-going continuing education and technical assistance to:

(i) Peer support specialists; or

(ii) Registered alcohol and drug peer support specialists.

(h)1. Intensive outpatient program services shall:

a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health disorder, substance use disorder, or co-occurring disorders;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. Be provided at least three (3) hours per day at least three (3) days per week; and

- d. Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education.

2. During psycho-education the recipient or recipient's family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or

condition in a successful manner.

3. An intensive outpatient program services treatment plan shall:

- a. Be individualized; and
 - b. Focus on stabilization and transition to a lesser level of care.
4. To provide intensive outpatient program services, a psychiatric hospital shall have:
- a. Access to a board-certified or board-eligible psychiatrist for consultation;
 - b. Access to a psychiatrist, physician, or advanced practice registered nurse for medication prescribing and monitoring;
 - c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) recipients to one (1) staff person;
 - d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles; and
 - e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with this section and to coordinate the provision of services among team members.

(i) Individual outpatient therapy shall:

1. Be provided to promote the:
 - a. Health and well-being of the **recipient[individual]**; and
 - b. **Recipient's** recovery from a substance use disorder, mental health disorder, or co-occurring mental health and substance use disorders;
2. Consist of:
 - a. A face-to-face, one-on-one encounter between the provider and recipient; and
 - b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;
3. Be aimed at:
 - a. Reducing adverse symptoms;
 - b. Reducing or eliminating the presenting problem of the recipient; and
 - c. Improving functioning; and
4. Not exceed three (3) hours per day unless additional time is medically necessary.

(j)1. Group outpatient therapy shall:

- a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;
- b. Be provided to promote the:
 - (i) Health and well-being of the **recipient[individual]**; and
 - (ii) **Recipient's** recovery from a substance use disorder, mental health disorder, or co-occurring mental health and substance use disorders;
- c. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified plan of care;
- d. Be provided to a recipient in a group setting:
 - (i) Of nonrelated individuals except for multi-family group therapy; and
 - (ii) Not to exceed twelve (12) individuals;
- e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;
- f. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
- g. Not include physical exercise, a recreational activity, an educational activity, or a social activity; and
- h. Not exceed three (3) hours per day per recipient unless additional time is medically necessary.
2. The group shall have a:
 - a. Deliberate focus; and
 - b. Defined course of treatment.
3. The subject of group outpatient therapy shall relate to each recipient participating in the group.
4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.
- (k)1. Family outpatient therapy shall consist of a face-to-face behavioral health therapeutic intervention provided:
 - a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals (including multiple members from one (1) family) who participate in the session.

3. Family outpatient therapy shall:

- a. Be provided to promote the:
 - (i) Health and well-being of the **recipient[individual]**; or
 - (ii) **Recipient's** recovery from a substance use disorder, mental health disorder, or co-occurring mental health and substance use disorders; and
- b. Not exceed three (3) hours per day per individual unless additional time is medically necessary.

(l)1. Collateral outpatient therapy shall:

- a. Consist of a face-to-face behavioral health consultation:
 - (i) With a parent or caregiver of a recipient, household member of a recipient, recipient's representative, school staff person, treating professional, or other person with custodial control or supervision of the recipient; and
 - (ii) That is provided in accordance with the recipient's plan of care; and
- b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age.
2. Consent to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

(m)1. Service planning shall:

- a. Involve assisting a recipient in creating an individualized plan for services needed for maximum reduction of the effects of a mental health disorder;
- b. Involve restoring a recipient's functional level to the recipient's best possible functional level; and
- c. Be performed using a person-centered planning process.

2. A service plan:

- a. Shall be directed by the:
 - (i) Recipient; or
 - (ii) Recipient's representative if the recipient is under the age of eighteen (18) years or is unable to provide direction;
- b. Shall include practitioners of the recipient's choosing; and
- c. May include:
 - (i) A mental health advance directive being filed with a local hospital;
 - (ii) A crisis plan; or
 - (iii) A relapse prevention strategy or plan.
- (n) Screening, brief intervention, and referral to treatment for a substance use disorder shall:

1. Be an evidence-based early intervention approach for an individual with non-dependent substance use in order to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; and

2. Consist of:

- a. Using a standardized screening tool to assess an individual for risky substance use behavior;
- b. Engaging a recipient who demonstrates risky substance use behavior in a short conversation and providing feedback and advice to the recipient; and
- c. Referring a recipient to additional mental health disorder, substance use disorder, or co-occurring disorders services if the recipient is determined to need additional services to address **the recipient's** substance use.

(o)1. Assertive community treatment shall:

- a. Be an evidence-based psychiatric rehabilitation practice which provides a comprehensive approach to service delivery for individuals with a severe mental illness; and
- b. Include:
 - (i) Assessment;
 - (ii) Treatment planning;
 - (iii) Case management;
 - (iv) Psychiatric services;
 - (v) Medication prescribing and monitoring;
 - (vi) Individual outpatient therapy;
 - (vii) Group outpatient therapy;

- (viii) Mobile crisis services;
- (ix) Mental health consultation;
- (x) Family support and basic living skills; or
- (xi) Peer support.

2.a. Mental health consultation shall involve brief, collateral interactions with other treating professionals who may have information for the purpose of treatment planning and service delivery.

b. Family support shall involve the assertive community treatment team's working with the recipient's natural support systems to improve family relations in order to:

- (i) Reduce conflict; and
- (ii) Increase the recipient's autonomy and independent functioning.

c. Basic living skills shall be rehabilitative services focused on teaching activities of daily living necessary to maintain independent functioning and community living.

3. To provide assertive community treatment services, a psychiatric hospital shall:

a. Employ at least one (1) team of multidisciplinary professionals:

(i) Led by an approved behavioral health services provider except for a licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation, a licensed clinical alcohol and drug counselor associate in accordance with Section 12 of this administrative regulation, or a certified alcohol and drug counselor; and

(ii) Comprised of at least four (4) full-time equivalents including a psychiatrist, a nurse, a case manager, a peer support specialist, a registered alcohol and drug peer support specialist, or an approved behavioral health services provider except for a licensed clinical alcohol and drug counselor in accordance with Section 12 of this administrative regulation, a licensed clinical alcohol and drug counselor associate in accordance with Section 12 of this administrative regulation, or a certified alcohol and drug counselor;

b. Have adequate staffing to ensure that no team's caseload size exceeds ten (10) participants per team member (for example, if the team includes five (5) individuals, the caseload for the team shall not exceed fifty (50) recipients);

c. Have the capacity to:

- (i) Employ staff authorized to provide assertive community treatment services in accordance with this paragraph;
- (ii) Coordinate the provision of services among team members;
- (iii) Provide the full range of assertive community treatment services as stated in this paragraph; and
- (iv) Document and maintain individual health records; and

d. Demonstrate experience in serving individuals with persistent and severe mental illness who have difficulty living independently in the community.

(p)1. Comprehensive community support services shall:

a. Be activities necessary to allow an individual to live with maximum independence in the community;

b. Be intended to ensure successful community living through the utilization of skills training as identified in the recipient's plan of care; and

c. Consist of using a variety of psychiatric rehabilitation techniques to:

- (i) Improve daily living skills;
- (ii) Improve self-monitoring of symptoms and side effects;
- (iii) Improve emotional regulation skills;
- (iv) Improve crisis coping skills; and
- (v) Develop and enhance interpersonal skills.

2. To provide comprehensive community support services, a psychiatric hospital shall:

a. Have the capacity to employ staff authorized pursuant to 908 KAR 2:250 to provide comprehensive community support services in accordance with subsection (2)(k) of this section and to coordinate the provision of services among team members; and

b. Meet the requirements for comprehensive community support services established in 908 KAR 2:250.

(q)1. Therapeutic rehabilitation program services shall be:

a. A rehabilitative service for an:

- (i) Adult with a severe mental illness; or
- (ii) Individual under the age of twenty-one (21) years who has a severe emotional disability; and

b. Designed to maximize the reduction of the effects of a mental health disorder and the restoration of the individual's functional level to the individual's best possible functional level.

2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilitation goals within the person-centered service plan.

3. A therapeutic rehabilitation program shall:

a. Be delivered using a variety of psychiatric rehabilitation techniques;

b. Focus on:

- (i) Improving daily living skills;
- (ii) Self-monitoring of symptoms and side effects;
- (iii) Emotional regulation skills;
- (iv) Crisis coping skills; and
- (v) Interpersonal skills; and

c. Be delivered individually or in a group.

(r)1. Partial hospitalization shall be a short-term (average of four (4) to six (6) weeks), less than twenty-four (24)-hour, intensive treatment program for an individual who is experiencing significant impairment to daily functioning due to a substance use disorder, a mental health disorder, or co-occurring mental health and substance use disorders.

2. Partial hospitalization may be provided to an adult or a child.

3. Admission criteria for partial hospitalization shall be based on an inability to adequately treat the recipient through community-based therapies or intensive outpatient services.

4. A partial hospitalization program shall consist of individual outpatient therapy, group outpatient therapy, family outpatient therapy, or medication management.

5.a. The department shall not reimburse for educational, vocational, or job training services provided as part of partial hospitalization.

b. An outpatient hospital's partial hospitalization program shall have an agreement with the local educational authority to come into the program to provide all educational components and instruction which are not Medicaid billable or reimbursable.

c. The department shall not reimburse for services identified in a Medicaid-eligible child's individualized education program.

6. Partial hospitalization shall typically be:

- a. Provided for at least four (4) hours per day; and
- b. Focused on one (1) primary presenting problem (i.e. substance use, sexual reactivity, or another problem).

7. An outpatient hospital's partial hospitalization program shall:

a. Include the following personnel for the purpose of providing medical care if necessary:

- (i) An advanced practice registered nurse;
- (ii) A physician assistant or physician available on site; and
- (iii) A board-certified or board-eligible psychiatrist available for consultation; and

b. Have the capacity to:

- (i) Provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;
- (ii) Employ required practitioners and coordinate service provision among rendering practitioners; and
- (iii) Provide the full range of services included in the scope of partial hospitalization established in this subsection.

(4) The extent and type of a screening shall depend upon the nature of the problem of the individual seeking or being referred for services.

(5) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders™.

(6) The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.

Section 5. Additional Limits and Non-covered Services or Activities. (1)(a) Except as established in paragraph (b) of this subsection, unless a diagnosis is made and documented in the recipient's health record within three (3) visits, the service shall not

be covered.

(b) The requirement established in paragraph (a) of this subsection shall not apply to:

1. Mobile crisis services;
2. Crisis intervention;
3. A screening; or
4. An assessment.

(2) For a recipient who is receiving assertive community treatment, the following shall not be billed or reimbursed for the same **period of time in which the recipient receives assertive community treatment**~~[date of service for the recipient]~~:

- (a) An assessment;
- (b) Case management;
- (c) Individual outpatient therapy;
- (d) Group outpatient therapy;
- (e) Peer support services; or
- (f) Mobile crisis services.

(3) The department shall not reimburse for both a screening and an SBIRT provided to a recipient on the same date of service.

(4) The following services or activities shall not be covered under this administrative regulation:

(a) A service provided to:

1. A resident of:

a. A nursing facility; or

b. An intermediate care facility for individuals with an intellectual disability;

2. An inmate of a federal, local, or state:

a. Jail;

b. Detention center; or

c. Prison; or

3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;

(b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the psychiatric hospital;

(c) A consultation or educational service provided to a recipient or to others;

(d) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face" established in Section 1(14) of this administrative regulation;

(e) Travel time;

(f) A field trip;

(g) A recreational activity;

(h) A social activity; or

(i) A physical exercise activity group.

(5)(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation except as established in Section 4(3)(l)1 of this administrative regulation.

(b) A third party contract shall not be covered under this administrative regulation.

(6) A billing supervisor arrangement between a billing supervisor and a behavioral health practitioner under supervision shall not:

(a) Violate the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the behavioral health practitioner under supervision; or

(b) Substitute for the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the behavioral health practitioner under supervision.

Section 6. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the same service is covered, during the same time period.

(2) For example, if a recipient is receiving a behavioral health service from an independent behavioral health provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a psychiatric

hospital.

Section 7. Records Maintenance, Documentation, Protection, and Security. (1) A psychiatric hospital shall maintain a current health record for each recipient.

(2)(a) A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(b) The individual who provided the service shall date and sign the health record within forty-eight (48) hours of the date that the individual provided the service.

(3) A health record shall:

(a) Include:

1. An identification and intake record including:

a. Name;

b. Social Security number;

c. Date of intake;

d. Home (legal) address;

e. Health insurance or Medicaid participation information;

f. **If applicable, the** referral source's name and address;

g. Primary care physician's name and address;

h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider's name; and

j. The name of the informant and any other information deemed necessary by the psychiatric hospital in order to comply with the requirements of:

(i) This administrative regulation;

(ii) The psychiatric hospital's licensure board;

(iii) State law; or

(iv) Federal law;

2. Documentation of the:

a. Screening;

b. Assessment if an assessment was performed; and

c. Disposition if a disposition was performed;

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;

2. Furnished upon request:

a. To the Cabinet for Health and Family Services; or

b. For an enrollee, to the managed care organization in which the recipient is enrolled or has been enrolled in the past;

3. Made available for inspection and copying by:

a. Cabinet for Health and Family Services' personnel; or

b. Personnel of the managed care organization in which the recipient is enrolled if applicable;

4. Readily accessible; and

5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient if the recipient received services beyond a screening.

(4) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(5)(a) A psychiatric hospital's notes regarding a recipient shall:

1. Be made within forty-eight (48) hours of each service visit; and

2. Describe the:

a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

b. **Behavioral health practitioner's**~~[Therapist's]~~ intervention;

c. Changes in the plan of care if changes are made; and

d. Need for continued treatment if deemed necessary.

(b)1. Any edit to notes shall:

- a. Clearly display the changes; and
 - b. Be initialed and dated by the person who edited the notes.
2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a behavioral health practitioner working under supervision shall be co-signed and dated by the supervising professional within thirty (30) days.

2. If services are provided by a behavioral health practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervising professional which reflects consultations with the behavioral health practitioner working under supervision concerning the:

- a. Case; and
- b. Supervising professional's evaluation of the services being provided to the recipient.

(6) Immediately following a screening of a recipient, the practitioner shall perform a disposition related to:

- (a) A provisional diagnosis;
- (b) A referral for further consultation and disposition, if applicable; or

(c)1. If applicable, termination of services and referral to an outside source for further services; or

2. If applicable, termination of services without a referral to further services.

(7) Any change to a recipient's plan of care shall be documented, signed, and dated by the rendering practitioner and by the recipient or recipient's representative.

(8)(a) Notes regarding services to a recipient shall:

1. Be organized in chronological order;
2. Be dated;
3. Be titled to indicate the service rendered;
4. State a starting and ending time for the service; and
5. Be recorded and signed by the rendering practitioner and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other non-reimbursable contacts shall:

1. Be recorded in the notes; and
2. Not be reimbursable.

(9)(a) A termination summary shall:

1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and
2. Contain a summary of the significant findings and events during the course of treatment including the:
 - a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's plan of care;
 - b. Final diagnosis of clinical impression; and
 - c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who has been terminated from receiving services shall be fully completed within ten (10) days following termination.

(10) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(11)(a) Except as established in paragraph (b) of this subsection, if a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring psychiatric hospital shall, within ten (10) business days of awareness of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

- 1.a. The Health Insurance Portability and Accountability Act;
- b. 42 U.S.C. 1320d-2 to 1320d-8; and
- c. 45 C.F.R. Parts 160 and 164; or
- 2.a. 42 U.S.C. 290ee-3; and
- b. 42 C.F.R. Part 2.

(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part

unit in an acute care hospital, a Level I psychiatric residential treatment facility, a Level II psychiatric residential treatment facility, or an acute care hospital for care or treatment, the transferring psychiatric hospital shall, within forty-eight (48) hours of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

- 1.a. The Health Insurance Portability and Accountability Act;
- b. 42 U.S.C. 1320d-2 to 1320d-8; and
- c. 45 C.F.R. Parts 160 and 164; or
- 2.a. 42 U.S.C. 290ee-3; and
- b. 42 C.F.R. Part 2.

(12)(a) If a psychiatric hospital's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, a licensure suspension, or death of an owner or deaths of owners, the health records of the psychiatric hospital shall:

1. Remain the property of the psychiatric hospital; and
2. Be subject to the retention requirements established in subsection (13) of this section.

(b) A psychiatric hospital shall have a written plan addressing how to maintain health records in the event of death of an owner or deaths of owners.

(13)(a) Except as established in paragraph (b) or (c) of this subsection, a psychiatric hospital shall maintain a health record regarding a recipient for at least six (6) years from the last date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) After a recipient's death or discharge from services, a provider shall maintain the recipient's record for the longest of the following periods:

1. Six (6) years unless the recipient is a minor; or
2. If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(14)(a) A psychiatric hospital shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;
2. Not be disclosed to an unauthorized individual; and
3. Be disclosed to an authorized representative of:
 - a. The department;
 - b. Federal government; or
 - c. For an enrollee, the managed care organization in which the enrollee is enrolled.

(c)1. Upon request, a psychiatric hospital shall provide to an authorized representative of the department, federal government, or managed care organization if applicable, information requested to substantiate:

- a. Staff notes detailing a service that was rendered;
- b. The professional who rendered a service; and
- c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department or managed care organization.

2. Failure to provide information referenced in subparagraph 1 of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 8. Medicaid Program Participation Compliance. (1) A psychiatric hospital shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(2)(a) If a psychiatric hospital receives any duplicate payment or overpayment from the department or a managed care organization, regardless of reason, the psychiatric hospital shall return the payment to the department or managed care

organization in accordance with 907 KAR 1:671.

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

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

(3)(a) When the department makes payment for a covered service and the psychiatric hospital accepts the payment:

1. The payment shall be considered payment in full;
2. A bill for the same service shall not be given to the recipient; and

3. Payment from the recipient for the same service shall not be accepted by the psychiatric hospital.

(b)1. A psychiatric hospital may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

- a. Recipient requests the service; and
- b. Psychiatric hospital makes the recipient aware in writing in advance of providing the service that the:

- (i) Recipient is liable for the payment; and
- (ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1 of this paragraph, the:

a. Psychiatric hospital shall not bill the department for the service; and

b. Department shall not:

(i) Be liable for any part of the payment associated with the service; and

(ii) Make any payment to the psychiatric hospital regarding the service.

(4)(a) A psychiatric hospital shall attest[attests] by the psychiatric hospital's staff's or representative's signature that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General, or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee;

5. United States General Accounting Office or its designee; or

6. For an enrollee, managed care organization in which the enrollee is enrolled.

(c)1. If a psychiatric hospital receives a request from the:

a. Department to provide a claim, related information, related documentation, or record for auditing purposes, the psychiatric hospital shall provide the requested information to the department within the timeframe requested by the department; or

b. Managed care organization in which an enrollee is enrolled to provide a claim, related information, related documentation, or record for auditing purposes, the psychiatric hospital shall provide the requested information to the managed care organization within the timeframe requested by the managed care organization.

2.a. The timeframe requested by the department or managed care organization for a psychiatric hospital to provide requested information shall be:

- (i) A reasonable amount of time given the nature of the request and the circumstances surrounding the request; and
- (ii) A minimum of one (1) business day.

b. A psychiatric hospital may request a longer timeframe to provide information to the department or a managed care organization if the psychiatric hospital justifies the need for a longer timeframe.

(d)1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by a psychiatric hospital shall result in the suspension or termination of the psychiatric hospital from Medicaid Program participation in accordance with 907 KAR 1:671.

Section 9. Third Party Liability. A psychiatric hospital shall comply with KRS 205.622.

Section 10. 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 psychiatric hospital 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 psychiatric hospital's employees, officers, agents, or 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 psychiatric hospital's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 11. Auditing Authority. The department or managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(1) Claim;

(2) Health record; or

(3) Documentation associated with any claim or health record.

Section 12. Federal Approval and Federal Financial Participation. (1) The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(a) Receipt of federal financial participation for the coverage; and

(b) Centers for Medicare and Medicaid Services' approval for the coverage.

(2) The coverage of services provided by a licensed clinical alcohol and drug counselor or licensed clinical alcohol and drug counselor associate shall be contingent and effective upon approval by the Centers for Medicare and Medicaid Services.

Section 13. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

LISA LEE, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: July 7, 2015

FILED WITH LRC: July 9, 2015 at 11 a.m.

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CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(As Amended at ARRS, December 9, 2015)

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23)

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, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program outpatient behavioral health services provided by psychiatric hospitals to Medicaid recipients who are not enrolled with a managed care organization.

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

(2) "Approved behavioral health services provider" means:

- (a) A physician;
- (b) A psychiatrist;
- (c) An advanced practice registered nurse;
- (d) A physician assistant;
- (e) A licensed psychologist;
- (f) A licensed psychological practitioner;
- (g) A certified psychologist with autonomous functioning;
- (h) A licensed clinical social worker;
- (i) A licensed professional clinical counselor;
- (j) A licensed marriage and family therapist;
- (k) A licensed psychological associate;
- (l) A certified psychologist;
- (m) A marriage and family therapy associate;
- (n) A certified social worker;
- (o) A licensed professional counselor associate;
- (p) A licensed professional art therapist;
- (q) A licensed professional art therapist associate;
- (r) A licensed clinical alcohol and drug counselor in accordance with Section 7 of this administrative regulation;
- (s) A licensed clinical alcohol and drug counselor associate in accordance with Section 7 of this administrative regulation; or
- (t) A certified alcohol and drug counselor.

(3) "Behavioral health practitioner under supervision" means an individual who is:

- (a) 1. A licensed professional counselor associate;
- 2. A certified social worker;
- 3. A marriage and family therapy associate;
- 4. A licensed professional art therapist associate;
- 5. A licensed assistant behavior analyst;
- 6. A physician assistant;
- 7. A certified alcohol and drug counselor; or
- 8. A licensed clinical alcohol and drug counselor

associate in accordance with Section 7 of this administrative regulation; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(4) "Billing provider" means the individual who, group of individual providers that, or organization that:

- (a) Is authorized to bill the department or a managed care organization for a service; and
- (b) Is eligible to be reimbursed by the department or a managed care organization for a service.

(5) "Billing supervisor" means an individual who is:

- (a) 1. A physician;

2. A psychiatrist;

3. An advanced practice registered nurse;

4. A licensed psychologist;

5. A licensed clinical social worker;

6. A licensed professional clinical counselor;

7. A licensed psychological practitioner;

8. A certified psychologist with autonomous functioning;

9. A licensed marriage and family therapist;

10. A licensed professional art therapist;

11. A licensed behavior analyst; or

12. A licensed clinical alcohol and drug counselor in accordance with Section 7 of this administrative regulation; and

(b) Employed by or under contract with the same billing provider as the behavioral health practitioner under supervision who renders services under the supervision of the billing supervisor.

(6) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(7) "Certified psychologist" means an individual who is a certified psychologist pursuant to KRS 319.056.

(8) "Certified psychologist with autonomous functioning" means an individual who is a certified psychologist with autonomous functioning pursuant to KRS 319.056.

(9) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

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

(11) [(3)] "Federal financial participation" is defined by 42 C.F.R. 400.203.

(12) "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

(13) "Licensed behavior analyst" is defined by KRS 319C.010(6).

(14) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

(15) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

(16) "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

(17) "Licensed marriage and family therapist" is defined by KRS 335.300(2).

(18) "Licensed professional art therapist" is defined by KRS 309.130(2).

(19) "Licensed professional art therapist associate" is defined by KRS 309.130(3).

(20) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

(21) "Licensed professional counselor associate" is defined by KRS 335.500(4).

(22) "Licensed psychological associate" means an individual who:

- (a) Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and
- (b) Meets the licensed psychological associate requirements established in 201 KAR Chapter 26.

(23) "Licensed psychological practitioner" means an individual who meets the requirements established in KRS 319.053.

(24) "Licensed psychologist" means an individual who:
(a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and

(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

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

(26) "Marriage and family therapy associate" is defined by KRS 335.300(3).

(27) "Physician" is defined by KRS 205.510(11).

(28) "Physician assistant" is defined by KRS 311.840(3).

(29)(5)] "Provider" is defined by KRS 205.8451(7).

Section 2. General Requirements. For the department to reimburse for a service covered under this administrative regulation, the service shall:

- (1) Meet the requirements established in 907 KAR 10:020; and
- (2) Be covered in accordance with 907 KAR 10:020.

Section 3. Reimbursement. (1) One (1) unit of service shall be:

- (a) Fifteen (15) minutes in length; or
- (b) The unit amount identified in the corresponding:

1. Current procedural terminology code;
2. Healthcare common procedure coding system code; or
3. Revenue code.

(2) The rate per unit for a screening or for crisis intervention shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or
2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or
2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;
2. Licensed clinical social worker;
3. Licensed psychological practitioner;
4. Certified psychologist with autonomous functioning;
5. Licensed marriage and family therapist;
6. Licensed professional art therapist; or
7. Licensed clinical alcohol and drug counselor; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a billing supervisor;
2. Licensed professional counselor associate working under the supervision of a billing supervisor;
3. Licensed psychological associate working under the supervision of a billing supervisor;
4. Certified social worker working under the supervision of a billing supervisor;
5. Physician assistant working under the supervision of a billing supervisor;
6. Licensed professional art therapist associate working under the supervision of a billing supervisor;
7. Certified alcohol and drug counselor working under the supervision of a billing supervisor; or
8. Licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor.

(3) The rate per unit for an assessment shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or
2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or
2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;
2. Licensed clinical social worker;
3. Licensed psychological practitioner;

4. Certified psychologist with autonomous functioning;

5. Licensed marriage and family therapist;

6. Licensed professional art therapist;

7. Licensed behavior analyst; or

8. Licensed clinical alcohol and drug counselor; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a billing supervisor;

2. Licensed professional counselor associate working under the supervision of a billing supervisor;

3. Licensed psychological associate working under the supervision of a billing supervisor;

4. Certified social worker working under the supervision of a billing supervisor;

5. Physician assistant working under the supervision of a billing supervisor;

6. Licensed professional art therapist associate working under the supervision of a billing supervisor;

7. Licensed assistant behavior analyst working under the supervision of a billing supervisor;

8. Certified alcohol and drug counselor working under the supervision of a billing supervisor; or

9. Licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor.

(4) The rate per unit for psychological testing shall be:

(a) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a licensed psychologist;

(b) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed psychological practitioner; or

2. Certified psychologist with autonomous functioning; or

(c) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a licensed psychological associate working under the supervision of a licensed psychologist.

(5) The rate per unit for individual outpatient therapy, group outpatient therapy, or collateral outpatient therapy shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or

2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or

2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;

2. Licensed clinical social worker;

3. Licensed psychological practitioner;

4. Certified psychologist with autonomous functioning;

5. Licensed marriage and family therapist;

6. Licensed professional art therapist;

7. Licensed behavior analyst; or

8. Licensed alcohol and drug counselor; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a billing supervisor;

2. Licensed professional counselor associate working under the supervision of a billing supervisor;

3. Licensed psychological associate working under the supervision of a billing supervisor;

4. Certified social worker working under the supervision of a billing supervisor;

5. Physician assistant working under the supervision of a billing supervisor;

6. Licensed professional art therapist associate working under the supervision of a billing supervisor;

7. Licensed assistant behavior analyst working under the supervision of a billing supervisor;

8. Certified alcohol and drug counselor working under the supervision of a billing supervisor; or

9. Licensed alcohol and drug counselor associate working under the supervision of a billing supervisor.

(6) The rate per unit for family outpatient therapy shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or

2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or

2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;

2. Licensed clinical social worker;

3. Licensed psychological practitioner;

4. Certified psychologist with autonomous functioning;

5. Licensed marriage and family therapist;

6. Licensed professional art therapist; or

7. Licensed clinical alcohol and drug counselor; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a billing supervisor;

2. Licensed professional counselor associate working under the supervision of a billing supervisor;

3. Licensed psychological associate working under the supervision of a billing supervisor;

4. Certified social worker working under the supervision of a billing supervisor;

5. Physician assistant working under the supervision of a billing supervisor;

6. Licensed professional art therapist associate working under the supervision of a billing supervisor;

7. Certified alcohol and drug counselor working under the supervision of a billing supervisor; or

8. Licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor.

(7) Reimbursement for the following services shall be as established on the DMS Psychiatric Hospital Outpatient Non-Medicare Fee Schedule:

(a) Mobile crisis services;

(b) Day treatment;

(c) Peer support services;

(d) Parent or family peer support services;

(e) Intensive outpatient program services;

(f) Service planning;

(g) Residential services for substance use disorders;

(h) Screening, brief intervention, and referral to treatment for a substance use disorder (SBIRT);

(i) Assertive community treatment;

(j) Comprehensive community support services;

(k) Therapeutic rehabilitation services; or

(l) Partial hospitalization.

(8)(a) The department shall use the current version of the Kentucky-specific Medicare Physician Fee Schedule for reimbursement purposes.

(b) For example, if the Kentucky-specific Medicare Physician Fee Schedule currently published and used by the

Centers for Medicare and Medicaid Services for the Medicare Program is:

1. An interim version, the department shall use the interim version until the final version has been published; or

2. A final version, the department shall use the final version.(a) Except as established in Section 4 of this administrative regulation, the department shall reimburse a psychiatric hospital on an interim basis for outpatient behavioral health services at a facility specific outpatient cost-to-charge ratio based on the facility's most recently filed cost report that has been reviewed and approved by the department.

(b) An outpatient behavioral health service cost-to-charge ratio shall be expressed as a percent of the psychiatric hospital's outpatient behavioral health service charges.

(2) Except as established in subsection (4) of this section, a facility specific outpatient behavioral health service cost-to-charge ratio paid during the course of a psychiatric hospital's fiscal year shall be designed to result in reimbursement, at the psychiatric hospital's fiscal year end, equaling ninety-five (95) percent of the psychiatric hospital's total outpatient behavioral health services costs, excluding diagnostic laboratory services costs, incurred during the psychiatric hospital's fiscal year.

(3) Except as established in subsection (4) of this section:

(a) Upon reviewing a psychiatric hospital's as submitted cost report for the hospital's fiscal year, the department shall preliminarily settle reimbursement to the psychiatric hospital equal to ninety-five (95) percent of the psychiatric hospital's total outpatient behavioral health services costs, excluding diagnostic laboratory services costs, incurred in the corresponding fiscal year; and

(b) Upon receiving and reviewing a psychiatric hospital's finalized outpatient behavioral health services cost report for the hospital's fiscal year, the department shall settle final reimbursement to the facility equal to ninety-five (95) percent of the psychiatric hospital's total outpatient behavioral health services costs, excluding diagnostic laboratory services costs, incurred in the corresponding fiscal year.

(4)(a) The department's total reimbursement for psychiatric hospital outpatient behavioral health services shall not exceed the aggregate limit established in 42 C.F.R. 447.321.

(b) If projections indicate for a given state fiscal year that reimbursing for a psychiatric hospital's outpatient behavioral health services at ninety-five (95) percent of costs would result in the department's total psychiatric hospital outpatient behavioral health service reimbursement exceeding the aggregate limit established in 42 C.F.R. 447.321, the department shall proportionately reduce the final psychiatric hospital outpatient behavioral health service reimbursement for each psychiatric hospital to equal a percent of costs which shall result in the total psychiatric hospital outpatient behavioral health service reimbursement equaling the aggregate limit established in 42 C.F.R. 447.321.

(5) The department shall not reimburse for a service billed by or on behalf of an entity or individual that is not a billing provider.

Section 4. Initial Interim Reimbursement and New Hospital Reimbursement. (1)(a) Except as established in subsection (2) of this section, until a psychiatric hospital has submitted to the department a cost report containing twelve (12) months of outpatient behavioral health services cost information that has been reviewed and approved by the department, the department shall reimburse the psychiatric hospital on an interim basis for outpatient behavioral health services using the most recently available statewide average cost-to-charge ratio for in-state acute care hospitals.

(b) The department shall update the statewide average in-state acute care hospital cost-to-charge ratio effective July 1 of each year.

(2)(a) After the department has established a cost-to-

charge ratio for at least two (2) psychiatric hospitals pursuant to Section 3 of this administrative regulation, the department shall reimburse on an interim basis a newly participating psychiatric hospital for which a cost report containing twelve (12) months of outpatient behavioral health services information has not been reviewed and approved by the department, the statewide average cost-to-charge ratio of in-state psychiatric hospitals.

(b) The department shall update the statewide average in-state psychiatric hospital cost-to-charge ratio effective July 1 of each year.

Section 5. Cost Reporting Requirements. (1) A psychiatric hospital participating in the Medicaid Program shall submit to the department a copy of the Medicare cost report it submits to CMS, an electronic cost report file (ECR), the Supplemental Medicaid Schedule KMAP-1, the Supplemental Medicaid Schedule KMAP-4, and the Supplemental Medicaid Schedule KMAP-6.

(a) A cost report shall be submitted:

1. For the fiscal year used by the psychiatric hospital; and

2. Within five (5) months after the close of the psychiatric hospital's fiscal year.

(b) Except as provided in subparagraphs 1, 2, or 3 of this paragraph, the department shall not grant a cost report submittal extension.

1. The department shall grant an extension if an extension has been granted by Medicare. If an extension has been granted by Medicare, when the facility submits its cost report to Medicare, it shall simultaneously submit a copy of the cost report to the department.

2. If a catastrophic circumstance exists, as determined by the department (for example flood, fire, or other equivalent occurrence), the department shall grant a thirty (30) day extension.

3. The department shall extend the deadline for a psychiatric hospital to submit a cost report if:

a. The psychiatric hospital:

(i) Requests the extension in writing; and

(ii) Describes the circumstances necessitating the extension; and

b. The department approves the extension.

(c) A psychiatric hospital shall include all Medicaid outpatient behavioral health services costs on the cost report that it submits to:

1. Medicare; and

2. The department.

(2)(a) If a cost report submittal date lapses and no extension has been granted, the department shall immediately suspend all payment to the psychiatric hospital for outpatient behavioral health services until a complete cost report is received.

(3) If a cost report indicates that payment is due by a psychiatric hospital to the department, the psychiatric hospital shall submit the amount due or submit a payment plan request with the cost report.

(4) If a cost report indicates a payment is due by a psychiatric hospital to the department and the psychiatric hospital fails to remit the amount due or request a payment plan, the department shall suspend future payment to the psychiatric hospital for outpatient behavioral health services until the psychiatric hospital remits the payment or submits a request for a payment plan.

(5) An estimated payment shall not be considered payment in full until a final determination of cost has been made by the department.

(6) A cost report submitted by a psychiatric hospital to the department shall be subject to departmental audit and review.

(7) Within seventy (70) days of receipt from the Medicare intermediary, a hospital shall submit to the department a printed copy of the final Medicare audited cost report including adjustments.

(8)(a) If it is determined that an additional payment is due

by a psychiatric hospital after a final determination of cost has been made by the department, the additional payment shall be due by a hospital to the department within sixty (60) days after notification.

(b) If a psychiatric hospital does not submit the additional payment within sixty (60) days, the department shall withhold future payment to the psychiatric hospital until the department has collected in full the amount owed by the psychiatric hospital to the department.]

Section ~~4.6.]~~ Outpatient Psychiatric Hospital Laboratory Services Reimbursement.

(1) The department shall reimburse for an ~~in-state or out-of-state]~~ outpatient psychiatric hospital diagnostic laboratory service:

(a) At the Medicare-established technical component rate for the service in accordance with 907 KAR 1:028 if a Medicare-established component rate exists for the service; or

(b) By multiplying the statewide average in-state outpatient hospital/facility's current outpatient] cost-to-charge ratio by the psychiatric hospital's/its] billed laboratory charges if no Medicare rate exists for the service.

(2) The department shall update the statewide average outpatient hospital cost-to-charge ratio effective July 1 of each year] Laboratory service reimbursement, in accordance with subsection (1) of this section, shall be:

(a) Final; and

(b) Not settled to cost].

Section ~~5.7. Out-of-State Outpatient Psychiatric Hospital Services Reimbursement.~~

~~(1)(a) Except as established in paragraph (b) of this subsection, excluding laboratory services, reimbursement for psychiatric hospital outpatient behavioral health services provided by an out-of-state hospital shall equal ninety-five (95) percent of the statewide average in-state psychiatric hospital cost-to-charge ratio multiplied by the applicable covered Medicaid charges for the service.~~

~~(b) The department shall update the statewide average in-state psychiatric hospital cost-to-charge ratio effective July 1 of each year.~~

~~(2) Out-of-state hospital reimbursement, in accordance with subsection (1) of this section, shall be:~~

~~(a) Final; and~~

~~(b) Not settled to cost.~~

Section 8.] Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

(1) 907 KAR 10:020; and

(2) This administrative regulation.

Section ~~6.9.]~~ Federal Approval and Federal Financial Participation. ~~(1)~~ The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

~~(a)](1)]~~ Receipt of federal financial participation for the reimbursement; and

~~(b)](2)]~~ Centers for Medicare and Medicaid Services' approval for the reimbursement.

~~(2) The coverage of services provided by a licensed clinical alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, registered alcohol and drug peer support specialist, or certified prevention specialist shall be contingent and effective upon approval by the Centers for Medicare and Medicaid Services.~~

Section ~~7.10.]~~ Appeals. A psychiatric hospital may appeal a decision by the department regarding the application of this administrative regulation in accordance with 907 KAR 1:671.

Section ~~8.11.]~~ Incorporation by Reference. (1) The "Psychiatric Hospital Outpatient Behavioral Health Fee Schedule", November 2015, [following material] is incorporated

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by reference[:

~~(a) "Supplemental Worksheet E-3, Part III", May 2004;~~

~~(b) "Supplemental Medicaid Schedule KMAP-1", January 2007;~~

~~(c) "Supplemental Medicaid Schedule KMAP-4", January 2007;~~

~~(d) The "Supplemental Medicaid Schedule KMAP-5", November 2011; and~~

~~(e) "Supplemental Medicaid Schedule KMAP-6", January 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: April 10, 2015

FILED WITH LRC: April 13, 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, tricia.orme@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(Amended After Comments)

601 KAR 2:030. Ignition interlock[devices;—the surrendering of license plates].

RELATES TO: KRS 45A, 186.010, 186.440, 186.442, 186.480, 186.531, 186.560, 186.570, 189A.005, 189A.010, 189A.040, 189A.070, 189A.085, 189A.090, 189A.103, 189A.105, 189A.107, 189A.200, 189A.240, 189A.250, 189A.340, 189A.345, 189A.400, 189A.410, 189A.420, 189A.440, 189A.500, 205.712, 18 U.S.C. 2721[57 C.F.R. 11772-11787]

STATUTORY AUTHORITY: KRS 189A.500[189A.085(1)(b), 189A.340(4)(f)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189A.500 requires the Transportation Cabinet to promulgate administrative regulations to carry out provisions regarding the implementation of the commonwealth's ignition interlock program for motor vehicle drivers who violate KRS 189A.010. This administrative regulation establishes the duties and responsibilities of ignition interlock device providers wishing to enter into an agreement with the Commonwealth of Kentucky and the Transportation Cabinet for the administration and implementation of the ignition interlock device program and requirements for certifying ignition interlock devices under this program. This administrative regulation also establishes the requirements for a defendant charged with a violation of KRS 189.010 to obtain an ignition interlock device and license[KRS 189A.085 states that, after a license plate suspension by a judge pursuant to that provision, the circuit court clerk shall transmit surrendered plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulation. KRS 189A.340(4)(f) states that the Transportation Cabinet shall promulgate administrative regulations to carry out the provisions of that subsection regarding interlock devices. This administrative regulation outlines the procedure for surrendering plates to the Transportation Cabinet pursuant to court order, providing registration information on a convicted violator to the court, approving interlock device manufacturers, installers, and servicing entities and making an approved list available to the public].

Section 1. Definitions. (1) "Calibration" means the process that ensures an accurate alcohol concentration reading is being obtained on the ignition interlock device.

(2) "Certification" means the approval process required by the Commonwealth of Kentucky for ignition interlock devices and device providers prior to operating within the state.

(3) "Defendant" means an individual who is determined to be eligible and who is ordered by the court to drive only motor vehicles that have certified ignition interlock devices installed.

(4) "Department" means the Department of Vehicle Regulation in the Kentucky Transportation Cabinet.

(5) "Device" means a breath alcohol ignition interlock device.

(6) "Fail-point" means the level at which the breath alcohol concentration is at or above .02%.

(7) "Ignition interlock certification of installation" is defined by KRS 189A.005(3).

(8) "Ignition interlock device" is defined by KRS 189A.005(2).

(9) "Ignition interlock device provider" or "device provider" is defined by KRS 189A.005(4).

(10) "Ignition interlock license" is defined by KRS 189A.005(5).

(11) "Ignition interlock service provider" or "service provider" means a certified supplier, installer, and service provider of the certified ignition interlock devices. The service provider may also be a manufacturer of an ignition interlock device.

(12) "Lockout" means the ability of the ignition interlock device to prevent a motor vehicle's engine from starting.

(13) "Manufacturer" means the actual maker of the ignition

interlock device that assembles the product and distributes it to device providers.

(14) "Medical accommodation" means non-standard calibration of a device that has been adjusted to detect the breath alcohol level of defendants who have a medically documented condition of diminished lung capacity requiring a reduced air sample.

(15) "Motor vehicle" is defined by KRS 186.010(4).

(16) "NHTSA" means the National Highway Traffic Safety Administration.

(17) ~~"Permanent lockout" means a feature of the ignition interlock device that prevents a motor vehicle from starting until the ignition interlock device is reset by a service provider or technician.~~

(18) "Provider representative" means a device provider employee who provides oversight of the provider's ignition interlock operations within the Commonwealth of Kentucky.

(18)(19) "Retest" means an additional opportunity to provide a breath sample.

(19)(20) "RFQ" means a request for qualifications pursuant to KRS Chapter 45A.

(20)(21) "Rolling retest" means a test of the defendant's breath alcohol concentration required at random intervals during operation of the motor vehicle.

(21)(22) "Service facility" means the physical location where the service provider's technicians install, calibrate, or remove ignition interlock devices.

(22)(23) "Service facility inspection" means the process of determining that a service provider and its technicians are qualified and approved to provide ignition interlock services within the Commonwealth of Kentucky.

(23)(24) "Tampering" means an unlawful act or attempt to disable or circumvent the legal operation of the ignition interlock device.

(24)(25) "Technician" means a service provider employee or contractor who installs, calibrates, and removes ignition interlock devices within the Commonwealth of Kentucky.

(25)(26) "Violation" means:

(a) A breath test indicating an alcohol concentration at the fail-point or above upon initial startup and retest during operation of the motor vehicle;

(b) Altering, concealing, hiding, or attempting to hide one's identity from the ignition interlock system's camera while providing a breath sample;

(c) Failure to provide a minimum of fifty (50) breath samples within a thirty (30) day period;

(d) Tampering that breaches the guidelines for use of the interlock device; or

(e) **Failure to pay provider fees as established in Section 2(17) of this administrative regulation[Delinquent payment of provider fees].**

Section 2. Ignition Interlock Device Applications. (1) The requirements contained in this administrative regulation shall not be applied retroactively to ignition interlock devices in use prior to the effective date of this administrative regulation.

(2)(a) Upon arraignment of an offense under KRS 189A.010 resulting in pretrial license suspension, a defendant seeking authorization to apply for and, if eligible, operate under an ignition interlock license shall file with the court a completed Pretrial Application to Court for Authorization to Apply for an Ignition Interlock License and Device, AOC-495.4, pursuant to KRS 189A.200.

(b) Upon conviction of an offense under KRS 189A.010 resulting in license revocation, a defendant seeking authorization to apply for and, if eligible, operate under an ignition interlock license shall file with the court a completed Application to Court Upon Conviction for Authorization to Apply for an Ignition Interlock License and Device, AOC-495.12, pursuant to KRS 189A.070.

(c) Upon judicial finding of a refusal under KRS 189A.107(2) and an acquittal of charges brought under KRS 186.010, the court

may authorize the defendant to submit a completed Post-Acquittal Application for Authorization to Apply for an Ignition Interlock License and Device, AOC 495.10.

(d) An eligible defendant in compliance with KRS Chapters 186 and 205 shall receive an Order Upon Acquittal Authorizing Ignition Interlock License and Device, AOC-495.11.

(e) The cabinet shall issue an ignition interlock license for the period of suspension ordered by the court.

(3) A defendant requesting indigency status review shall file concurrently with the application a completed Financial Statement, Affidavit of Indigency, Request for Reduced Ignition Interlock Device Costs, AOC-495.8.

(4) Upon review of the appropriate application, the court may issue the defendant a Pretrial Order Authorizing Application for Ignition Interlock License and Device, AOC-495.5, or an Order Upon Conviction Authorizing Application for Ignition Interlock License and Device, AOC-495.13.

(5) Defendant eligibility guidelines, applications, and medical accommodation forms shall be made available electronically on the cabinet's Web site at <http://drive.ky.gov> and in printed form through the Department of Vehicle Regulation regional field offices. Regional office locations and contact information are available at <http://drive.ky.gov>.

(6)(a) Prior to application, a defendant shall be required to remit to the cabinet a non-refundable application fee in the amount of \$105 pursuant to KRS 189A.420(6). Payment shall be made by cashier's check, certified check, or money order at one (1) of the cabinet's regional field offices or the central office in Frankfort.

(b) A defendant's payment of the application fee shall not be subject to a court's determination of indigency.

(7) A defendant and his or her counsel are advised that a pre-existing out-of-state or in-state suspension for the offenses listed in KRS 186.560, 186.570, and 205.712 shall result in the defendant's ineligibility to obtain an ignition interlock device. Eligibility guidelines are available at <http://drive.ky.gov>.

(8) A defendant shall submit to the cabinet a completed Ignition Interlock Application, TC 94-175, with a court order authorizing application and proof of insurance and valid vehicle registration.

(9) A defendant seeking a medical accommodation due to diminished lung capacity shall submit with the application a completed Breath Alcohol Ignition Interlock Physician Statement, TC 94-176.

(10) The cabinet shall issue the defendant a letter providing notice of his or her eligibility or ineligibility to install an ignition interlock device based on whether his or her current driving history record conforms to the eligibility guidelines established in KRS Chapters 186 and 205.

(11) A defendant eligible for device installation shall select and contact a certified device provider of his or her choice from the list maintained on the cabinet's web site at <http://drive.ky.gov>.

(12) A technician designated by the device provider shall install a certified ignition interlock device on the defendant's vehicle upon receipt of the court order and letter of eligibility issued by the cabinet.

(13) A defendant shall be required to install an ignition interlock device on one (1) primary motor vehicle registered and titled in his or her name or another's motor vehicle with express notarized, written consent of the owner authorizing installation of the device.

(14) Nothing in this administrative regulation shall prohibit a person from installing devices on multiple motor vehicles pursuant to subsection (13) of this section.

(15) Upon a defendant's payment of the appropriate fees, the service provider's technician shall install the device and issue to the defendant a Certificate of Installation for Ignition Interlock Device, TC 94-177.

(16) At the time of issuance of an ignition interlock license, a defendant shall:

(a) Present the Certificate of Installation to the circuit clerk in the defendant's county of residence; and

(b) Pay a licensing fee pursuant to KRS 186.531 in addition to the fees specified in subsection (20)(c) of this section. The license shall display an ignition interlock device restriction.

(17) After ten (10) day's written notice to the defendant, the

provider shall notify the appropriate county attorney and the cabinet~~(may remove an ignition interlock device)~~ for nonpayment of fees on an account that is in arrears for thirty (30) days or more. ~~[Notice of removal of the device for nonpayment shall be communicated to the appropriate county attorney within five (5) days of the device removal. The defendant's failure to satisfy the arrears may result in a provider lock-out of the device.]~~

(18) A defendant may voluntarily have the device removed and reinstalled onto a different motor vehicle pursuant to subsection (13) of this section, and upon payment of the appropriate fees to the provider.

(19) A defendant shall have the device removed by an approved service provider and technician designated by the device provider upon completion of the ignition interlock period specified by the court.

(20)(a) Upon removal of the device, the service provider shall retain for their records and provide to the defendant a Certificate of Removal for Ignition Interlock Device, TC 94-178, documenting the successful removal of the interlock device and defendant's payment of all fees.

(b) Upon notice that the device has been removed, the cabinet shall update the defendant's driver history record authorizing the circuit clerk's office to issue the defendant a new license without the ignition interlock restriction.

(c) A defendant shall pay the appropriate fee for a duplicate or renewal license pursuant to KRS 186.531.

(21) A defendant with a license suspension or revocation period exceeding twelve (12) months shall be subject to retesting requirements prior to the issuance of a new license pursuant to KRS 186.480.

Section 3. General Requirements for Ignition Interlock Device Providers. (1) The cabinet shall certify ignition interlock device providers utilizing the provisions of KRS Chapter 45A and the terms of the RFQ. Initial certification shall be valid for a period of eighteen (18) months. Extensions shall be for a period of two (2) years with two (2) subsequent renewals.

(2) Ignition interlock device providers certified under this administrative regulation prior to the effective date of the amended administrative regulation shall obtain re-certification in compliance with this administrative regulation prior to providing devices and services.

(3) An ignition interlock device provider seeking certification to provide devices and services within the commonwealth shall comply in all respects with the requirements of solicitation issued by the cabinet. Non-compliance shall result in a denial of certification.

(4) An ignition interlock device provider may subcontract with a person, firm, LLC, or corporation to provide a device and services if that device is specifically included in its original certification request and is specifically certified by the cabinet pursuant to KRS 189A.500.

(5) An ignition interlock device or service provider shall provide information and training for the operation and maintenance of the device to the defendant and other individuals operating a vehicle with an installed device.

(6)(a) A device and service provider shall be prohibited from removing a device owned by a different provider unless an agreement is in place or for the purpose of replacing a defendant's provider due to that provider's insolvency or business interruption.

(b) The original device provider shall bear the costs associated with the removal of the existing device and installation of the new device.

(7) A device provider shall notify the cabinet within fifteen (15) days of a[an investigation,] pending suspension, revocation, or disciplinary action taken against it by a jurisdiction outside the commonwealth. Notice shall include a copy of the official correspondence or pleading establishing the reason for the pending action and shall be provided to the cabinet regardless of the existence of an appeal.

(8) The records required by Section 4(2)(e) of this administrative regulation shall be retained by an ignition interlock

device provider for five (5) years from the date the device is removed from the defendant's vehicle.[a—period commensurate with the driver's history record, pursuant to KRS 186.018, after which time] The records shall be disposed of in a manner compliant with relevant privacy laws and the provisions contained in this administrative regulation.

Section 4. Certification of Ignition Interlock Devices and Device Providers. (1) An ignition interlock device provider requesting certification of an ignition interlock device shall:

(a) Submit an affidavit that the ignition interlock device sought to be used complies with the applicable specifications and certification requirements contained in the RFQ; and

(b) Submit documentation for each model from either a certified, independent testing laboratory or the NHTSA testing laboratory that the ignition interlock device meets or exceeds the current NHTSA model specifications at nhtsa.gov/staticfiles/nti/pdf/811859.pdf.

(2) An ignition interlock device provider requesting certification shall:

(a) Submit evidence demonstrating successful experience in the development and maintenance of an ignition interlock service program, including a list of jurisdictions served by the device provider;

(b) Provide a description of the training required including its frequency, for persons employed by, contracted with, or permitted by the provider to install, calibrate, remove, and provide continuing support for the devices;

(c) Provide a plan that includes a location map describing the areas and locations of the provider's proposed fixed installation and service facilities. The plan shall include at least one (1) fixed facility in each of the twelve (12) highway districts;

(d) Agree to initial service facility inspections, continuing random inspections, and annual inspections of each service facility by the cabinet or its designee. The provider shall also agree to provide sufficient notice to the cabinet or its designee of the opening of new service facilities to permit the inspection of the facility within thirty (30) days of opening;

(e) Provide a plan for the receipt, maintenance, and destruction or appropriate return of defendant records consistent with court rules and the confidential maintenance of defendant records as required by the Driver's Privacy Protection Act, 18 U.S.C. 2721 and other applicable statutes;

(f) Provide proof of insurance covering the liability related to the manufacture, operation, installation, service, calibration, and removal of the devices with policy limits as established in the RFQ. The provider's liability insurance shall be expressly considered primary in the policy;

(g) Designate a provider representative authorized to speak on behalf of and bind the device provider, and designated to work with the cabinet, the courts, and other agencies in the administration of the ignition interlock program;

(h) Maintain a toll-free twenty-four (24) hour emergency phone service that shall be used by defendants to request assistance in the event of operational problems related to the device and shall include technical assistance and aid in obtaining roadside service if needed; and

(i) Demonstrate the ability to maintain sufficient, secure computer hardware and software compatible with the cabinet and court requirements to record, compile, and transmit data and information requested by the cabinet and the Administrative Office of the Courts.

(3) Device providers shall notify the appropriate county attorney within twenty-four (24) hours electronically, or no later than seventy-two (72) hours by mail, fax, or other method approved by the recipient of the following occurrences:

(a) Device tampering or circumvention violations; **or**

(b)[Device lockout due to arrearages; or

(c)] A defendant's failure to comply with a court order pursuant to Section 6(6) of this administrative regulation.

(4) A provider shall indemnify and hold harmless the commonwealth and its employees and agents from all claims, demands, or actions as a result of damages or injury to persons or

property, including death, that arise directly or indirectly out of the installation, omission, failure of installation, servicing, calibrating, or removal of an ignition interlock device. Indemnification shall extend to acts or omissions by the cabinet, department, or its employees or agents due to verified errors in reporting ignition interlock activities by the provider.

Section 5. Ignition Interlock Device Installation. (1) A provider may charge a defendant for the commodities and services listed in the RFQ, including the following:

(a) Standard ignition interlock device installation, or installation on alternative fuel motor vehicles or a motor vehicle with a push button starter;

(b) Device rental on a monthly basis;

(c) Scheduled device calibrations and monitoring as specified in the RFQ;

(d) Required insurance in case of theft, loss, or damage to the device and its components;

(e) Resets necessary **due to the fault of[as a result of tampering by]** the defendant;

(f) Missed appointments without notice;

(g) Service calls and mileage up to 100 miles at the current rate established by the Kentucky Finance and Administration Cabinet; and

(h) Device removal.

(2)(a) The court shall determine whether a defendant is indigent. A defendant declared indigent shall pay a proportionate amount of the fees agreed to in the RFQ based upon the guidelines established by the Kentucky Supreme Court in Amendment to Administrative Procedures of the Court of Justice, Part XVI, Ignition interlock, Amended Order 2015-13.

(b) A device and service provider shall accept the court ordered amounts paid by an indigent defendant as payment in full.

(3) The defendant shall remit the fees directly to the device or service provider as directed by the device provider. A device provider shall not prohibit the pre-payment of fees for the device and services.

(4)[If a device is removed or placed in lockout for arrearages.] The device provider shall pursue collection of amounts in arrears and recovery of the devices, where applicable, through separate legal action.

(5) An ignition interlock device shall be installed by or under the direction and supervision of a cabinet-certified ignition interlock device provider in conformance with approved, prescribed procedures of the device manufacturer.

(6) A service provider and technician shall use the calibration units approved by NHTSA and appearing on its list of Conforming Products List of Calibrating Units for Breath Alcohol Testers at <http://www.transportation.gov/odapc/conforming-product-list-calibrating-units-breath-alcohol-testers>.

(7) An ignition interlock device provider shall ensure that technicians installing the device:

(a) Inspect, calibrate, or replace devices with a newly calibrated device at each inspection as required;

(b) Retrieve data from ignition interlock device data logs for the previous period and send the information to the appropriate authority within twenty-four (24) hours electronically, or no later than seventy-two (72) hours by mail, fax, or other method approved by the recipient pursuant to KRS 189A.500;

(c) Record the odometer reading at installation and at service appointments;

(d) Inspect devices and wiring for signs of tampering or circumvention, record suspected violations, and transmit violation reports pursuant to Section 4(3) of this administrative regulation; and

(e) Conform to other calibration requirements established by the device manufacturer.

(8) The cabinet shall:

(a) Maintain a periodically updated, rotating list of certified ignition interlock device providers and approved facilities available at <http://drive.ky.gov>;

(b) Make available an Ignition Interlock Application, TC 94-175, available at <http://drive.ky.gov> and in regional field offices and the

central office in Frankfort:

(c) Make available a uniform Certificate of Installation for Ignition Interlock Device, TC 94-177[~~available at http://drive.ky.gov~~] to be printed and distributed by device providers to their approved service providers and technicians documenting successful ignition interlock device installation; and

(d) Issue an ignition interlock license to eligible defendants upon receipt of a court order and in compliance with the requirements of this administrative regulation. The license shall have in-force status and indicate it is an ignition interlock license by displaying a restriction code for an ignition interlock device.

Section 6. Installation, Operation, Calibration, and Removal of Devices. (1) Prior to installing the device, the provider shall obtain and retain copies of the following from the defendant:

(a) Photo identification;

~~(b) [Name, policy number, and expiration date of defendant's automobile insurance policy];~~

~~(c) [A copy of the vehicle registration or title containing the VIN of the vehicle designated as primary by the defendant and the names of the operators of the motor vehicles; and~~

~~(c) [(d)] Consent of the defendant or registered owner to install the device.~~

(2)(a) The device shall be inspected or calibrated by technicians designated by the device provider within thirty (30) days of installation and every sixty (60) days thereafter, as established in KRS 189A.420(4)(b).

(b) A defendant shall have the option to service the device at thirty (30) day intervals following the initial calibration.

(3) If a defendant fails to have the device inspected or recalibrated as required, the ignition interlock device shall be programmed to enter into a lockout condition, at which time the vehicle shall be required to be returned to the service provider[site of installation].

(4) The defendant shall be responsible for costs related to roadside service unless it is determined that the interlock device failed through no fault of the defendant, in which case the device provider shall be responsible for the applicable costs.

(5) In the event of a violation resulting in an order from the court, the device provider shall remove the device and the cabinet shall suspend the defendant's ignition interlock license.

(6) A device provider shall, within ninety-six (96)[~~forty-eight (48)~~ hours of receipt of the court's order directing removal of the device, notify the defendant that he or she shall return the vehicle with the installed device for removal[initiate a permanent lockout if the vehicle has not been returned to the facility. If a permanent lockout occurs, the defendant shall notify the device provider immediately to arrange for the return of the vehicle].

(7) If an ignition interlock device is removed for any reason, components of the motor vehicle altered by the installation of the device shall be restored to pre-installed conditions.

Section 7. Provider Suspension, Revocation, Voluntary Facility Closure, or Financial Insolvency. (1) The department shall indefinitely suspend or revoke certification of an ignition interlock device provider for the following:

(a) A device in use by that provider and previously certified by the cabinet is discontinued by the manufacturer or device provider;

(b) The device provider's liability insurance is terminated or cancelled;

(c) The device provider makes materially false or inaccurate information relating to a device's performance standards;

(d) There are defects in design, materials, or workmanship causing repeated failures of a device;

(e) A device provider fails to fully correct an identified service facility deficiency within thirty (30) days after having been notified by the cabinet or its designee to do so;

(f) A service provider impedes, interrupts, disrupts, or negatively impacts an investigation or inspection conducted by the cabinet or its designee involving customer service issues, vehicle damage, or a complaint brought by a third party;

(g) A public safety or client confidentiality issue with an ignition

interlock device provider, service facility, or technician is identified;

(h) A provider becomes insolvent or files for bankruptcy; or

(i) The device provider requests a voluntary suspension.

(2)(a) The device provider shall be given thirty (30) days written notice of the existence of one (1) or more of the conditions specified in subsection (1) of this section by letter from the Commissioner of the Department of Vehicle Regulation, served by certified mail, and an opportunity to respond to the allegations or correct the deficiencies within that period.

(b) The commissioner shall consider the provider's response or lack of response if deciding to suspend for a period of time or completely revoke the certification of the provider.

(c) The provider may appeal the commissioner's decisions pursuant to the provisions of KRS Chapter 13B.

(3) A device provider subject to revocation shall be responsible for, and bear the costs associated with:

(a) Providing notice to defendants; and

(b) The removal of currently installed devices or the installation of a new approved device by a device provider in good standing.

(4) A provider subject to revocation shall continue to provide services for currently installed devices for a time to be determined by the cabinet, but no longer than ninety (90) days.

(5) A provider subject to suspension shall continue to provide services for currently installed devices. A new ignition interlock installation shall not be permitted during the period of suspension.

(6)(a) A provider who terminates certification or goes out of business shall comply with the requirements established in subsection (3) of this section, and shall continue to provide services for currently installed devices for ninety (90) days from the date of the provider's notification to the cabinet that they will be terminating ignition interlock services.

(b) A provider who terminates certification or goes out of business shall submit plans for transferring existing defendants to other providers to ensure continuity of service.

(c) A transfer plan shall be submitted to the cabinet for approval by the commissioner within thirty (30) days of the initial notification of intent to cease operations in the commonwealth.

(d) The provider shall be solely responsible for notifying defendants with currently installed devices serviced by the provider, and shall be solely responsible for charges related to installation of a device by a new provider.

Section 8. Surrender of Motor Vehicle Registration Plates. (1) A defendant who does not qualify for an ignition interlock license shall surrender his or her license plates pursuant to KRS 189A.085.

(2) Upon receipt of a request for a vehicle registration inventory from a court, the Transportation Cabinet shall:

(a) Conduct a search of the automated vehicle information system;

(b) Identify motor vehicles owned or jointly owned by the person named on the request; and

(c) Return the results of the search to the court by 12 noon Eastern time, the next working day after the request is received, if the request is received by 12 noon Eastern time. Requests received after 12 noon Eastern time shall be returned to the court by the close of business the second working day after they are received.

(3) Upon receipt of a court order suspending a licensee's plates, pursuant to KRS 189A.085, the Transportation Cabinet shall suspend the licensee's registration. The cabinet shall not suspend the registration of any person pursuant to KRS 189A.085 unless a court order has been received.

(4) The court shall return confiscated license plates to the Transportation Cabinet. The cabinet shall bear the responsibility for reasonable postage or shipping costs for the return of confiscated license plates.

(5) After the motor vehicle registration suspension period has expired, the county clerk shall reissue a motor vehicle registration plate and registration receipt upon the request of the vehicle owner as follows:

(a) If the registration period of the suspended license plate has not expired, the new registration shall be issued pursuant to KRS

186.180(2); or

(b) If the suspended license plate has expired, the registration shall be issued as a renewal registration pursuant to KRS 186.050.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Breath Alcohol Ignition Interlock Physician Statement", TC 94-176, August 2015;

(b) "Certificate of Installation for Ignition Interlock Device", TC 94-177, August 2015;

(c) "Certificate of Removal for Ignition Interlock Device", TC 94-178, August, 2015; and

(d) "Ignition Interlock Application", TC 94-175, August 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet Building, Department of Highways, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. through 4:30 p.m. This material is also available on the cabinet's Web site at <http://drive.ky.gov> [Surrender of Motor Vehicle Registration Plates.

(1) Upon receipt of a request for a vehicle registration inventory from a court, the Transportation Cabinet shall:

(a) Conduct a search of the automated vehicle information system;

(b) Identify all motor vehicles owned or jointly owned by the person named on the request; and

(c) Return the results of the search to the court by 12 noon Eastern time, the next working day after the request is received, provided the request is received by 12 noon Eastern time. Requests received after 12 noon Eastern time shall be returned to the court by the close of business the second working day after they are received.

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(b) If the suspended license plate has expired, the registration shall be issued as a renewal registration pursuant to KRS 186.050.

Section 2. Breath Alcohol Ignition Interlock Device. (1) An ignition interlock device, installed pursuant to court order shall meet the following criteria:

(a) The ignition interlock device shall be designed and constructed to measure a person's breath alcohol concentration, as defined in KRS 189A.005(1), by utilizing a sample of the person's breath delivered directly into the device;

(b) The ignition interlock device shall be designed and constructed so that the ignition system of the vehicle in which it is installed will not be activated if the alcohol concentration of the operator's breath exceeds .02 alcohol concentration as defined in KRS 189A.005(1);

(c) The ignition interlock device shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDS), as published in 57 FR 11772-11787 (April 7, 1992);

(d) The ignition interlock device shall prevent engine ignition if the device has not been calibrated within a period of ninety-seven (97) days subsequent to the last calibration;

(e) The ignition interlock device shall:

1. Record each time the vehicle is started;
2. Record results of the alcohol concentration test;
3. Record how long the vehicle is operated; and

4. Detect any indications of bypassing or tampering with the device;

(f) The ignition interlock device shall permit a sample free restart for a period of two (2) minutes or less after a stall;

(g) The ignition interlock device shall require:

1. That the operator of the vehicle submit to a retest within ten (10) minutes of starting the vehicle;

2. That retests continue at intervals not to exceed sixty (60) minutes after the first retest;

3. That retests occur during operation of the vehicle; and

4. That the device enter a lockout condition in five (5) days if a retest is not performed or the results of the test exceeds the maximum allowable alcohol concentration;

(h) The ignition interlock device shall be equipped with a method of immediately notifying peace officers:

1. If the retest is not performed; or

2. If the results exceed the maximum allowable alcohol concentration; and

(i) The ignition interlock device shall include instructions recommending a fifteen (15) minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the device.

(2) An ignition interlock device shall be:

(a) Installed by the manufacturer or by private sector installers in conformance with the prescribed procedures of the manufacturer; and

(b) Be used in accordance with the manufacturer's instructions.

(3)(a) An ignition interlock device shall be calibrated at least once every ninety (90) days to maintain the device in proper working order.

(b) The manufacturer or installer shall calibrate the device or exchange the installed device for another calibrated device in lieu of calibration.

(c) The record of installation and calibration shall be kept in the vehicle at all times for inspection by a peace officer and shall include the following information:

1. Name of the person performing the installation and calibration;

2. Dates of activity;

3. Value and type of standard used;

4. Unit type and identification number of the ignition interlock device checked; and

5. Description of the vehicle in which the ignition interlock device is installed, including the registration plate number and state, make, model, vehicle identification number, year and color.

(4) An ignition interlock device in a lockout condition shall be returned to the site of installation for service.

Section 3. Division of Driver Licensing Requirements. (1) The Division of Driver Licensing shall maintain a list of all manufacturers of ignition interlock devices meeting the requirements of this administrative regulation who have provided documentation to the division confirming that they offer appropriate ignition interlock devices and related services within the Commonwealth.

(2) The list of manufacturers who provide appropriate devices, approved installers, and servicing and monitoring entities shall be published and periodically updated by the Division of Driver Licensing on the Transportation Cabinet Web site.

(3) The Division of Driver Licensing shall provide a notation on the face of the operator's license stating that:

(a) The licensee is required by order of the court to be using a vehicle with an ignition interlock device; and

(b) The license has been granted an exception for employment purposes pursuant to KRS 189A.340, if granted by the court.

(4) Manufacturers, installers, and servicing and monitoring entities shall apply to the Division of Driver Licensing for approval and placement on the list maintained by the cabinet.

Section 4. Incorporation by Reference. (1) Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDS), 57 FR 11772-11787 (April 7, 1992), 40 pages, is incorporated by reference.

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~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Division of Driver Licensing, 2nd Floor, State Office Building, 504 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

MICHAEL W. HANCOCK, P. E., Secretary
RODNEY KUHL, Commissioner
ANN DANGELO, Staff Attorney Manager/Assistant General Counsel

APPROVED BY AGENCY: December 10, 2015

FILED WITH LRC: December 14, 2015 at 4 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 the administration and implementation of the ignition interlock program.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 189A.500.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes forms, creates a uniform certificate of installation for ignition interlock devices, certifies the devices approved for use in the Commonwealth, and creates an ignition interlock license to be issued upon court approval.

(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 of KRS 189A.500.

(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: These amendments remove the definition for "permanent lockout"; require a provider to contact the county attorney and cabinet after ten (10) days' notice to the defendant and before removal of a device; remove the requirement for a provider to contact the cabinet within fifteen (15) days of an investigation; require the provider to retain records for five (5) years from the date the ignition interlock device is removed; ensure that the Certificate of Installation form is not readily available on the Web site; remove the obligation for a provider to verify insurance policy and expiration date; allow a defendant to return a vehicle to the service provider rather than the site of installation; and permit ninety-six (96) hours from receipt of court order to notify the defendant.

(b) The necessity of the amendment to this administrative regulation: These amendments are made in response to public hearing and written comments.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation establishes forms, creates a uniform certificate of installation for ignition interlock devices, certifies the devices approved for use in the Commonwealth, and creates an ignition interlock license to be issued upon court approval.

(d) How the amendment will assist in the effective administration of the statutes: These amendments will clarify provisions in the current 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 provide ignition interlock devices and services within Kentucky; motor vehicle drivers who violate KRS 189A.010 (defendants); the cabinet's Division of Drivers Licensing within the Division of Vehicle Regulation; circuit clerks, and the Administrative Office of the Courts.

(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: Companies desiring to provide ignition interlock devices and services will apply to the cabinet for device certification and authorization; defendants will apply for both the ignition interlock device and authorization to operate with an ignition interlock license pursuant to court order; divisions within the department will approve and process the application forms; and circuit clerks will issue the ignition interlock licenses.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Defendants will pay device and servicing fees pursuant to KRS 189A.500, and an application fee in the amount of \$105 pursuant to KRS 189A.420(6).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): If eligible pursuant to KRS chapter 186, defendants will be approved to drive with an Ignition Interlock license; businesses desiring to provide Ignition Interlock devices and services will be granted certification for devices and authority to provide services.

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

(a) Initially: Inspections, mailing of documents and staff time necessary to begin processing applications is estimated at \$525,000.

(b) On a continuing basis: \$105 per defendant and up to approximately \$525,000 annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Initially FHWA – Hazard Elimination Fund. There is presently no appropriation in place to administer or enforce this program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An appropriation will be needed to maintain this program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The administrative fees created herein are pursuant to statute to offset any costs KYTC.

(9) TIERING: Is tiering applied? No tiering for device providers. All device providers meeting or exceeding the qualifications will be treated the same. Tiering for defendants in this program is pursuant to statute and judicially determined indigency status.

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 Department of Vehicle Regulation, Division of Driver Licensing, the Circuit Clerks, Administrative Office of the Courts, County Attorneys.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 189A.500(1)(f).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. For local government, costs should be minimal as the process is judicially driven and the regulatory actions will be performed within the context of DUI prosecutions.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to 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 administrative regulation is not expected to generate revenue.

(c) How much will it cost to administer this program for the first year? Up to approximately \$525,000.

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

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

Revenues (+/-): No revenues will be generated by this program.

Expenditures (+/-): Additional programming to the driver licensing system will need to be implemented. The cost is unknown.

Other Explanation: The cabinet is unsure precisely how many defendants will move for eligibility under this program and whether efficiencies can be achieved if they do.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(Amended After Comments)

902 KAR 20:205. Tuberculosis (TB) testing for health care workers.

RELATES TO: KRS 215.520-215.600, 216B.010-216B.131, 216B.990

STATUTORY AUTHORITY: KRS 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1) requires the Cabinet for Health and Family Services to establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. KRS 215.590 requires a health service or health facility licensed pursuant to KRS Chapter 216B or KRS Chapter 333 to report knowledge of a person who has active tuberculosis to the local health department. This administrative regulation establishes requirements for tuberculosis (TB) testing of health care workers in health facilities or settings licensed under KRS Chapter 216B or KRS Chapter 333. These procedures are necessary to minimize the transmission of infectious tuberculosis disease among staff and patients or residents of health facilities.

Section 1. Definitions. (1) "Air changes per hour" or "ACH" means the air change rate expressed as the number of air exchange units per hour.

(2) "Airborne Infection Isolation (All) room" means a room, formerly called a negative pressure isolation room, which is designed to maintain All and is a single-occupancy patient-care room used to isolate persons with suspected or confirmed infectious TB disease.

(3) "BAMT conversion" means a change in the BAMT test result, on serial testing, from negative to positive over a two (2) year period.

(4) "Blood Assay for Mycobacterium tuberculosis" or "BAMT" means a diagnostic blood test that:

(a) Assesses for the presence of infection with M. tuberculosis; and

(b) Reports results as positive, negative, indeterminate, or borderline. This test includes interferon-gamma (IFN-γ) release assays (IGRA).

(5) "Boosting" or the "booster phenomenon" means if nonspecific or remote sensitivity to tuberculin purified protein derivative (PPD) in the skin test wanes or disappears over time, subsequent tuberculin skin tests (TSTs) may restore the sensitivity.

(6) "Extrapulmonary tuberculosis" means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes), and may include the presence of pulmonary TB or other infectious TB diseases.

(7) "Health care setting" or "health facility" means the following settings:

- (a) Abortion facility;
- (b) Adult day health program;
- (c) Alzheimer's nursing home;

- (d) Ambulatory care clinic;
- (e) Ambulatory surgical center;
- (f) Blood establishment;
- (g) Chemical dependency treatment service;
- (h) Community mental health center;
- (i) Comprehensive physical rehabilitation hospital;
- (j) Critical access hospital;
- (k) Family care home;
- (l) Freestanding birth center;
- (m) Group home;
- (n) Home health agency;
- (o) Hospice program;
- (p) Hospital;
- (q) Intermediate care facility;
- (r) Intermediate care facility for individuals with an intellectual disability (ICF/IID);
- (s) Limited services clinic;
- (t) Medical laboratory;
- (u) Mobile health service;
- (v) Network;
- (w) Nursing facility;
- (x) Nursing home;
- (y) Nursing pool;
- (z) Outpatient health care center;
- (aa) Pain management facility;
- (bb) Personal care home;
- (cc) Prescribed pediatric extended care facility;
- (dd) Psychiatric hospital;
- (ee) Primary care center;
- (ff) Private duty nursing agency;
- (gg) Level I or Level II psychiatric residential treatment facility;
- (hh) Rehabilitation agency;
- (ii) Renal dialysis facility;
- (jj) Residential hospice facility;
- (kk) Rural health clinic;
- (ll) Special health clinic;
- (mm) Specialty intermediate care clinic;
- (nn) Specialized medical technology service; or
- (oo) Behavioral health services organization.

(8) "Health care workers" or "HCWs" means all paid and unpaid persons working in health care settings who have the potential for exposure to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air, and shall include:

- (a) Physicians;
- (b) Physician assistants;
- (c) Nurses;
- (d) Medical assistants;
- (e) Nursing assistants or nurse aides;
- (f) Therapists;
- (g) Technicians;
- (h) Emergency medical service personnel;
- (i) Dental personnel;
- (j) Pharmacists;
- (k) Laboratory personnel;
- (l) Autopsy personnel;
- (m) Students and trainees;
- (n) Contractual and community-based physicians and other healthcare professionals and staff not employed by the health care facility; and

(o) Persons (e.g., clerical, dietary, housekeeping, laundry, security, maintenance, billing, and volunteers) not directly involved in patient care but potentially exposed to infectious agents that may be transmitted to and from health care workers and patients or residents.

(9) "Induration" means a firm area in the skin that develops as a reaction to injected tuberculin antigen if a person has tuberculosis infection and that is measured in accordance with Section 3(2) of this administrative regulation.

(10) "Infectious tuberculosis" means pulmonary, laryngeal, endobroncheal, or tracheal TB disease or a draining TB skin lesion that has the potential to cause transmission of tuberculosis to other

persons.

(11) "Latent TB infection" or "LTBI" means infection with *M. tuberculosis* without symptoms or signs of disease having been manifested.

(12) "Multidrug-resistant tuberculosis" or "MDR TB" means TB disease caused by *M. tuberculosis* organisms that are resistant to at least isoniazid (INH) and rifampin.

(13) "Nucleic Acid Amplification" or "NAA" means a laboratory method used to target and amplify a single deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) sequence usually for detecting and identifying a microorganism.

(14) "Polymerase chain reaction" or "PCR" means a system for in vitro amplification of DNA or RNA that can be used for diagnosis of infections.

(15) "Staggered tuberculosis testing" means the testing of a health care worker in or before the same month as the anniversary date of his or her date of initial employment, or testing in or before the worker's birth month so that all health care workers do not have tuberculosis testing in the same month.

(16) "TST conversion" means a change in the result of a test for *M. tuberculosis* infection in which the condition is interpreted as having progressed from uninfected to infected in accordance with Section 3(4) of this administrative regulation.

(17) "Tuberculin Skin Test" or "TST" means a diagnostic aid for finding *M. tuberculosis* infection that:

(a) Is performed by using the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD); and

(b) Has results read forty-eight (48) to seventy-two (72) hours after injection and recorded in millimeters of induration.

(18) "Tuberculosis (TB) disease" means a condition caused by infection with a member of the *M. tuberculosis* complex that meets the descriptions established in Section 3(3) of this administrative regulation.

(19) "Tuberculosis Risk Assessment" means an initial and ongoing evaluation of the risk for LTBI or active TB disease in a particular health care worker and is performed in accordance with the provisions established in Sections 4, 5, 7, and 11 of this administrative regulation.

(20) "Two-step TST" or "two-step testing" means a series of two (2) TSTs administered seven (7) to twenty one (21) days apart and used for the baseline skin testing of persons who will receive serial TSTs, including health care workers and residents of long-term care settings, to reduce the likelihood of mistaking a boosted reaction for a new infection.

Section 2. TB Infection Control Program. (1) Each health facility shall have a written TB infection control plan that is part of an overall infection control program.

(2) The TB infection control plan shall be designed to control *M. tuberculosis* transmission through early detection, isolation, diagnosis, and treatment of persons with active TB disease.

(3) A hierarchy of control measures shall be used, including:

- (a) Administrative controls;
- (b) Environmental controls, and
- (c) Respiratory protection.

(4) A TB infection control plan shall include a listing of the job series of health care workers or another standardized method to describe which health care workers shall be included in the facility TB screening program.

(5) At a minimum, a health care worker shall be included in the TB screening program if the worker:

(a) Has duties that involve face-to-face contact with patients with suspected or confirmed active TB disease, including transport staff;

(b) Has the potential for exposure to *M. tuberculosis* through air space shared with persons with suspected or confirmed active TB disease of the respiratory system;

(c) Has duties that involve the processing of laboratory specimens for TB testing or TB cultures;

(d) Has duties that have the potential for exposure to the environment of care of persons with suspected or confirmed active TB disease; or

(e) Performs other tasks or procedures which may generate infectious aerosol droplet nuclei in which the worker has or may have exposure to TB disease.

(6) A facility may voluntarily include additional or all health care workers in the TB screening program based upon:

- (a) TB incidence (local or regional);
- (b) Other TB risk factors;
- (c) Changes in the epidemiology of TB (local or regional);
- (d) Patient safety strategies;
- (e) Risk management strategies; or
- (f) Other factors.

Section 3. Tuberculosis Testing Requirements for TSTs. (1) Two-step testing shall be used to distinguish new infections from boosted reactions in infection-control surveillance programs.

(2)(a) A TST shall be performed by:

- 1. A physician;
- 2. An advanced practice registered nurse;
- 3. A physician assistant;
- 4. A registered nurse, or
- 5. A pharmacist.

(b) A licensed practical nurse under the supervision of a registered nurse may perform a TST.

(3) Induration Measurements.

(a) The diameter of the firm area shall be measured transversely (i.e., perpendicularly) to the long axis of the forearm to the nearest millimeter to gauge the degree of reaction, and the result shall be recorded in millimeters.

(b) The diameter of the firm area shall not be measured along the long axis of the forearm.

(c) A reaction of ten (10) millimeters or more of induration, if the TST result is interpreted as positive, shall be considered highly indicative of tuberculosis infection in a health care setting.

(d) A reaction of five (5) millimeters to nine (9) millimeters of induration may be significant in certain individuals with risk factors described in Section 4(3) of this administrative regulation for rapid progression to active tuberculosis disease if infected.

(4) Tuberculosis (TB) disease.

(a) A person shall be diagnosed as having tuberculosis (TB) disease if the infection has progressed to causing clinical (manifesting signs or symptoms) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present, including radiographic abnormalities) illness.

1. Tuberculosis that is found in the lungs is called pulmonary TB and may be infectious.

2. Extrapulmonary disease (occurring at a body site outside the lungs) may be infectious in rare circumstances.

(b) If the only clinical finding is specific chest radiographic abnormalities, the condition is termed "inactive TB" and shall be differentiated from active TB disease, which is accompanied by symptoms or other indications of disease activity, including the ability to culture reproducing TB organisms from respiratory secretions or a specific chest radiographic finding.

(5)(a) A TST conversion shall have occurred if the size of the measured TST induration increases by ten (10) millimeters or more during a two (2) year period in a health care worker with a:

1. Documented baseline two-step TST result measured as zero (0); or

2. Previous follow-up screening TST result with induration measured as one (1) millimeter to nine (9) millimeters and interpreted as negative during serial testing.

(b) A TST conversion shall be presumptive evidence of new *M. tuberculosis* infection and poses an increased risk for progression to TB disease.

Section 4. TB Risk Assessment and Tuberculin Skin Tests or BAMTs for Health Care Workers on Initial Employment. (1) Risk Assessment.

(a) To perform a TB Risk Assessment, a questionnaire shall be used and the following factors shall be assessed:

- 1. The clinical symptoms of active TB disease;
- 2. Events and behaviors that increase the risk for exposure to

M. tuberculosis and the risk of acquiring LTBI; and

3. Medical risk factors that increase the risk for a health care worker with LTBI to develop active TB disease.

(b) A TB Risk Assessment questionnaire may be obtained from the Kentucky Department for Public Health (published online at <http://chfs.ky.gov/dph/epi/tb.htm>) or from a national medical or public health organization, including the American Academy of Pediatrics or the Centers for Disease Control and Prevention.

(c) TB Risk Assessment questions shall be on a facility-approved form or incorporated into the facility's medical history forms or into forms or other features of the facility's electronic medical record systems.

(2) Exclusion of Health Care Workers from Tuberculin Skin Tests or BAMTs Upon Initial Employment in a Health Facility. A TST or BAMT shall not be required at the time of initial employment if the health care worker provided medical documentation for one (1) of the following as part of a TB Risk Assessment:

(a) A prior TST of ten (10) millimeters or more of induration if the TST result was interpreted as positive;

(b) A prior TST of five (5) millimeters to nine (9) millimeters of induration if the health care worker has a medical reason as described in subsection (3) of this section for his or her TST result to be interpreted as positive;

(c) A positive BAMT;

(d) A TST conversion;

(e) A BAMT conversion;

(f) The health care worker is currently receiving or has completed treatment for LTBI with one (1) of the treatment regimens recommended by the Centers for Disease Control and Prevention;

(g) The health care worker has completed a course of multiple-drug therapy for active TB disease recommended by the Centers for Disease Control and Prevention; or

(h) The health care worker provided medical documentation that he or she has had a TST or BAMT within three (3) months prior to initial employment at the facility and has previously been in a serial testing program at another medical facility or health care setting.

(3) A medical reason for a health care worker's TST result of five (5) millimeters to nine (9) millimeters of induration to be interpreted as positive may include:

(a) HIV-infection;

(b) Immunosuppression from disease or medications;

(c) Fibrotic changes on a chest radiograph consistent with previous TB disease; or

(d) Recent contact with a person who has active TB disease.

(4) TB Risk Assessments and Tuberculin Skin Tests or BAMTs for Health Care Workers upon Initial Employment in a Health Facility.

(a) A baseline TB Risk Assessment, and a TST or BAMT if not excluded pursuant to subsection (2) of this section, shall be initiated on each new health care worker before or during the first week of employment. The results shall be documented in the health care worker's medical record or electronic medical record within the first month of employment.

(b)1. A TB Risk Assessment required by paragraph (a) of this subsection and other sections shall be performed by:

a. A physician;

b. An advanced practice registered nurse;

c. A physician assistant;

d. A registered nurse, or

e. A pharmacist.

2. A licensed practical nurse under the supervision of a registered nurse may perform the TB Risk Assessment.

(c) An initial or first-step TST result of ten (10) millimeters or more of induration may be interpreted as positive for a new health care worker.

(d) An initial or first-step TST result of five (5) millimeters to nine (9) millimeters of induration may be interpreted as positive for a new health care worker who has a medical reason as described in subsection (3) of this section for the TST result to be interpreted as positive.

(5)(a) A two-step baseline TST shall be required for a health care worker aged fourteen (14) years and older whose initial or first-step TST, initiated before or during the first week of employment pursuant to subsection (4)(a) of this section, is interpreted as negative.

(b) The second step-test shall be initiated seven (7) to twenty-one (21) days after the first test.

1. A TST result of five (5) millimeters to nine (9) millimeters of induration may be interpreted as positive on the second step TST for a health care worker who has a medical reason as described in subsection (3) of this section for the TST result to be interpreted as positive.

2. If a health care worker aged fourteen (14) years and older does not have a medical reason as identified in subsection (3) of this section and the worker's initial or first-step TST shows less than ten (10) millimeters of induration and a second-step TST shows ten (10) millimeters or more of induration, the TST shall be interpreted as positive.

3. The initial TST shall count as the second-step TST if the health care worker aged fourteen (14) years and older provided medical documentation that he or she has had a one-step TST interpreted as negative within one (1) year prior to initial testing at the time of initial employment.

(6) A BAMT may be used in place of, but not in addition to, a TST, and:

(a) If a BAMT is performed before or during the first week of employment and the result is positive or negative, only one (1) BAMT test result shall be required; and

(b) A second BAMT shall be performed if the BAMT result is borderline, indeterminate, or invalid.

Section 5. Annual TB Risk Assessments and Annual Tuberculin Skin Tests or BAMTs for Health Care Workers. (1) A health care worker shall have an annual TB risk assessment and annual education about the signs and symptoms of active TB disease.

(2) A health care worker included in the TB screening program, as determined by the health facility's TB infection control plan, shall also have annual TB testing.

(3) The requirements established in this subsection shall apply during annual TB testing.

(a) A health care setting shall use staggered tuberculosis testing to assure that all health care workers are not tested in the same month. Staggered testing shall be performed monthly, quarterly, or semiannually.

(b) A health care worker who has worked eleven (11) months or more in the facility and who has never had a TST interpreted as positive, or has never had a positive BAMT, shall have a TB Risk Assessment and a TST or BAMT annually in or before the same month as the anniversary date of his or her last TB Risk Assessment and TST or BAMT.

(c) A health care worker who has worked eleven (11) months or more in the facility and who has had a previous TST interpreted as positive, or a previously positive BAMT, shall:

1. Have an annual TB Risk Assessment in or before the same month as the anniversary date of his or her last TB Risk Assessment; and

2. Not be required to submit to an annual TST or BAMT.

Section 6. Medical Record or Electronic Medical Record Documentation for Health Care Workers. (1) The TB Risk Assessment shall be documented in each health care worker's medical record or electronic medical record by recording the date of the assessment and the results.

(2) The TST result of each health care worker shall be documented in the worker's medical record or electronic medical record by recording the date of measurement, millimeters of induration, and interpretation of the results for each TST performed.

(3) The medical record shall be labeled inside or the electronic medical record shall be labeled with the notation "TST Positive" for each health care worker with a reaction of:

(a) Ten (10) millimeters or more of induration if the TST result

was interpreted as positive; or

(b) Five (5) millimeters to nine (9) millimeters of induration if the health care worker has a medical reason as described in Section 4(3) of this administrative regulation for the TST result to be interpreted as positive.

(4)(a) If performed, the BAMT result for each health care worker shall be documented in the worker's medical record or electronic medical record by recording the date and result as positive, negative, borderline, or indeterminate.

(b) If a health care worker has a positive BAMT, the worker's medical record shall be labeled inside or the electronic medical record shall be labeled with the notation "BAMT Positive."

Section 7. Medical Evaluations, Chest X-rays, and Monitoring of Health Care Workers with a Positive TST, a Positive BAMT, a TST Conversion, or a BAMT Conversion. (1) At the time of initial employment testing or annual testing, a health care worker shall have a medical evaluation, including an HIV test unless the health care worker opts out of HIV testing, if the health care worker is found to have a:

(a) TST result of ten (10) millimeters or more induration if the TST result is interpreted as positive;

(b) TST result of five (5) millimeters to nine (9) millimeters of induration if the health care worker has a medical reason as described in Section 4(3) of this administrative regulation for the TST result to be interpreted as positive;

(c) Positive BAMT;

(d) TST conversion; or

(e) BAMT conversion.

(2) A chest x-ray shall be performed as part of the medical evaluation required by subsection (1) of this section unless a chest x-ray performed within the previous two (2) months showed no evidence of tuberculosis disease.

(3)(a) A health care worker with no clinical evidence of active TB disease, upon evaluation by a licensed physician, advanced practice registered nurse, or physician assistant and a negative chest x-ray, shall be offered treatment for LTBI unless medically contraindicated.

(b) A health care worker who refuses treatment for LTBI or who has a medical contraindication shall be monitored according to the requirements established in this paragraph.

1. A health care worker who has a positive TST or a positive BAMT at the time of initial employment and works eleven (11) months or longer in the health facility shall:

a. Have an annual TB Risk Assessment in or before the same month as the anniversary date of his or her last TB Risk Assessment; and

b. Not be subject to an annual TST or BAMT.

2. A health care worker with a documented TST conversion or a BAMT conversion shall:

a. Be educated about and advised of the clinical symptoms of active TB disease;

b. Have an interval medical history for clinical symptoms of active TB disease every six (6) months during the first two (2) years after conversion, followed by an annual TB Risk Assessment in or before the same month as the anniversary date of the worker's last TB Risk Assessment; and

c. Not be subject to an annual TST or BAMT.

3. A health care worker with a positive TST, a positive BAMT, a TST conversion, or a BAMT Conversion shall be:

a. Educated about and advised of the clinical symptoms of active TB disease; and

b. Instructed to report to his or her facility supervisor and seek medical attention promptly if symptoms persist for three (3) weeks or longer.

(4) Documentation that the health care worker was educated and advised of the clinical symptoms of active TB disease shall be included in the health care worker's medical record or electronic medical record.

Section 8. Medical Evaluations, Chest X-rays, Laboratory Tests, Treatment, and Monitoring of Health Care Workers with Suspected TB Disease or Active TB Disease. (1) A health care

worker with signs or symptoms or an abnormal chest x-ray, consistent with TB disease, shall:

(a) Be immediately excluded from work;

(b) Be isolated in an All room, referred to a facility with an All room, or placed in home isolation in collaboration with the local health department;

(c) Be evaluated for active tuberculosis disease and, if needed, treated with multi-drug TB therapy as recommended by the Centers for Disease Control and Prevention; and

(d) Remain off work until cleared as being noninfectious for TB by a licensed physician, advanced practice registered nurse, or physician assistant in conjunction with the local and state health departments.

(2) A health care worker under treatment for suspected or confirmed pulmonary tuberculosis disease, suspected or confirmed extrapulmonary tuberculosis disease, or other suspected or confirmed infectious tuberculosis diseases caused by either non-MDR TB or MDR-TB may return to work in the facility, as recommended by the Centers for Disease Control and Prevention, after being declared noninfectious by a licensed physician, advanced practice registered nurse, or physician assistant in conjunction with the local and state health departments.

Section 9. Responsibility for Screening and Monitoring Requirements: Health Care Workers. (1) A facility's administrator or administrator's designee shall be responsible for ensuring that all TB Risk Assessments, TSTs, BAMTs, chest x-rays, and sputum specimen submissions for health care workers comply with the requirements of Section 3 through Section 8 of this administrative regulation.

(2) If a facility does not employ licensed professional staff with the technical training to carry out the screening and monitoring requirements, the administrator shall arrange for training or professional assistance from the local health department or from a licensed medical provider.

(3)(a) A TST with the date of measurement and millimeters of induration, interpretation of the results, the date performed, reported results of all BAMTs, chest x-rays, sputum specimen AFB smears, TB cultures, TB-related NAA tests, and TB-related PCR tests for a health care worker shall be recorded as a permanent part of the worker's medical record or electronic medical record.

(b) Copies of the health care worker's medical record or electronic medical record shall be provided to the worker upon request if the worker transfers to another health facility.

Section 10. Reporting to Local Health Departments. (1) A health facility's administrator or the administrator's designee shall report a health care worker identified with one (1) of the following to the local health department having jurisdiction within one (1) business day of becoming known:

(a) A TST conversion or BAMT conversion on serial testing or identified in a contact investigation;

(b) A chest x-ray which is suspicious for TB disease;

(c) A sputum smear positive for acid-fast bacilli;

(d) A rapid laboratory test positive for *Mycobacterium tuberculosis* DNA or RNA, such as *Mycobacterium tuberculosis* positive NAA tests or PCR tests;

(e) A sputum culture positive for *Mycobacterium tuberculosis*; or

(f) The initiation of multi-drug antituberculosis treatment for active TB disease in a health care worker.

(2) A health facility's administrator or the administrator's designee shall report a health care worker identified with one (1) of the following to the local health department having jurisdiction within five (5) business days of becoming known:

(a) A TST of ten (10) millimeters or more induration at the time of initial employment at the facility if the TST result was interpreted as positive;

(b) A TST result of five (5) or more millimeters of induration for a health care worker at the time of initial employment who has a medical reason as described in Section 4(3) of this administrative regulation for the TST result to be interpreted as positive; or

(c) A positive BAMT at the time of initial employment.

Section 11. Treatment for LTBI. (1) A health care worker with a TST conversion or a BAMT conversion with no clinical evidence of active TB disease upon evaluation by a licensed physician, advanced practice registered nurse, or physician assistant and a negative chest x-ray shall be considered to be recently infected with *Mycobacterium tuberculosis*.

(2) A recently infected person as described in subsection (1) of this section shall have:

(a) A medical evaluation;

(b) An HIV test unless the individual opts out of HIV testing; and

(c) A chest x-ray.

(3) An individual who meets the criteria listed in subsection (1) of this section and who has no signs or symptoms of tuberculosis disease by medical evaluation or on chest x-ray shall be offered treatment for LTBI, in collaboration with the local health department, unless medically contraindicated as determined by a licensed physician, advanced practice registered nurse, or physician assistant.

(4)(a) If a health care worker refuses treatment for LTBI after a TST conversion or a BAMT conversion or has a medical contraindication, the worker shall:

1. [(a)] Be educated about, and advised of, the clinical symptoms of active TB disease;

2. [(b)] Have a TB Risk Assessment, which includes an interval medical history for clinical symptoms of active TB disease every six (6) months during the first two (2) years following TST conversion or BAMT conversion, followed thereafter by an annual TB Risk Assessment in or before the same month as the anniversary date of his or her last TB Risk Assessment; and

3. [(c)] Not be required to submit to an annual TST or BAMT.

(b) Documentation that the health care worker was educated and advised of the clinical symptoms of active TB disease shall be included in the health care worker's medical record or electronic medical record.

(5) A health care worker who has a TST result of ten (10) millimeters or more induration, if the TST result is interpreted as positive, or a positive BAMT at the time of initial employment shall be offered treatment for LTBI, unless medically contraindicated.

(6) A health care worker who has a TST result of five (5) millimeters to nine (9) millimeters of induration upon initial employment and who has a medical reason as described in Section 4(3) of this administrative regulation for the TST result to be interpreted as positive shall be offered treatment for LTBI, unless medically contraindicated.

(7) If a health care worker refuses treatment for LTBI detected at the time of initial employment in the facility or has a medical contraindication, the worker shall:

(a) Be educated about and advised of the clinical symptoms of active TB disease;

(b) Have a TB Risk Assessment that includes an interval medical history for clinical symptoms of active TB disease every six (6) months during the first two (2) years after the date of initial employment in the facility, followed thereafter by an annual TB Risk Assessment in or before the same month as the anniversary date of the worker's last TB Risk Assessment; and

(c) Not be required to submit to an annual TST or BAMT.

(8) Documentation that the health care worker was educated about and advised of the clinical symptoms of active TB disease shall be included in the health care worker's medical record or electronic medical record.

(9) A health care worker who works eleven (11) months or longer in the facility and who provided medical documentation that he or she has completed treatment for LTBI with one (1) of the treatment regimens recommended by the Centers for Disease Control and Prevention shall:

(a) Not be required to submit to an annual TST or BAMT; and

(b) Receive education on the clinical symptoms of active TB disease during a TB Risk Assessment annually in or before the same month as the anniversary date of his or her last TB Risk Assessment.

Section 12. Compliance Date. All health care settings or health

facilities subject to the tuberculosis testing requirements of this administrative regulation shall demonstrate compliance no later than ~~180[ninety-(90)]~~ days after the effective date of this administrative regulation.

Section 13. Supersede. If any requirement stated in another administrative regulation within 902 KAR Chapter 20 contradicts a requirement stated in this administrative regulation, the requirement stated in this administrative regulation shall supersede the requirement stated elsewhere within 902 KAR Chapter 20.

[Section 14. Incorporation by Reference. (1) The "TB-4, Kentucky Department for Public Health Tuberculosis (TB) Risk Assessment", March 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]

MARYELLEN B. MYNEAR, Inspector General

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at noon

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Maryellen B. Mynear, Robert L. Brawley, and Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for tuberculosis (TB) testing of health care workers in health facilities or settings licensed and regulated by the Office of Inspector General (OIG) under KRS Chapter 216B or KRS Chapter 333.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures to minimize the transmission of infectious tuberculosis disease among staff and patients or residents of health facilities or settings licensed and regulated by the OIG under KRS Chapter 216B or KRS Chapter 333.

(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 standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing procedures to minimize the transmission of infectious tuberculosis disease among staff and patients or residents of health facilities or settings licensed and regulated by the OIG under KRS Chapter 216B or KRS Chapter 333.

(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 establishes requirements that help ensure compliance with the Centers for Disease Control and Prevention's (CDC) guidelines for preventing the transmission of infectious TB disease in hospitals, long-term care settings, and other health facilities or settings licensed and regulated by the OIG under KRS Chapter 216B or KRS Chapter 333. The amended after comments administrative regulation extends the date by which hospitals, long-term care settings, and other licensed health settings must demonstrate compliance from ninety (90) days to 180 days after the effective date of this administrative regulation, removes the Kentucky Department for Public Health TB Risk Assessment from incorporated materials, and makes technical changes to improve clarity and flow.

(b) The necessity of the amendment to this administrative

regulation: Based upon feedback received during the public comment period, this amended after comments administrative regulation extends the timeframe for demonstrating compliance, removes the Kentucky Department for Public Health TB Risk Assessment from incorporated materials, and makes technical changes to improve clarity and flow.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing standards and procedures to ensure safe, adequate, and efficient health facilities and health services.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing procedures to minimize the transmission of infectious tuberculosis disease among staff and patients or residents of health facilities or settings licensed and regulated by the OIG under KRS Chapter 216B or KRS Chapter 333.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts health care workers in the following health facilities regulated by the OIG (the number of currently licensed facilities appears in parenthesis next to the facility type): Abortion facilities (1); adult day health centers (105); Alzheimer's nursing homes (1); ambulatory care clinics (18); ambulatory surgical centers (39); behavioral health services organizations (61); blood establishments (135); chemical dependency treatment service (4); community mental health centers (14); family care homes (64); freestanding birth centers (no facilities currently licensed in this category); group homes (38); home health agencies (109); hospice (24); hospitals, including deemed hospitals (98), nondeemed hospitals (31), deemed comprehensive physical rehabilitation hospitals (4), nondeemed comprehensive physical rehabilitation hospitals (2), critical access hospitals (29), deemed psychiatric hospitals (10), nondeemed psychiatric hospitals (3); intermediate care facilities (9); Intermediate Care Facilities for Individuals with Intellectual Disabilities (14); limited services clinics (51); medical laboratories (29); mobile health services (146); networks (5); nursing facilities (281); nursing homes (6); nursing pools (63); outpatient health care clinics (1); non-physician owned pain management facilities (5); personal care homes (157); prescribed pediatric extended care facilities (6); primary care centers (142); private duty nursing agencies (10); psychiatric residential treatment facilities (24); rehabilitation agencies (279); renal dialysis facilities (109); residential hospice facilities (8); rural health clinics (177); special health clinics (120); specialty intermediate care clinics (1); and specialized medical technology service (122).

(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: Health care settings identified in question (3) will be required to comply with TB screening requirements established in this administrative regulation which are consistent with the CDC's guidelines for preventing the transmission of TB in health care facilities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Health care settings should be in compliance with the CDC's guidelines for preventing the transmission of TB in health care facilities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Staff and patients or residents in health facilities licensed and regulated by the OIG will benefit from revised standards intended to prevent the transmission of TB.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation

imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is necessary to implement the administrative regulation.

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

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

(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 impacts health care workers in the following health facilities regulated by the OIG (the number of currently licensed facilities appears in parenthesis next to the facility type): Abortion facilities (1); adult day health centers (105); Alzheimer's nursing homes (1); ambulatory care clinics (18); ambulatory surgical centers (39); behavioral health services organizations (61); blood establishments (135); chemical dependency treatment service (4); community mental health centers (14); family care homes (64); freestanding birth centers (no facilities currently licensed in this category); group homes (38); home health agencies (109); hospice (24); hospitals, including deemed hospitals (98), nondeemed hospitals (31), deemed comprehensive physical rehabilitation hospitals (4), nondeemed comprehensive physical rehabilitation hospitals (2), critical access hospitals (29), deemed psychiatric hospitals (10), nondeemed psychiatric hospitals (3); intermediate care facilities (9); Intermediate Care Facilities for Individuals with Intellectual Disabilities (14); limited services clinics (51); medical laboratories (29); mobile health services (146); networks (5); nursing facilities (281); nursing homes (6); nursing pools (63); outpatient health care clinics (1); non-physician owned pain management facilities (5); personal care homes (157); prescribed pediatric extended care facilities (6); primary care centers (142); private duty nursing agencies (10); psychiatric residential treatment facilities (24); rehabilitation agencies (279); renal dialysis facilities (109); residential hospice facilities (8); rural health clinics (177); special health clinics (120); specialty intermediate care clinics (1); and specialized medical technology service (122).

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 215.520-215.600, 216B.010-216B.131

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 revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

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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

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 3:030. Property and Severance Forms manual.

RELATES TO: KRS 42.470, 61.870-61.884, 131.020, 131.030, 131.041-131.081, 131.110, 131.130, 131.155, 131.181, 131.183, 131.190, 131.340, 131.500, 131.510(1), (2)(a), 131.540, 132.020, 132.130-132.180, 132.190, 132.200, 132.220-132.270, 132.290, 132.310, 132.320, 132.360, 132.450, 132.487, 132.510, 132.820, 132.825, 132.990, 133.045, 133.110, 133.120, 133.130, 133.240, 134.015, 134.119, 134.121, 134.122, 134.127, 134.128, 134.129, 134.420, 134.590, 134.800, 134.805, 134.810, 134.815, 134.820, 134.825, 134.830, 135.010, 135.020, 135.050, 136.020, 136.050, 136.115-136.180, 136.1802-136.1806, 136.1873, 136.188, 136.310, 136.320, 136.330, 136.335, 136.377, 136.545, 136.575, 136.600-136.660, 137.130, 137.160, 143.030(1), 143.037, 143.040, 143.050, 143.060(1), 143.085, 143.990, 143A.010, 143A.030, 143A.035, 143A.037, 143A.080, 143A.090, 143A.100(1), 143A.991, Ky. Const. Sec. 170

STATUTORY AUTHORITY: KRS 131.130(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of Property and Severance Taxes by the Department of Revenue.

Section 1. Property Tax - Required Forms. (1) Revenue Form 61A200(P), "Property Tax Forms and Instructions for Public Service Companies 2016[2015]", shall be the packet of files and instructions relating to Revenue Form 61A200 for use by public service companies reporting company name, location, and other pertinent filing information with the Department of Revenue.

(2) Revenue Form 61A200, "Public Service Company Property Tax Return for Year Ending December 31, 2015[2014]", shall be filed by public service companies reporting company name, location, and other pertinent filing information with the Department of Revenue.

(3) Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", shall be filed by public service companies with the Department of Revenue, reporting the System and Kentucky original cost, total depreciation and depreciated cost for all operating and non-operating property types as of the end of the taxable year.

(4) Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", shall be filed by public service companies with the Department of Revenue, reporting the assessed value of all Kentucky apportioned and regular licensed motor vehicles, railroad car lines and commercial watercraft as of the end of the year.

(5) Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (balance sheet) as of December 31 for the system operating unit including Kentucky.

(6) Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (income statement) for twelve (12) months ending December 31 for the system operating unit including Kentucky.

(7) Revenue Form 61A200(E), "Filing Extension Application", shall be used by public service companies to request an extension of time to file the public service company tax return.

(8) Revenue Form 61A200(G), "Report of Capital Stocks", shall be filed by public service companies with the Department of Revenue, reporting an analysis of their capital stocks as of the end of the taxable year.

(9) Revenue Form 61A200(H), "Report of Funded Debt", shall

be filed by public service companies with the Department of Revenue reporting an analysis of their debt as of the end of the taxable year.

(10) Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue, reporting a summary of the business activity within each taxing district.

(11) Revenue Form 61A200(J), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", shall be filed by public service companies with the Department of Revenue reporting a summary of the amount of operating and nonoperating property owned or leased in this state, by each county, city and special district.

(12) Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue, reporting an inventory of the amount and kind of operating property, owned or leased, located in this state, for each county, city and special taxing district.

(13) Revenue Form 61A200(K2), "Nonoperating Property Listing by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue reporting an inventory of the amount and kind of nonoperating property owned or leased, located in this state, for each county, city and special taxing district.

(14) Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for All Interstate Companies", shall be filed by interstate, noncarrier, public service companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(15) Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies", shall be filed by interstate railroad and sleeping car companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(16) Revenue Form 61A200(N1), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", shall be filed by public service companies with the Department of Revenue, reporting all leased real property and the terms of the lease by taxing district.

(17) Revenue Form 61A200(N2), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", shall be filed by public service companies with the Department of Revenue, reporting all leased personal property and the terms of the lease by taxing district.

(18) Revenue Form 61A200(N3), "Summary Report of System and Kentucky Operating Lease Payments", shall be filed by public service companies with the Department of Revenue reporting the annual operating lease payments paid during the calendar year.

(19) Revenue Form 61A200(O), "Railroad Private Car Mileage Report", shall be filed by railroad car line companies with the Department of Revenue reporting the name and address of the company and the mileage in Kentucky.

(20) Revenue Form 61A200(Q), "Supplemental Report of Operations for Contained and Residential Landfills", shall be filed by landfills with the Department of Revenue, reporting historic, current, and projected operational information.

(21) Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", shall be filed by public service companies with the Department of Revenue, reporting certified pollution control equipment, the original cost, and the net book value.

(22) Revenue Form 61A200(U), "Industrial Revenue Bond Property", shall be filed by a public service company to list real and tangible personal property purchased with an industrial revenue bond.

(23) Revenue Form 61A202, "2016[2015] Public Service Company Property Tax Return for Railroad Car Line", shall be filed by railroad car line companies with the Department of Revenue, classifying the railcars by type and reporting cost, age, and mileage for each railcar.

(24) Revenue Form 61A206(P), "Public Service Company Property Tax Forms and Instructions for Commercial Air

Passenger and Air Freight Carriers 2016[2015]", shall be the packet of files and instructions relating to Revenue Form 61A206 for use by commercial air passenger and air freight carriers reporting company name, location and other pertinent information with the Department of Revenue.

(25) Revenue Form 61A206, "Public Service Company Property Tax Return For Commercial Air Passenger and Air Freight Carriers", shall be filed by all commercial air passenger and air freight carriers reporting taxpayer name, location and other pertinent information with the Department of Revenue.

(26) Revenue Form 61A206(A), "Filing Extension Application for Public Service Company Property Tax Return", shall be used by commercial air passenger and air freight carriers to request an extension of time to file the commercial air passenger and air freight carriers tax return.

(27) Revenue Form 61A206(B), "Report of Kentucky Registered and Licensed Motor Vehicles", shall be filed by commercial air passenger and air freight carriers to report vehicles, both owned and leased, registered within the state of Kentucky as of December 31.

(28) Revenue Form 61A206(C), "Report of Financial Operations for Commercial Air Passenger and Air Freight Carriers", shall inform all commercial, passenger or cargo airlines conducting business in Kentucky of the requirement to provide the Department of Revenue with year-end financial statements, a complete annual report, and a complete 10K report (FCC annual report) for the twelve (12) month period ending December 31.

(29) Revenue Form 61A206(D-1), "Report of System Aircraft Fleet", shall be filed by commercial air passenger and air freight carriers providing a complete listing of fleet aircraft owned and capital-leased as of December 31.

(30) Revenue Form 61A206(D-2), "Report of System Aircraft Fleet", shall be filed by commercial air passenger and air freight carriers providing a complete listing of operating leased fleet aircraft.

(31) Revenue Form 61A206(D-3), "Report of System Aircraft Fleet", shall be filed by all commercial air passenger and air freight carriers providing a complete listing of all fleet managed aircraft and aircraft held for resale or nonoperating.

(32) Revenue Form 61A206(E), "Report of Kentucky Flight Statistics By Airport", shall be filed by all commercial air passenger and air freight carriers providing a listing of all arrivals, departures, and ground time at all Kentucky airports and heliports.

(33) Revenue Form 61A206(F), "Report of System and Kentucky Allocation Factors", shall be filed by all commercial air passenger and air freight carriers listing property factors and business factors.

(34) Revenue Form 61A206(G), "Report of Funded Debt", shall be filed by all commercial air passenger and air freight carriers listing all debt obligations, both long term and short term, by class and obligation.

(35) Revenue Form 61A206(H), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all real property in Kentucky leased on an operating lease basis.

(36) Revenue Form 61A206(I), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all personal property in Kentucky leased on an operating lease basis.

(37) Revenue Form 61A206(J), "Summary Report of System and Kentucky Operating Lease Payments", shall be filed by all commercial air passenger and air freight carriers listing all annual operating lease payments.

(38) Revenue Form 61A206(K), "Report of Owned Real Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all real property owned in Kentucky.

(39) Revenue Form 61A206(L), "Report of Owned Personal Property Located in Kentucky By Taxing District", shall be filed by all commercial air passenger and air freight carriers listing all personal property owned in Kentucky.

(40) Revenue Form 61A206(M), "Summary Report of Total

System and Kentucky Operations", shall be filed by all commercial air passenger and air freight carriers listing all real and personal property owned and leased, providing the original cost, depreciation and depreciated cost values.

(41) Revenue Form 61A206(N), "Industrial Revenue Bond Property", shall be filed by all commercial air passenger and air freight carriers listing real and tangible property purchased with an industrial revenue bond.

(42) Revenue Form 61A206(O), "Public Service Company Sales", shall be filed by commercial air passenger and air freight carriers listing any assets bought or sold during the year.

(43) Revenue Form 61A207(P), "Commercial Watercraft Personal Property Tax Return 2016[2015]", shall be the packet of files and instructions relating to Revenue Form 61A207 for use by commercial watercraft owners both resident and nonresident, reporting the watercraft's book value, original cost and total and Kentucky route mileage with the Department of Revenue.

(44) Revenue Form 61A207, "2016[2015] Commercial Watercraft Personal Property Tax Return", shall be filed by all commercial watercraft owners, both resident and nonresident, reporting the watercraft's book value, original cost, and total and Kentucky route mileage with the Department of Revenue.

(45) Revenue Form 61A207(A), "Report of Owned Vessels in Your Possession", shall be filed with the Department of Revenue, reporting all owned vessels (both available and operating) in their fleet as of January 1, 2016[2015].

(46) Revenue Form 61A207(B), "Report of Owned Vessels - in Possession of Others", shall be filed with the Department of Revenue, reporting all owned vessels that are in possession of other persons, companies, corporations, operators, or charterers as of January 1, 2016[2015].

(47) Revenue Form 61A207(C), "Report of Nonowned Vessels in Your Possession", shall be filed with the Department of Revenue, reporting all nonowned vessels (both available and operating) in their fleet as of January 1, 2016[2015].

(48) Revenue Form 61A207(D), "Commercial Watercraft Valuation Worksheet", shall be filed with the Department of Revenue, reporting the original cost, cost of rebuilds and the cost of major improvements of all owned and nonowned vessels.

(49) Revenue Form 61A207(E), "Report of Kentucky Route Miles", shall be filed with the Department of Revenue reporting the system route miles traveled on Kentucky waterways.

(50) Revenue Form 61A207(F), "Report of System Route Miles", shall be filed with the Department of Revenue reporting the system route miles traveled on United States waterways.

(51) Revenue Form 61A209, "Public Service Company Sales", shall be filed by public service companies with the Department of Revenue, reporting any full or partial sale or purchase of assets of the public service company.

(52) Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", shall be filed by public service companies with the Department of Revenue reporting all motor vehicles owned or leased within Kentucky.

(53) Revenue Form 61A211(I), "Instructions Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", shall provide instructions for completing Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs".

(54) Revenue Form 61A211(IP), "Instructions For Editing the Public Service Company Motor Vehicle Printout", shall provide instructions for editing the computer printout of previously reported licensed vehicles sent by the Department of Revenue to public service companies that have listed vehicles with the department in prior years.

(55) Revenue Form 61A230, "Notice of Assessment", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the final assessment of the public service company property.

(56) Revenue Form 61A240, "Notice of Assessment", shall be sent by the Department of Revenue to the taxpayer notifying him or her of a tentative assessment of the public service company property. This notice shall inform the taxpayer of the protest period.

(57) Revenue Form 61A250, "Notice of Assessment", shall be

sent by the Department of Revenue to the taxpayer notifying the taxpayer of his or her claim of assessed value on public service company property.

(58) Revenue Form 61A255, "Public Service Company Property Tax Statement", shall be used by the counties, schools and special districts to bill public service companies for local property taxes.

(59) Revenue Form 61A255(I), "Instructions for 61A255, Public Service Company Property Tax Statement", shall provide instructions for completing Revenue Form 61A255, "Public Service Company Property Tax Statement".

(60) Revenue Form 61A500(P), "~~2016~~[2015] Personal Property Tax Forms and Instructions for Communications Service Providers and Multichannel Video Programming Service Providers", shall be the packet of files and instructions relating to Revenue Form 61A500 for use by telecommunication, satellite, and cable television companies, reporting all tangible personal property with the Department of Revenue.

(61) Revenue Form 61A500, "~~2016~~[2015] Tangible Personal Property Tax Return for Communications Service Providers and Multichannel Video Programming Service Providers", shall be filed by telecommunication, satellite, and cable television companies, reporting all tangible personal property with the Department of Revenue.

(62) Revenue Form 61A500(H), "Report of Total Personal Tangible Property in Kentucky", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky original cost, depreciation, and net book value of each class of tangible personal property.

(63) Revenue Form 61A500(I), "Summary of Gross Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky Original Cost by taxing jurisdiction.

(64) Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky reported value by taxing jurisdiction.

(65) Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite and cable television companies with the Department of Revenue and shall contain an inventory of the amount and kind of personal property owned and located in Kentucky by taxing jurisdiction.

(66) Revenue Form 61A508, "Annual Report of Distilled Spirits in Bonded Warehouse", shall be filed by distilleries with the Department of Revenue to report inventory as of January 1.

(67) Revenue Form 61A508-S1, "Schedule 1 Office of Property Valuation Cost of Production Schedule", shall be filed by distilleries with the Department of Revenue, reporting the average cost per gallon of production.

(68) Revenue Form 61A508-S2, "Schedule 2 Office of Property Valuation Storage Cost Schedule", shall be filed by distilleries with the Department of Revenue, reporting average per barrel storage cost.

(69) Revenue Form 61A508-S3, "Schedule 3 Schedule of Bulk Sales and Purchases (Bourbon Only)", shall be filed by distilleries with the Department of Revenue, reporting the date of the sale or purchase, the number of barrels, age, and the price.

(70) Revenue Form 61A508-S4, "Schedule 4", shall be filed by distilleries with the Department of Revenue, reporting the fair cash value of bulk inventory summarized on Form 61A508.

(71) Revenue Form 61A508-S5, "Schedule 5", shall be filed by distilleries with the Department of Revenue, reporting the fair cash values of case goods summarized on Form 61A508.

(72) Revenue Form 61A508-S6, "Schedule 6 Industrial Revenue Bond Property", shall be filed with the Department of Revenue, reporting property purchased with an industrial revenue bond.

(73) Revenue Form 61A509, "Distilled Spirits or Telecoms Property Tax Statement", shall be used by county clerks and local

tax jurisdictions to bill assessments of distilled spirits and telecom personal property.

(74) Revenue Form 61F007, "Notification Protesting Your Commercial Watercraft Assessment", shall inform taxpayers of the protest procedures on Commercial Watercraft assessments.

(75) Revenue Form 61F008, "Notification Protesting Your Assessment", shall inform taxpayers of the protest procedures on Railroad Car Line assessments.

(76) Revenue Form 61F009, "Notification Protesting Your Assessment", shall inform taxpayers of the protest procedures on Public Service Company Property Tax assessments.

(77) Revenue Form 61F010, "Property Value Assessments for Public Service and Centrally Assessed Companies - Assessment of Distilled Spirits in Bonded Warehouses", shall inform taxpayers of the protest procedures on Distilled Spirits assessments.

(78) Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice", shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities and registration renewal deadline.

(79) Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax Notice - Second Notice", shall be issued by the Department of Revenue to notify motor vehicle and boat owners of their delinquent ad valorem property tax liabilities.

(80) Revenue Form 62A008, "Motor Vehicle Tax Notice", shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities.

(81) Revenue Form 62A009, "Map Sales Invoice", shall be provided to the customer by the Department of Revenue as a receipt for payment of maps purchased.

(82) Revenue Form 62A010, "Notice for Boat Transfer", shall be issued to January 1 owners of boats transferred during the calendar year informing them of the ad valorem tax due on the transferred boat.

(83) Revenue Form 62A013, "Application for Assessment Moratorium Certificate", shall be filed by property owners seeking an assessment moratorium on qualifying existing property undergoing repair, rehabilitation or restoration. The form shall be filed with the proper administering agency of the county in which the property is located, thirty (30) days prior to restoration or repair.

(84) Revenue Form 62A015, "~~2016~~[2015] Motor Vehicle and Watercraft Property Tax Rate Certification", shall be submitted annually to the Department of Revenue by motor vehicle and watercraft taxing jurisdictions to certify the rates established by the taxing jurisdiction for motor vehicles and watercraft.

(85) Revenue Form 62A016, "Quietus", shall be issued by the Department of Revenue to certify that a county clerk is in good standing with regard to the conduct of ad valorem property tax collection duties.

(86) Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills", shall be completed by the Department of Revenue and county clerk to certify the total number of motor vehicle and boat accounts for a given county and find the county clerk's compensation for making tax bills.

(87) Revenue Form 62A020, "Intercounty Property Tax Collections", shall be completed by the Department of Revenue to list distributions of ad valorem property tax made to individual taxing jurisdictions.

(88) Revenue Form 62A023, "Application for Exemption from Property Taxation", shall be filed by organizations seeking a property tax exemption under Ky. Const. Sec. 170. This form shall be filed with the property valuation administrator of the county in which the property is located.

(89) Revenue Form 62A030, "Request for Reproduction of PVA Public Records and Contract for Commercial Users", shall be submitted to request copies of documents required to be retained by the PVA.

(90) Revenue Form 62A044, "Affidavit for Correction/Exoneration of Motor Vehicle/Boat/Trailer Property Tax", shall be completed by the owner of a vehicle, boat, or trailer at the property valuation administrator's office in order to correct owner or vehicle, boat, or trailer information in the ad valorem tax computer system. The PVA shall present the form to the county clerk when a tax refund is authorized.

(91) Revenue Form 62A200(P), "~~2016~~²⁰¹⁵ Unmined Coal Property Tax Information Return", shall be the packet of files and instructions relating to Revenue Form 62A200 for use by owners or lessees of unmined minerals, reporting filer information with the Department of Revenue.

(92) Revenue Form 62A200, "~~2016~~²⁰¹⁵ Unmined Coal Property Tax Information Return", shall be filed by owners or lessees of unmined minerals, reporting filer information with the Department of Revenue.

(93) Revenue Form 62A200, "Schedule A Fee Property Ownership", shall be filed by owners or lessees of unmined minerals with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(94) Revenue Form 62A200, "Schedule B Leased Property", shall be filed by all lessees and sublessees with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(95) Revenue Form 62A200, "Schedule C Property or Stock Transfers", shall be filed by both purchasers and sellers of unmined mineral property, with the Department of Revenue, reporting details of the transaction.

(96) Revenue Form 62A200, "Schedule D Lease Terminations, Transfers or Assignments", shall be filed by lessors or lessees of unmined minerals, with the Department of Revenue, reporting the parcel number, the date the lease was terminated and the seams assigned.

(97) Revenue Form 62A200, "Schedule E Farm Exception to Unmined Minerals Tax", shall be filed by surface owners, who own the mineral rights in their entirety and are engaged primarily in farming, to be excepted from the unmined minerals tax.

(98) Revenue Form 62A200, "Schedule F Geological Information by County", shall be filed by owners or lessees of unmined minerals, with the Department of Revenue, reporting exploration and analytical information.

(99) Revenue Form 62A301-S, "Omitted Real Estate Property Tax Bill" shall be used by the sheriff to inform taxpayers of an omitted real estate property tax liability.

(100) Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", shall be filed by taxpayers with the property valuation administrator, if appealing their assessment on real property.

(101) Revenue Form 62A303, "Minutes of the Board of Assessment Appeals", shall be used by the county clerk to record the proceedings of the local board of assessment appeals, list taxpayer information, provide a description of the property, include the property valuation administrator's assessment and indicate the amount of increase or decrease in value.

(102) Revenue Form 62A303-A, "Certification", shall be used by the county clerk to affirm that the minutes of the local board of assessment appeals are accurate.

(103) Revenue Form 62A303-B, "Summary of Appeals Filed With the County Board of Assessment Appeals", shall be used by the county clerk to list all appeals filed with the local board of assessment appeals, including the date and time the hearing has been scheduled.

(104) Revenue Form 62A303-C, "Justification for Decision of Local Board of Assessment Appeals", shall be used to list a justification of the decision of the local board of assessment appeals.

(105) Revenue Form 62A304, "Property Valuation Administrator's Recapitulation of Real Property Tax Roll", shall be filed by the property valuation administrator by the first Monday in April, showing a recapitulation of property assessments by type of property and by taxing district. This form shall also be known as "first recap".

(106) Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes (Since Recapitulation)", shall be filed by the property valuation administrator within six (6) days of the conclusion of the real property tax roll inspection period, showing all changes made since the submission of Revenue Form 62A304. This form shall also be known as "final recap" or "second recap".

(107) Revenue Form 62A307, "Property Owner Conference Record", shall be used by the property valuation administrator to document a property owner's appeal conference. The property owner or his or her representative shall be asked to sign the record and shall be given a copy of the record.

(108) Revenue Form 62A323, "Record of Additions and Deletions", shall be used by the PVA to report all real property additions and deletions for a particular assessment year.

(109) Revenue Form 62A329, "Annual Report of Domestic Life Insurance Companies", shall be filed by life insurance companies doing business in Kentucky, with the Department of Revenue, reporting the fair cash value of the company's intangible property, both taxable and exempt, and the aggregate amount.

(110) Revenue Form 62A350, "Application for Exemption Under the Homestead/Disability Amendment", shall be filed by property owners seeking an exemption from property taxes under Ky. Const. Sec. 170. This application shall be filed with the property valuation administrator of the county in which the residential unit is located.

(111) Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", shall be mailed to the property owner by the property valuation administrator notifying him or her of the assessment amount and of his or her appeal rights.

(112) Revenue Form 62A353, "Notice of Listing of Omitted Real Property", shall be mailed by the property valuation administrator to the property owner. This document shall notify the property owner that his or her omitted property has been listed and assessed and of his or her appeal rights.

(113) Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", shall be sent from the Board of Assessment Appeals to the property owner to inform him or her of its ruling.

(114) Revenue Form 62A358, "Receipt for Transferring Delinquent Property Tax Bills From the Sheriff to the County Clerk", shall be signed by both the sheriff and county clerk to affirm the number and total amount of delinquent tax bills transferred from the sheriff to the county clerk.

(115) Revenue Form 62A358-S, "Supplemental Receipt to Document Timely Postmarked Payments Received After the Delinquent Tax Bill Transfer Date", shall be signed by both the sheriff and the county clerk to affirm payments received by the sheriff via mail and postmarked timely after the transfer date.

(116) Revenue Form 62A359, "Sheriff's Report of Real Property Tax Bills Transferred to the County Clerk", shall be used by the sheriffs to report delinquent real estate tax bills that were transferred from the sheriff to the county clerk's office.

(117) Revenue Form 62A360, "Order Correcting Erroneous Assessment", shall be issued to the collection agency (county sheriff or clerk) and taxpayer correcting an erroneous mineral property tax assessment.

(118) Revenue Form 62A362, "Sheriff's Report of Delinquent Personal Property Tax Bills Transferred to the County Clerk", shall be used by the sheriff to report delinquent personal property tax bills transferred from the sheriff to the county clerk's office.

(119) Revenue Form 62A362-A, "Certification", shall be used by the sheriff to affirm that the list of delinquent personal property tax bills transferred to the county clerk is correct.

(120) Revenue Form 62A363, "County Clerk's Claim for Preparing Tax Bills", shall be submitted by the county clerk in order to receive payment for each property tax bill prepared, with one-half (1/2) paid out of the county treasury and one-half (1/2) paid out of the State Treasury.

(121) Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", shall be submitted by the county clerk in order to receive payment of one (1) dollar for each omitted property tax bill prepared, with one-half (1/2) paid out of the county treasury and one-half (1/2) paid out of the State Treasury.

(122) Revenue Form 62A364, "County Clerk's Monthly Report of Omitted Assessments", shall be used by the county clerk to report omitted assessments made by the property valuation administrator.

(123) Revenue Form 62A365, "Nonresidency Affidavit", shall

be filed as proof of nonresidency in Kentucky as of January 1, for ad valorem tax purposes.

(124) Revenue Form 62A366, "Order Correcting Erroneous Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in an assessment of property.

(125) Revenue Form 62A366-D, "Order Correcting Erroneous Delinquent Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in a delinquent assessment of property.

(126) Revenue Form 62A366R, "Exoneration Form for Property Tax Refund", shall be filed by a taxpayer for refunds of property tax.

(127) Revenue Form 62A367, "Authorization for Preparing Additional/Supplemental Property Tax Bills", shall be used by a property valuation administrator to prepare additional or supplemental tax bills.

(128) Revenue Form 62A367-A, "Instructions for Preparation of Additional/Supplemental Tax Bills and Official Receipt", shall be provided to assist the PVA with the preparation of additional or supplemental tax bills.

(129) Revenue Form 62A368-A, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for the 1997 tax year only.

(130) Revenue Form 62A368-B, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for tax years after 1997.

(131) Revenue Form 62A369, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for 1996 and earlier tax years.

(132) Revenue Form 62A369-A, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue state commission from delinquent property tax collections.

(133) Revenue Form 62A370, "Kentucky Department of Revenue Certificate of Registration", shall be issued by the Department of Revenue to individuals, corporations or partnerships proving eligibility to purchase certificates of delinquency. This certificate shall be presented to the county clerk at the time the third-party purchaser registers for the tax sale.

(134) Revenue Form 62A370A, "Kentucky Department of Revenue Application for Certificate of Registration to Purchase Certificates of Delinquency", shall be submitted to the Department of Revenue by individuals, corporations or partnerships seeking to purchase certificates of delinquency offered for sale by the county clerk.

(135) Revenue Form 62A371, "Attestation Form For Use When Taxpayer Cannot Make Contact With A Third Party Purchaser", shall be used by the taxpayer to attest to the county clerk that the taxpayer attempted to contact the third party purchaser in the manner specified by KRS 134.127(3)(e) and was unsuccessful.

(136) Revenue Form 62A372, "Sheriff's List of Orders Correcting Erroneous Assessments", shall be used by the sheriff to report all exoneration made to the tax bills by the property valuation administrator.

(137) Revenue Form 62A372-A, "Certification", shall be used by the sheriff to affirm that the list of exoneration is accurate.

(138) Revenue Form 62A373, "Certificate of Transfer for Property Tax Payment", shall be issued by the sheriff to a person who has paid property taxes on behalf of another and wishes to be treated as a transferee under KRS 134.121.

(139) Revenue Form 62A374, "County Clerk Certificate of Delinquency Sale Registration", shall be used by the county clerk to register third parties interested in purchasing certificates of delinquency offered for sale by the county clerk.

(140) Revenue Form 62A375, "Release of Certificate of Delinquency Assigned to a Third Party", shall be used by the county clerk to release the lien of a certificate of delinquency that has been refunded to a third party purchaser.

(141) Revenue Form 62A377, "In House Release of Third

Party Purchaser Lien When Lien is Paid to Clerk", shall be used by the county clerk to release a certificate of delinquency when the certificate of delinquency has been paid by the taxpayer and the third party purchaser cannot be located.

(142) Revenue Form 62A378, "Report of Mobile Homes and Recreational Vehicles Not Registered in this State", shall be filed by every person providing rental space for mobile homes and recreational vehicles not registered in Kentucky. This form shall be filed with the property valuation administrator of the county in which the park is located.

(143) Revenue Form 62A379, "Listing of Omitted Real Property", shall be used by a taxpayer to voluntarily list any property previously omitted from the tax roll or shall be used by a property valuation administrator to list any involuntarily omitted property.

(144) Revenue Form 62A380, "Notification of Updated Mailing Address from Sheriff to Property Valuation Administrator", shall be used by the sheriff to provide an updated address to the property valuation administrator in accordance with KRS 134.119(8).

(145) Revenue Form 62A384C, "Clay Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing clay property, reporting the owner's name and address, percent ownership, product tons, and royalty rate.

(146) Revenue Form 62A384C(I) "Instructions to Complete Clay Property Tax Return", shall be used by owners and lessees of land containing mineable clay minerals to file Revenue Form 62A384C.

(147) Revenue Form 62A384-G, "Natural Gas Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing developed natural gas properties, reporting the location of the property, total yearly gas production, number of producing wells, and the total dollar value of production.

(148) Revenue Form 62A384-G/O(I) "Gas/Oil," shall be used as a letter informing owners of natural gas and oil property of the responsibility to file, the filing deadline, and where to locate the forms.

(149) Revenue Form 62A384L, "Limestone and Sand and Gravel Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing limestone, sand or gravel properties reporting mineral location, type of mining and production in the last three (3) years.

(150) Revenue Form 62A384-O, "Oil Property Tax Return Lease Report", shall be filed with the Department of Revenue by all persons, corporations, businesses and partnerships owning, leasing or having knowledge of developed oil properties to report developed oil property in Kentucky.

(151) Revenue Form 62A385, "Sheriff's Official Receipt for Property Tax Bills", shall be used by sheriffs to acknowledge receipt of the county's property tax bills and to document the total tax amount to be collected for each taxing district.

(152) Revenue Form 62A385-A, "Sheriff's Receipt For Unpaid and Partially Paid Tax Bills", shall be used by incoming sheriffs to give receipt to the outgoing sheriff for the unpaid and partially paid tax bills outstanding when he or she assumes office.

(153) Revenue Form 62A386, "Sheriff's Official Receipt for Additional/Supplemental Property Tax Bill(s)", shall be used by the sheriff to acknowledge receipt of additional or supplemental property tax bills and to document the amount to be collected for each taxing district.

(154) Revenue Form 62A393, "Sheriff's Property Tax Account Statement", shall be used by the Department of Revenue to conduct the annual property tax settlement with the sheriff.

(155) Revenue Form 62A393-A, "Incoming Sheriff's Property Tax Account Statement", shall be used by the Department of Revenue to conduct the property tax settlement with the incoming sheriff.

(156) Revenue Form 62A393-B, "Outgoing Sheriff's Property Tax Account Statement", shall be used by the Department of Revenue to conduct the property tax settlement with the outgoing sheriff.

(157) Revenue Form 62A394, "Sheriff's Monthly Report of Property Tax Collections", shall be used by sheriffs to report to the Department of Revenue property tax collections for the month.

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(158) Revenue Form 62A394-MV, "County Clerk's Monthly Report of Motor Vehicle Property Tax Collections", shall be submitted by the county clerk to the Department of Revenue and local taxing jurisdictions to report ad valorem property tax collections for the month.

(159) Revenue Form 62A398, "Property Valuation Administrator's Bond", shall be completed by property valuation administrators evidencing surety with the Commonwealth and a local school board and affirming a commitment to fulfill the duties of the office.

(160) Revenue Form 62A500(P), "2016[2015] Personal Property Tax Forms and Instructions", shall be the packet of files and instructions relating to Revenue Form 62A500 for use by owners or lessees of tangible personal property reporting taxpayer information, original cost of tangible property and reported value of tangible property with either the property valuation administrator of the county of taxable situs or with the Department of Revenue.

(161) Revenue Form 62A500, "2016[2015] Tangible Personal Property Tax Return", shall be filed by owners or lessees of tangible personal property reporting taxpayer information, original cost of tangible property and reported value of tangible property with either the property valuation administrator of the county of taxable situs or with the Department of Revenue.

(162) Revenue Form 62A500-A, "2016[2015] Tangible Personal Property Tax Return (Aircraft Assessments Only)", shall be filed by owners or lessees of aircraft not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the federal registration number, make and model, and taxpayer's value for each aircraft.

(163) Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", shall be filed by persons in possession of consigned inventory, that has not been reported on Revenue Form 62A500, with either the property valuation administrator of the county of taxable situs or the Department of Revenue, reporting consignor information and consigned inventory information.

(164) Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return", shall be filed by lessees of tangible personal property who did not list the property on Revenue Form 62A500, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting lessor information and equipment information.

(165) Revenue Form 62A500-M1, "Boat Dealer's Used Inventory Listing for Line 31 Tangible Personal Property Tax Return", shall be filed by boat dealers with the property valuation administrator of each county of taxable situs or with the Department of Revenue, containing a detailed listing of used boats held for sale by a licensed boat dealer.

(166) Revenue Form 62A500-S1, "Automobile Dealer's Inventory Listing for Line 34 Tangible Personal Property Tax Return", shall be filed by automobile dealers, dealers with new boat and marine equipment held under a floor plan or dealers with new farm machinery held under a floor plan with the property valuation administrator of each county of taxable situs or with the Department of Revenue, containing a detailed listing of property reported on line 34 of the Tangible Personal Property Tax Return.

(167) Revenue Form 62A500-W, "2016[2015] Tangible Personal Property Tax Return (Documented Watercraft)", shall be filed by owners or lessees of documented vessels not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the coast guard number, make and model and taxpayer's value for each watercraft.

(168) Revenue Form 62A600, "Domestic Savings and Loan Tax Return", shall be filed with the Department of Revenue by savings and loans operating solely in Kentucky, reporting the balances in their capital accounts.

(169) Revenue Form 62A601, "Foreign Savings and Loan Tax Return", shall be filed with the Department of Revenue by foreign savings and loans authorized to do business in this state, reporting the balances in their capital accounts.

(170) Revenue Form 62A601-S2, "Schedule B, Computation of

Exempt Securities", shall be filed with the Department of Revenue, by taxpayers filing Revenue Form 62A600 or 62A601, reporting the market value of U. S. government securities.

(171) Revenue Form 62A700, "Industrial Bond Worksheet for Valuation Purposes", shall be used by the taxpayer and property valuation administrator to determine the valuation of industrial revenue bonds.

(172) Revenue Form 62A850, "Bank Deposits Tax Return", shall be filed with the Department of Revenue by financial institutions, reporting the amount of its deposits as of the preceding January 1.

(173)[(472)] Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", shall be filed by the local taxing district with the Department of Revenue to notify the Department of Revenue of the rate set on bank deposits.

(174)[(473)] Revenue Form 62A863, "Financial Institutions Local Deposits Summary Report", shall be filed with the Department of Revenue, by financial institutions, reporting all deposits located within the state as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation.

(175)[(474)] Revenue Form 62A863-A, "Schedule A, Summary of Net Deposits", shall be filed with the Department of Revenue, by financial institutions filing Revenue Form 62A863, to summarize deposits.

(176)[(475)] Revenue Form 62A880, "Personal Property Assessment", shall be sent by the Department of Revenue to the owner of omitted personal property notifying him or her of the value assessed by the department as well as all applicable penalties and interest.

(177)[(476)] Revenue Form 62B003, "Unmined Coal Notice of Tax Assessment", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in unmined coal property.

(178)[(477)] Revenue Form 62B011, "Limestone, Sand, or Gravel Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in limestone, sand or gravel property.

(179)[(478)] Revenue Form 62B012, "Oil Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in oil property.

(180)[(479)] Revenue Form 62B013, "Clay Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in clay property.

(181)[(480)] Revenue Form 62B015, "Gas Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him or her of the value of his or her interest in gas property.

(182)[(481)] Revenue Form 62F003, "Appeals Process for Real Property Assessments", shall be an informational brochure on the procedure to follow to appeal an assessment on real property.

(183)[(482)] Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", shall be used by the PVA to establish fees to be charged for the cost of reproduction, creation, or other acquisition of records.

(184)[(483)] Revenue Form 62F031, "Appeal to Local Board of Assessment Appeals", shall be filed with the county clerk by any taxpayer who wishes to appeal his or her assessment on real property.

(185) Revenue Form 62F100, "Understanding Kentucky Property Tax", shall be an informational booklet explaining the property tax assessment process in Kentucky.

(186) Revenue Form 62F102, "The Assessment of Tangible Personal Property Taxes", shall be an informational brochure explaining the assessment of tangible personal property in Kentucky.

(187)[(484)] Revenue Form 62F200, "Important Reminder" shall be a postcard mailed to previous filers of the Unmined Coal Property Tax Information Return as a reminder of the responsibility to file, the filing deadline, and where to locate the forms.

(188)[(485)] Revenue Form 62F384-G, "Important Reminder" shall be a postcard mailed to previous filers of the Natural Gas

Property Tax Return as a reminder of the responsibility to file, the filing deadline, and where to locate the forms.

(189)[(186)] Revenue Form 62F500, "Important Reminder" shall be a postcard mailed to previous filers of the Tangible Personal Property Tax Return as a reminder of the responsibility to file, the filing deadline and where to locate the forms.

(190)[(187)] Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", shall inform taxpayers, subject to intangible property tax on the value of their capital stock, of those institutions which issue obligations that are exempt from state ad valorem taxation.

Section 2. Severance Taxes - Required Forms. (1) Revenue Form 10A100, "Kentucky Tax Registration Application", shall be filed by taxpayers with a coal severance and processing tax account listing taxpayer information including mine name and mining permit number.

(2) Revenue Form 10A104, "Update Or Cancellation Of Kentucky Tax Account(s)", shall be used by taxpayers with a coal severance and processing tax account to update business information or to cancel the account.

(3) Revenue Form 55A004, "Coal Severance Tax Seller/Purchaser Certificate", shall be filed by the taxpayer to verify purchase coal deductions.

(4) Revenue Form 55A100, "Coal Severance Tax Return", shall be filed monthly by the taxpayer to report production and tax due.

(5) Revenue Form 55A100, "Part IV - Schedule of Purchased Coal", shall be used by the taxpayer to report coal purchased for processing and resale. "Part V - Schedule for Thin Seam Coal Tax Credit", shall be used by the taxpayer to apply for tax credit for underground mining of thin coal seams.

(6) Revenue Form 55A101, "Coal Severance Tax Return Instructions", shall be included with the coal tax return mailed to the taxpayer to assist in the completion of his or her return.

(7) Revenue Form 55A131, "Credit Memorandum", shall be used by the department to issue a credit to the taxpayer for an overpayment rather than a refund.

(8) Revenue Form 55A209, "Severance Tax Refund Application", shall be used by the taxpayer for the purpose of requesting a refund of tax overpaid.

(9) Revenue Form 56A001, "Application for Certificate of Registration Minerals and Natural Gas Tax", shall be used by persons dealing in minerals, natural gas or natural gas liquids who wish to register with the Department of Revenue to acquire an account number.

(10) Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", shall be used by registered natural gas and natural gas liquids taxpayers monthly to report production and tax due.

(11) Revenue Form 56A101, "Minerals Tax Return", shall be used by registered mineral taxpayers monthly to report production and tax due.

(12) Revenue Form 56A106, "Minerals Tax Certificate of Exemption", shall be used by mineral taxpayers to claim exemptions from minerals tax for minerals purchased for the maintenance of a privately maintained but publicly dedicated road.

(13) Revenue Form 56A107, "Schedule A, Allocation of Gross Value of Minerals Severed in Kentucky and Schedule B, Minerals Purchased from Others for Processing by Taxpayer", shall be used by mineral taxpayers to compute gross value of minerals to be allocated and to show the allocation by county of the gross value of minerals severed in Kentucky and also shall be used by a taxpayer for showing minerals that are purchased from others for processing by the taxpayer.

(14) Revenue Form 56A108, "Schedule A, Gross Value of Natural Gas Sold to Nonconsumers and Schedule B, Taxable Gross Value of Natural Gas and Natural Gas Liquids Extracted in Kentucky by Taxpayer - Allocation", shall be used by natural gas taxpayers to show details of all natural gas extracted in Kentucky and sold to nonconsumers and also shall be used by natural gas taxpayers to allocate the natural gas to the county or counties

where the natural gas or natural gas liquids were located prior to extraction.

(15) Revenue Form 56A109, "Schedule C, Natural Gas First Purchased by Taxpayer From Kentucky Producers", shall be used by natural gas taxpayers who are first purchasers of natural gas to show gross value by county or counties from which the natural gas was extracted.

(16) Revenue Form 56A110, "Minerals Tax Return Attachment, Schedule C, Computation of Clay Severed and Processed in Kentucky and Allocation of Tax Attributable to Clay", shall be used by mineral taxpayers that sever clay to compute tax due.

(17) Revenue Form 56A112, "Crude Petroleum Transporter's Monthly Report, Kentucky Oil Production Tax", shall be used by registered crude petroleum transporter's for reporting gross value and tax due.

(18) Revenue Form 56A113, "Minerals Tax Credit for Limestone Sold in Interstate Commerce", shall be used by mineral taxpayers for the purpose of determining the eligibility for the minerals tax credit.

(19) Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", shall be used by crude petroleum transporters who wish to acquire an account number with the Kentucky Department of Revenue.

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

(a) Property tax - referenced material:

1. Revenue Form 61A200(P), "Property Tax Forms and Instructions for Public Service Companies 2016[2015]", September 2015[November 2014];

2. Revenue Form 61A200, "Public Service Company Property Tax Return for Year Ending December 31, 2015[2014]", September 2015[November 2014];

3. Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", September 2015[November 2014];

4. Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", September 2015[November 2014];

5. Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", September 2015[November 2014];

6. Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", September 2015[November 2014];

7. Revenue Form 61A200(E), "Filing Extension Application", September 2015[November 2014];

8. Revenue Form 61A200(G), "Report of Capital Stocks", September 2015[November 2014];

9. Revenue Form 61A200(H), "Report of Funded Debt", September 2015[November 2014];

10. Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", September 2015[November 2014];

11. Revenue Form 61A200(J), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", September 2015[November 2014];

12. Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction", September 2015[November 2014];

13. Revenue Form 61A200(K2), "Nonoperating Property Listing by Taxing Jurisdiction", September 2015[November 2014];

14. Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for All Interstate Companies", September 2015[November 2014];

15. Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies", September 2015[November 2014];

16. Revenue Form 61A200(N1), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", September 2015[November 2014];

17. Revenue Form 61A200(N2), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", September 2015[November 2014];

18. Revenue Form 61A200(N3), "Summary Report of System and Kentucky Operating Lease Payments", September 2015[November 2014];

19. Revenue Form 61A200(O), "Railroad Private Car Mileage Report", September 2015[November 2014];

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20. Revenue Form 61A200(Q), "Supplemental Report of Operations for Contained and Residential Landfills", September 2015[November 2014];
21. Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", September 2015[November 2014];
22. Revenue Form 61A200(U), "Industrial Revenue Bond Property", September 2015[November 2014];
23. Revenue Form 61A202, "2016[2015] Public Service Company Property Tax Return for Railroad Car Line", September 2015[November 2014];
24. Revenue Form 61A206(P), "Public Service Company Property Tax Forms and Instructions for Commercial Air Passenger and Air Freight Carriers 2016[2015]", September 2015[November 2014];
25. Revenue Form 61A206, "Public Service Company Property Tax Return For Commercial Air Passenger and Air Freight Carriers", September 2015[November 2014];
26. Revenue Form 61A206(A), "Filing Extension Application for Public Service Company Property Tax Return", September 2015[November 2014];
27. Revenue Form 61A206(B), "Report of Kentucky Registered and Licensed Motor Vehicles", September 2015[November 2014];
28. Revenue Form 61A206(C), "Report of Financial Operations for Commercial Air Passenger and Air Freight Carriers", September 2015[November 2014];
29. Revenue Form 61A206(D-1), "Report of System Aircraft Fleet", September 2015[November 2014];
30. Revenue Form 61A206(D-2), "Report of System Aircraft Fleet", September 2015[November 2014];
31. Revenue Form 61A206(D-3), "Report of System Aircraft Fleet", September 2015[November 2014];
32. Revenue Form 61A206(E), "Report of Kentucky Flight Statistics By Airport", September 2015[November 2014];
33. Revenue Form 61A206(F), "Report of System and Kentucky Allocation Factors", September 2015[November 2014];
34. Revenue Form 61A206(G), "Report of Funded Debt", September 2015[November 2014];
35. Revenue Form 61A206(H), "Report of Operating Leased Real Property Located in Kentucky By Taxing District", September 2015[November 2014];
36. Revenue Form 61A206(I), "Report of Operating Leased Personal Property Located in Kentucky By Taxing District", September 2015[November 2014];
37. Revenue Form 61A206(J), "Summary Report of System and Kentucky Operating Lease Payments", September 2015[November 2014];
38. Revenue Form 61A206(K), "Report of Owned Real Property Located in Kentucky By Taxing District", September 2015[November 2014];
39. Revenue Form 61A206(L), "Report of Owned Personal Property Located In Kentucky By Taxing District", September 2015[November 2014];
40. Revenue Form 61A206(M), "Summary Report of Total System and Kentucky Operations", September 2015[November 2014];
41. Revenue Form 61A206(N), "Industrial Revenue Bond Property", September 2015[November 2014];
42. Revenue Form 61A206(O), "Public Service Company Sales", September 2015[November 2014];
43. Revenue Form 61A207(P), "Commercial Watercraft Personal Property Tax Return 2016[2015]", September 2015[November 2014];
44. Revenue Form 61A207, "2016[2015] Commercial Watercraft Personal Property Tax Return", September 2015[November 2014];
45. Revenue Form 61A207(A), "Report of Owned Vessels in Your Possession", September 2015[November 2014];
46. Revenue Form 61A207(B), "Report of Owned Vessels - in Possession of Others", September 2015[November 2014];
47. Revenue Form 61A207(C), "Report of Nonowned Vessels in Your Possession", September 2015[November 2014];
48. Revenue Form 61A207(D), "Commercial Watercraft Valuation Worksheet", September 2015[November 2014];
49. Revenue Form 61A207(E), "Report of Kentucky Route Miles", September 2015[November 2014];
50. Revenue Form 61A207(F), "Report of System Route Miles", September 2015[November 2014];
51. Revenue Form 61A209, "Public Service Company Sales", September 2015[November 2014];
52. Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", September 2015[November 2014];
53. Revenue Form 61A211(I), "Instructions Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", September 2015[November 2014];
54. Revenue Form 61A211(IP), "Instructions For Editing the Public Service Company Motor Vehicle Printout", September 2015[November 2014];
55. Revenue Form 61A230, "Notice of Assessment", February 2010;
56. Revenue Form 61A240, "Notice of Assessment", July 2011;
57. Revenue Form 61A250, "Notice of Assessment", August 2008;
58. Revenue Form 61A255, "Public Service Company Property Tax Statement", January 2012;
59. Revenue Form 61A255(I), "Instructions for 61A255, Public Service Company Property Tax Statement", July 2008;
60. Revenue Form 61A500(P), "2016[2015] Personal Property Tax Forms and Instructions for Communications Service Providers and Multichannel Video Programming Service Providers", September 2015[December 2014];
61. Revenue Form 61A500, "2016[2015] Tangible Personal Property Tax Return for Communications Service Providers and Multichannel Video Programming Service Providers", September 2015[December 2014];
62. Revenue Form 61A500(H), "Report of Total Personal Tangible Property in Kentucky", September 2015[December 2014];
63. Revenue Form 61A500(I), "Summary of Gross Personal Tangible Property Listing by Taxing District", September 2015[December 2014];
64. Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", September 2015[December 2014];
65. Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", September 2015[December 2014];
66. Revenue Form 61A508, "Annual Report of Distilled Spirits in Bonded Warehouse", September 2015[December 2014];
67. Revenue Form 61A508-S1, "Schedule 1 Office of Property Valuation Cost of Production Schedule", September 2015[December 2014];
68. Revenue Form 61A508-S2, "Schedule 2 Office of Property Valuation Storage Cost Schedule", September 2015[December 2014];
69. Revenue Form 61A508-S3, "Schedule 3 Schedule of Bulk Sales and Purchases (Bourbon Only)", September 2015[December 2014];
70. Revenue Form 61A508-S4, "Schedule 4", September 2015[December 2014];
71. Revenue Form 61A508-S5, "Schedule 5", September 2015[December 2014];
72. Revenue Form 61A508-S6, "Schedule 6 Industrial Revenue Bond Property", September 2015[December 2014];
73. Revenue Form 61A509, "Distilled Spirits or Telecoms Property Tax Statement", January 2012;
74. Revenue Form 61F007, "Notification Protesting Your Commercial Watercraft Assessment", July 2011;
75. Revenue Form 61F008, "Notification Protesting Your Assessment", July 2011;
76. Revenue Form 61F009, "Notification Protesting Your Assessment", July 2011;
77. Revenue Form 61F010, "Property Value Assessments for Public Service and Centrally Assessed Companies - Assessment of Distilled Spirits in Bonded Warehouses", March 2010;
78. Revenue Form 62A007, "Motor Vehicle Tax and/or

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Registration Renewal Notice", 2006;

79. Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax Notice - Second Notice", 2006;

80. Revenue Form 62A008, "Motor Vehicle Tax Notice", 2006;

81. Revenue Form 62A009, "Map Sales Invoice", July, 2006;

82. Revenue Form 62A010, "Notice for Boat Transfer", 2009;

83. Revenue Form 62A013, "Application for Assessment Moratorium Certificate", December 2009;

84. Revenue Form 62A015, "2016[2015] Motor Vehicle and Watercraft Property Tax Rate Certification", 2015[2014];

85. Revenue Form 62A016, "Quietus", 2014;

86. Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills", 2009;

87. Revenue Form 62A020, "Intercounty Property Tax Collections", 2009;

88. Revenue Form 62A023, "Application for Exemption from Property Taxation", July 2013;

89. Revenue Form 62A030, "Request for Reproduction of PVA Public Records and Contract for Commercial Users", February 2008;

90. Revenue Form 62A044, "Affidavit for Correction/Exoneration of Motor Vehicle/Boat/Trailer Property Tax", February 2009;

91. Revenue Form 62A200(P), "2016[2015] Unmined Coal Property Tax Information Return", October 2015[December 2014];

92. Revenue Form 62A200, "2016[2015] Unmined Coal Property Tax Information Return", October 2015[December 2014];

93. Revenue Form 62A200, "Schedule A Fee Property Ownership", October 2015[December 2014];

94. Revenue Form 62A200, "Schedule B Leased Property", October 2015[December 2014];

95. Revenue Form 62A200, "Schedule C Property or Stock Transfers", October 2015[December 2014];

96. Revenue Form 62A200, "Schedule D Lease Terminations, Transfers or Assignments", October 2015[December 2014];

97. Revenue Form 62A200, "Schedule E Farm Exception to Unmined Minerals Tax", October 2015[December 2014];

98. Revenue Form 62A200, "Schedule F Geological Information by County", October 2015[December 2014];

99. Revenue Form 62A301-S, "Omitted Real Estate Property Tax Bill", January 2013;

100. Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", September 2005;

101. Revenue Form 62A303, "Minutes of the Board of Assessment Appeals", July 2014;

102. Revenue Form 62A303-A, "Certification", July 2014;

103. Revenue Form 62A303-B, "Summary of Appeals Filed With the County Board of Assessment Appeals", July 2014;

104. Revenue Form 62A303-C, "Justification For Decision of Local Board of Assessment Appeals", July 2014;

105. Revenue Form 62A304, "Property Valuation Administrator's Recapitulation of Real Property Tax Roll", July 2014;

106. Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes (Since Recapitulation)", July 2014;

107. Revenue Form 62A307, "Property Owner Conference Record", September 2005;

108. Revenue Form 62A323, "Record of Additions and Deletions", July 2014;

109. Revenue Form 62A329, "Annual Report of Domestic Life Insurance Companies", June 2014;

110. Revenue Form 62A350, "Application for Exemption Under the Homestead/Disability Amendment", December 2011;

111. Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", April 2005;

112. Revenue Form 62A353, "Notice of Listing of Omitted Real Property", September 2005;

113. Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", July 2014;

114. Revenue Form 62A358, "Receipt for Transferring Delinquent Property Tax Bills From the Sheriff to the County Clerk", December 2009;

115. Revenue Form 62A358-S, "Supplemental Receipt to Document Timely Postmarked Payments Received After the Delinquent Tax Bill Transfer Date", March 2010;

116. Revenue Form 62A359, "Sheriff's Report of Real Property Tax Bills Transferred to the County Clerk", December 2009;

117. Revenue Form 62A360, "Order Correcting Erroneous Assessment", 2015[2014];

118. Revenue Form 62A362, "Sheriff's Report of Delinquent Personal Property Tax Bills Transferred to the County Clerk", July 2014;

119. Revenue Form 62A362-A, "Certification", July 2014;

120. Revenue Form 62A363, "County Clerk's Claim for Preparing Tax Bills", July 2014;

121. Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", July 2014;

122. Revenue Form 62A364, "County Clerk's Monthly Report of Omitted Assessments", July 2014;

123. Revenue Form 62A365, "Nonresidency Affidavit", January 2012;

124. Revenue Form 62A366, "Order Correcting Erroneous Assessment", December 2013;

125. Revenue Form 62A366-D, "Order Correcting Erroneous Delinquent Assessment", July 2014;

126. Revenue Form 62A366R, "Exoneration Form for Property Tax Refund", December 2013;

127. Revenue Form 62A367, "Authorization for Preparing Additional/Supplemental Property Tax Bills", July 2014;

128. Revenue Form 62A367-A, "Instructions for Preparation of Additional/Supplemental Tax Bills and Official Receipt", July 2014;

129. Revenue Form 62A368-A, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

130. Revenue Form 62A368-B, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

131. Revenue Form 62A369, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

132. Revenue Form 62A369-A, "County Clerk's Monthly Report of Delinquent Tax Collections", February 2006;

133. Revenue Form 62A370, "Kentucky Department of Revenue Certificate of Registration", November 2009;

134. Revenue Form 62A370A, "Kentucky Department of Revenue Application for Certificate of Registration to Purchase Certificates of Delinquency", October 2013;

135. Revenue Form 62A371, "Attestation Form For Use When Taxpayer Cannot Make Contact With A Third Party Purchaser", January 2013;

136. Revenue Form 62A372, "Sheriff's List of Orders Correcting Erroneous Assessments", February 2006;

137. Revenue Form 62A372-A, "Certification", February 2006;

138. Revenue Form 62A373, "Certificate of Transfer for Property Tax Payment", January 2010;

139. Revenue Form 62A374, "County Clerk Certificate of Delinquency Sale Registration", November 2010;

140. Revenue Form 62A375, "Release of Certificate of Delinquency Assigned to a Third Party", February 2011;

141. Revenue Form 62A377, "In House Release Of Third Party Purchaser Lien When Lien Is Paid To Clerk", January 2013;

142. Revenue Form 62A378, "Report of Mobile Homes and Recreational Vehicles Not Registered in this State", August 2013;

143. Revenue Form 62A379, "Listing of Omitted Real Property", December 2015[2014];

144. Revenue Form 62A380, "Notification of Updated Mailing Address from Sheriff to Property Valuation Administrator", September 2010;

145. Revenue Form 62A384C, "Clay Property Tax Return", January 2013;

146. Revenue Form 62A384C(I), "Instructions to Complete Clay Property Tax Return", January 2014;

147. Revenue Form 62A384-G, "Natural Gas Property Tax Return", January 2013;

148. Revenue Form 62A384-G/O(I), "Gas/Oil", January 2016[2015];

149. Revenue Form 62A384L, "Limestone and Sand and Gravel Property Tax Return", January 2016[2015];

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150. Revenue Form 62A384-O, "Oil Property Tax Return Lease Report", January 2013;

151. Revenue Form 62A385, "Sheriff's Official Receipt for Property Tax Bills", July, 2014;

152. Revenue Form 62A385-A, "Sheriff's Receipt for Unpaid and Partially Paid Tax Bills", July 2014;

153. Revenue Form 62A386, "Sheriff's Official Receipt For Additional/Supplemental Property Tax Bill(s)", July 2014;

154. Revenue Form 62A393, "Sheriff's Property Tax Account Statement", February 2006;

155. Revenue Form 62A393-A, "Incoming Sheriff's Property Tax Account Statement", February 2006;

156. Revenue Form 62A393-B, "Outgoing Sheriff's Property Tax Account Statement", February 2006;

157. Revenue Form 62A394, "Sheriff's Monthly Report of Property Tax Collections", January 2010;

158. Revenue Form 62A394-MV, "County Clerk's Monthly Report of Motor Vehicle Property Tax Collections", August 2011;

159. Revenue Form 62A398, "Property Valuation Administrator's Bond", September 2014;

160. Revenue Form 62A500(P), "2016[2015] Personal Property Tax Forms and Instructions", November 2015[2014];

161. Revenue Form 62A500, "2016[2015] Tangible Personal Property Tax Return", November 2015[2014];

162. Revenue Form 62A500-A, "2016[2015] Tangible Personal Property Tax Return (Aircraft Assessments Only)", November 2015[2014];

163. Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", November 2015[2014];

164. Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return", November 2015[2014];

165. Revenue Form 62A500-M1, "Boat Dealer's Used Inventory Listing for Line 31 Tangible Personal Property Tax Return", November 2015[2014];

166. Revenue Form 62A500-S1, "Automobile Dealer's Inventory Listing for Line 34 Tangible Personal Property Tax Return", November 2015[2014];

167. Revenue Form 62A500-W, "2016[2015] Tangible Personal Property Tax Return (Documented Watercraft)", November 2015[2014];

168. Revenue Form 62A600, "Domestic Savings and Loan Tax Return", August 2013;

169. Revenue Form 62A601, "Foreign Savings and Loan Tax Return", August 2013;

170. Revenue Form 62A601-S2, "Schedule B, Computation of Exempt Securities", August 2013;

171. Revenue Form 62A700, "Industrial Bond Worksheet for Valuation Purposes", October 2015;

172. Revenue Form 62A850, "Bank Deposits Tax Return", August 2013;

173.[172.] Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", August 2011;

174.[173.] Revenue Form 62A863, "Financial Institutions Local Deposits Summary Report", November 2014;

175.[174.] Revenue Form 62A863-A, "Schedule A, Summary of Net Deposits", August 2013;

176.[175.] Revenue Form 62A880, "Personal Property Assessment", October 2004;

177.[176.] Revenue Form 62B003, "Unmined Coal Notice of Tax Assessment", November 2008;

178.[177.] Revenue Form 62B011, "Limestone, Sand, or Gravel Assessment Notice", July 2006;

179.[178.] Revenue Form 62B012, "Oil Assessment Notice", July 2006;

180.[179.] Revenue Form 62B013, "Clay Assessment Notice", July 2006;

181.[180.] Revenue Form 62B015, "Gas Assessment Notice", July 2006;

182.[181.] Revenue Form 62F003, "Appeals Process for Real Property Assessments", September 2014;

183.[182.] Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", August 2012;

184.[183.] Revenue Form 62F031, "Appeal to Local Board of

Assessment Appeals", January 2010;

185. Revenue Form 62F100, "Understanding Kentucky Property Tax", April 2015;

186. Revenue Form 62F102, "The Assessment of Tangible Personal Property Taxes", September 2015;

187.[184.] Revenue Form 62F200, "Important Reminder", January 2016[2015];

188.[185.] Revenue Form 62F384-G, "Important Reminder", January 2016[2015];

189.[186.] Revenue Form 62F500, "Important Reminder", January 2016[2015]; and

190.[187.] Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", August 2011; and

(b) Severance taxes - referenced material:

1. Revenue Form 10A100, "Kentucky Tax Registration Application", October 2015[July 2013];

2. Revenue Form 10A104, "Update or Cancellation of Kentucky Account(s)", October 2015[June 2014];

3. Revenue Form 55A004, "Coal Severance Tax Seller/Purchaser Certificate", October 2010;

4. Revenue Form 55A100, "Coal Severance Tax Return", October 2010;

5. Revenue Form 55A100, "Part IV - Schedule of Purchased Coal" and "Part V - Schedule for Thin Seam Coal Tax Credit", October 2010;

6. Revenue Form 55A101, "Coal Severance Tax Return Instructions", October 2010;

7. Revenue Form 55A131, "Credit Memorandum", December 2006;

8. Revenue Form 55A209, "Severance Tax Refund Application", August 2009;

9. Revenue Form 56A001, "Application for Certificate of Registration Minerals and Natural Gas Tax", January 2015[October 1984];

10. Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", July 2004;

11. Revenue Form 56A101, "Minerals Tax Return", January 2015[July 2004];

12. Revenue Form 56A106, "Minerals Tax Certificate of Exemption", December 2006;

13. Revenue Form 56A107, "Schedule A, Allocation of Gross Value of Minerals Severed in Kentucky and Schedule B, Minerals Purchased from Others for Processing by Taxpayer", January 2005;

14. Revenue Form 56A108, "Schedule A, Gross Value of Natural Gas Sold to Nonconsumers and Schedule B, Taxable Gross Value of Natural Gas and Natural Gas Liquids Extracted in Kentucky by Taxpayer - Allocation", March 2005;

15. Revenue Form 56A109, "Schedule C, Natural Gas First Purchased by Taxpayer from Kentucky Producers", January 2005;

16. Revenue Form 56A110, "Minerals Tax Return Attachment, Schedule C, Computation of Clay Severed and Processed in Kentucky and Allocation of Tax Attributable to Clay", March 2005;

17. Revenue Form 56A112, "Crude Petroleum Transporter's Monthly Report, Kentucky Oil Production Tax", July 2004;

18. Revenue Form 56A113, "Minerals Tax Credit for Limestone Sold in Interstate Commerce", November 1997; and

19. Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", January 2015[December 2006].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, Monday through Friday, 8 a.m. to 5 p.m.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: December 4, 2015

FILED WITH LRC: December 7, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2016 at 10:00 a.m. in Room 386, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5)

workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business February 1, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed amended administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9826, fax (502) 564-2541.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required forms used in the administration of Property and Severance Taxes by the Department of Revenue.

(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 contains tax forms to be used for tax year 2016.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms for the 2016 tax year.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay personal tangible and public service property taxes for tax years beginning in 2016.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.

(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: As forms are changed, the manuals and the Department of Revenue Website in which copies of all forms listed in this regulation are maintained will be updated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred by complying with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All taxpayers and the administering agencies will benefit by having access to a centralized listing of the most current forms in use.

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

(a) Initially: The Department of Revenue will not incur additional cost as the result of this regulation.

(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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 administrative regulation does not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

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 Finance and Administration Cabinet, Department of Revenue, Office of Property Valuation, Division of Local Support, Division of State Valuation and Division of Minerals Taxation and GIS Services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(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? None.

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

(c) How much will it cost to administer this program for the first year? The administrative cost will be absorbed in the normal operating cost of the Department.

(d) How much will it cost to administer this program for subsequent years? The administrative cost will be absorbed in the normal operating budget of the Department.

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:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 3:040. Income Tax Forms Manual.

RELATES TO: KRS 131.041, 131.051, 131.061, 131.081, 131.110, 131.130, 131.155, 131.170, 131.180, 131.190, 131.250, 131.340, 131.500, 131.510(1), (2)(a), 131.540, 141.010, 141.0101, 141.011, 141.016, 141.020, 141.0202, 141.030, 141.040, 141.0401, 141.0405, 141.041, 141.042, 141.044, 141.062, 141.065, 141.066, 141.067, 141.068, 141.069, 141.070, 141.071, 141.120, 141.121, 141.160, 141.170, 141.180, 141.200, 141.205, 141.206, 141.207, 141.208, 141.300, 141.310, 141.325, 141.330, 141.335, 141.347, 141.370, 141.381, 141.382, 141.383, 141.384, 141.385, 141.386, 141.389, 141.390, 141.392, 141.395, 141.400, 141.401, 141.402, 141.403, 141.405, 141.407, 141.412, 141.415, 141.418, 141.420, 141.421, 141.423, 141.424, 141.4242, 141.4244, 141.428, 141.430, 141.433, 141.434, 141.436, 141.437, 141.438, 141.985, 141.990, 154.12-2086, 154.20-050, 154.22-060, 154.23-035, 154.24-110, 154.25-030, 154.26-090, 154.28-090, 154.32-010, 154.34-080, 154.48-025, 155.170, 164.0062

STATUTORY AUTHORITY: KRS 131.130(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue forms used in the administration of income taxes by the Department of Revenue.

Section 1. Corporation Income Taxes. (1) Revenue Form 41A720, "Form 720, 2015[2014] Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to determine its corporation income tax due in accordance with KRS 141.040 and its limited liability entity tax due in accordance with KRS 141.0401 for tax years beginning in 2015[2014].

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both within and without Kentucky to apportion and allocate its net income to Kentucky in accordance with KRS 141.120 or 141.206.

(3) Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", shall be used by a corporation or a pass-through entity taxable both within and without Kentucky that is also a partner or member of a pass-through entity to determine the sales, property and payroll amounts to be entered on Revenue Form 41A720A.

(4) Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", shall be used by a corporation filing a mandatory nexus consolidated return to show the Kentucky and total sales, property, and payroll of the corporation and each subsidiary included in the apportionment factor.

(5) Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", shall be used by a taxpayer who is a biodiesel producer, biodiesel blender, or renewable diesel producer to report the biodiesel gallons produced or used by the blender and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.423.

(6) Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", shall be used by a corporation to compute the tax credit allowed by KRS 141.041 for coal used or substituted for other fuels in an eligible heating facility as described by KRS 141.041(1).

(7) Revenue Form 41A720-CCI, "Schedule CCI, Application and Credit Certificate of Clean Coal Incentive Tax Credit", shall be used by a taxpayer to request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.428 for the purchase of Kentucky coal used by the taxpayer to generate

electricity.

(8) Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", shall be used by a taxpayer who is a producer of cellulosic ethanol to report the number of cellulosic ethanol gallons and request approval from the Department of Revenue of the tax credit amount allowed by KRS 141.4244.

(9) Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", shall be used by a taxpayer to request approval for the amount of tax credit allowed by KRS 141.0405 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(10) Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", shall be used by a taxpayer to compute its Kentucky cost of goods sold and its total costs of goods sold from all sources for purposes of computing its limited liability entity tax based on gross profits.

(11) Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", shall be used by a C corporation filing a consolidated return to show its federal pro forma consolidated return.

(12) Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a consolidated return as a continuation of Revenue Form 41A720CR.

(13) Revenue Form 41A720DS, "Schedule DS, Distilled Spirits Tax Credit", shall be used by a taxpayer to report the capital improvements for which the credit is claimed, up to the amount of distilled spirits ad valorem tax paid during the period the capital improvements were made.

(14) Revenue Form 41A720DS-R, "Schedule DS-R, Distilled Spirits Tax Credit Recapture", shall be used by a taxpayer to determine any distilled spirits tax credit to be recaptured as required by KRS 141.389.

(15) Revenue Form 41A720ES, "Form 720-ES Kentucky, 2016[2015] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(16)[(44)] Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(17)[(45)] Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", shall be used by a taxpayer who is a producer of ethanol to report ethanol gallons produced and request approval from the Kentucky Department of Revenue of the tax credit amount allowed by KRS 141.4242.

(18)[(46)] Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", shall be used by a taxpayer who provides edible agricultural products to a nonprofit food program operating in Kentucky to determine the credit allowed by KRS 141.392.

(19)[(47)] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", shall be used by an individual, corporation, fiduciary, or pass-through entity to determine the deduction allowed by KRS 141.0202.

(20)[(48)] Revenue Form 41A720(I), "Instructions, 2015[2014] Kentucky Corporation Income Tax and LLET Return", shall be used by a corporation to file its 2015[2014] Kentucky Corporation Income Tax and LLET Return and related schedules.

(21)[(49)] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", shall be used by a C corporation filing a nexus consolidated return showing the income or loss of each entity included in the nexus consolidated tax return.

(22)[(20)] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", shall be used by a C corporation filing a nexus consolidated return as a continuation of Revenue Form 41A720KCR.

(23)[(21)] Revenue Form 41A720KESA, "Schedule KESA, Tax

Credit Computation Schedule (For a KESA Project of a Corporation)", shall be used by a corporation which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

(24)[(22)] Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.430.

(25)[(23)] Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", shall be used by a company which has entered into an agreement for a Kentucky Environmental Stewardship Act (KESA) project to maintain a record of the approved costs and tax credits for the duration of the agreement.

(26)[(24)] Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", shall be used by a corporation or a limited liability pass-through entity to determine the limited liability entity tax in accordance with KRS 141.0401.

(27)[(25)] Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by a corporation or a limited liability pass-through entity that is a partner in a general partnership organized or formed as a general partnership after January 1, 2006, or a partner or member in a limited liability pass-through entity to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET.

(28)[(26)] Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by limited liability pass-through entities with economic development projects to determine the limited liability entity tax in accordance with KRS 141.0401.

(29)[(27)] Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", shall be used by a limited liability pass-through entity with an economic development project that is a partner or member of a limited liability pass-through entity or a general partnership organized or formed as a general partnership after January 1, 2006, to determine its Kentucky gross receipts and Kentucky gross profits and its total gross receipts and total gross profits from all sources to be entered on Revenue Form 41A720LLET(K).

(30)[(28)] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", shall be used by a C corporation with a current year net operating loss or net operating loss carry-forward.

(31)[(29)] Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", shall be used by a corporation filing a nexus consolidated income tax return as provided by KRS 141.200, in addition to Revenue Form 41A720NOL, to show the Kentucky net operating loss (KNOL) carry forward balance for each new member of the affiliated group.

(32)[(30)] Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", shall be used by a corporation filing Kentucky Form 720 to show other additions to and subtractions from federal taxable income on Revenue Form 41A720, Part III, Lines 9 and 16, respectively.

(33)[(31)] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.395.

(34)[(32)] Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.390 for the purchase and installation of recycling or composting equipment or a major recycling project. This form shall also be used by an individual, corporation, fiduciary, or pass-

through entity to substantiate and keep a record of the amount of approved credit claimed on their tax return.

(35)[(33)] Revenue Form 41A720RC-C, "Schedule RC-C, Schedule RC - Part I Continuation", shall be used by an individual, corporation, fiduciary, or pass-through entity, in addition to Revenue Form 41A720RC, to list additional equipment for which approval of the credit allowed by KRS 141.390 is being requested.

(36)[(34)] Revenue Form 41A720RC(I), "Instructions for Schedule RC", shall be used by taxpayers filing Revenue Form 41A720RC and Revenue Form 41A720RC-C requesting approval of a tax credit for recycling equipment, composting equipment, or a major recycling project.

(37)[(35)] Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", shall be used by a taxpayer disposing of recycling or composting equipment before the end of the recapture period to compute the tax credit recaptured to be reported on the applicable tax return.

(38)[(36)] Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement," shall be used by an entity to report related party expenses and the exceptions to the required disallowance of related party expenses as provided by KRS 141.205.

(39)[(37)] Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", shall be used by a corporation or pass-through entity requesting approval of a railroad expansion tax credit allowed by KRS 141.386.

(40)[(38)] Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", shall be used by a corporation, individual, or pass-through entity to determine the credit against the income tax liability or LLET liability allowed by KRS 141.385.

(41)[(39)] Revenue Form 41A720S, "Form 720S, 2015[2014] Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to determine the amount of tax due in accordance with KRS 141.040 and 141.0401 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2015[2014].

(42)[(40)] Revenue Form 41A720S(I), "Instructions, 2015[2014] Kentucky S Corporation Income Tax and LLET Return", shall be used by an S corporation to file its 2015[2014] Kentucky S Corporation Income Tax and LLET Return and related schedules.

(43)[(41)] Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", shall be used for tax years beginning in 2015[2014] by S Corporations with economic development projects to determine the shareholders' shares of income, credit, deductions, etc., excluding the economic development projects.

(44)[(42)] Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2015[2014] Shareholder's Share of Income, Credits, Deductions, Etc.", shall be used by an S corporation to report to each of its shareholders the amount of income, credit, deduction, etc., that the shareholder shall report for Kentucky income tax purposes.

(45)[(43)] Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", shall be used by a pass-through entity filing Revenue Form 41A720S, Form 41A765, or Form 42A765-GP to show other additions to and subtractions from federal ordinary income on Revenue Form 41A720S, Part III, Lines 5 and 9, or 41A765, or 42A765-GP Part I, Lines 5 and 9, respectively.

(46)[(44)] Revenue Form 41A720SL, "Extension of Time to File Kentucky Corporation/LLET Return", shall be used by a corporation or a limited liability pass-through entity to request a six (6) month extension of time to file a tax return or an LLET return or to submit payment of unpaid tax.

(47)[(45)] Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", shall be used by a corporation or a limited liability pass-through entity to summarize tax credits claimed and shall be attached to the tax return.

(48)[(46)] Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", shall be used by an entity claiming a tax credit provided by KRS 141.418.

~~(49)~~~~(47)~~ Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income and License Tax Return for tax periods beginning prior to January 1, 2005, as previously filed.

~~(50)~~~~(48)~~ Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax Return for periods beginning on or after January 1, 2005 and before January 1, 2007, as previously filed.

~~(51)~~~~(49)~~ Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax and LLET Return for periods beginning on or after January 1, 2007 and before January 1, 2009, as previously filed.

~~(52)~~~~(50)~~ Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", shall be used by a corporation filing a consolidated Kentucky income tax return on Revenue Form 41A720 to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax paid.

~~(53)~~~~(51)~~ Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", shall be used by a corporation or limited liability pass-through entity required by KRS 141.042 and 141.044 to file a declaration of estimated tax, to compute the underpayment penalty as provided by KRS 131.180(3) and 141.990, and to compute the interest on any late payment or underpayment of an estimated tax installment as provided by KRS 141.985.

~~(54)~~~~(52)~~ Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", shall be used by a taxpayer to claim a tax credit for installation of energy efficiency products for residential and commercial property as provided by KRS 141.436.

~~(55)~~~~(53)~~ Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", shall be used by a taxpayer as a declaration document and signature authorization for an electronic filing of a Kentucky income or LLET return.

~~(56)~~~~(54)~~ Revenue Form 41A720-S9, "Form 8903-K, Kentucky Domestic Production Activities Deduction", shall be used by a corporation to determine the Domestic Production Activities Deduction amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return.

~~(57)~~~~(55)~~ Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", shall be used by a taxpayer to claim a tax credit for the construction of an ENERGY STAR home or the sale of an ENERGY STAR manufactured home as provided by KRS 141.437.

~~(58)~~~~(56)~~ Revenue Form 41A720-S12, "Form 720-V, Electronic Filing Payment Voucher, 2015~~2014~~", shall be used by an entity filing an electronic Kentucky tax return to pay the balance of tax due.

~~(59)~~~~(57)~~ Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.347.

~~(60)~~~~(58)~~ Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", shall be used by a company which has a Kentucky Rural Economic Development Act (KREDA) project to maintain a record of the debt service payments, wage assessment fees and tax credits for the duration of the project.

~~(61)~~~~(59)~~ Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with

KRS 141.347.

~~(62)~~~~(60)~~ Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

~~(63)~~~~(61)~~ Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", shall be used by a company which has a Kentucky Industrial Development Act (KIDA) project to maintain a record of the debt service payments and tax credits for the duration of the project.

~~(64)~~~~(62)~~ Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.400.

~~(65)~~~~(63)~~ Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", shall be used by a corporation which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

~~(66)~~~~(64)~~ Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", shall be used by a company which has a Kentucky Industrial Revitalization Act (KIRA) project to maintain a record of the approved costs, wage assessment fees and tax credits for the duration of the project.

~~(67)~~~~(65)~~ Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.403.

~~(68)~~~~(66)~~ Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", shall be used by a corporation which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

~~(69)~~~~(67)~~ Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", shall be used by a company which has a Kentucky Jobs Development Act (KJDA) project to maintain a record of the approved costs, wage assessment fees, in-lieu-of credits and tax credits for the duration of the project.

~~(70)~~~~(68)~~ Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.407.

~~(71)~~~~(69)~~ Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Reinvestment Act (KRA) project to compute the allowable KRA credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

~~(72)~~~~(70)~~ Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Kentucky Reinvestment Act (KRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

~~(73)~~~~(71)~~ Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule For a KRA Project", shall be used by a company which has entered into a Kentucky Reinvestment Act (KRA) project to maintain a record of the balance of approved costs and tax credits for the duration of the agreement.

~~(74)~~~~(72)~~ Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a

Corporation)", shall be used by a corporation which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to compute the allowable KEOZ credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

(75)[(73)] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.401.

(76)[(74)] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", shall be used by a company which has entered into an agreement for a Kentucky Economic Opportunity Zone (KEOZ) Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and tax credits for the duration of the agreement.

(77)[(75)] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", shall be used by a company which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

(78)[(76)] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule For a KJRA Project", shall be used by a company which has entered into an agreement for a Kentucky Jobs Retention Act (KJRA) project to maintain a record of the debt service payments, wage assessment fees, approved costs, and tax credits for the duration of the agreement.

(79)[(77)] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Jobs Retention Act (KJRA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.402.

(80)[(78)] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

(81)[(79)] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", shall be used by a company which has entered into an Incentives for Energy Independence Act (IEIA) project to maintain a record of the balance of approved costs, wage assessments, and tax credits for the duration of the agreement.

(82)[(80)] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into an Incentives for Energy Independence Act (IEIA) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.421.

(83)[(81)] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", shall be used by a corporation which has entered into a Kentucky Business Investment (KBI) project to compute the allowable KBI credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(84)[(82)] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", shall be used by a pass-through entity which has entered into a Kentucky Business Investment (KBI) project to determine the credit allowed against its Kentucky income tax liability and limited liability entity tax liability in accordance with KRS 141.415.

(85)[(83)] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", shall be used by a company which has entered into an agreement for a Kentucky Business Investment (KBI) project to maintain a record of approved costs,

wage assessments, and tax credits for the duration of the agreement.

(86)[(84)] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", shall be used by a corporation which has a Farm Operation Networking Project (FON) to compute the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(87)[(85)] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", shall be used by a pass-through entity which has a Farm Operation Networking Project (FON) to determine the allowable FON credit allowed against its Kentucky corporation income tax liability and limited liability entity tax liability in accordance with KRS 141.412.

(88)[(86)] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", shall be used by a company with a Farm Operation Networking Project (FON) to maintain a record of approved costs and the tax credits taken for the duration of the project.

(89)[(87)] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", shall be used by a qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment eligible for the tax credit provided by KRS 141.434.

(90)[(88)] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", shall be used by a qualified community development entity to provide proof to the Kentucky Department of Revenue of the receipt of cash for a taxpayer's qualified equity investment.

(91)[(89)] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", shall be used by the Kentucky Department of Revenue to notify a taxpayer of a recapture of the New Markets Development Program tax credit.

(92)[(90)] Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", shall be used by a qualified community development entity to request a refund of the performance fee provided by KRS 141.433.

(93)[(91)] Revenue Form 41A725, "Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", shall be used by a single member individually-owned LLC to file an LLET return in accordance with KRS 141.0401 for tax years beginning in 2015[2014].

(94)[(92)] Revenue Form 41A725CP, "Schedule CP, Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Composite Return Schedule", shall be used by a single member individual with multiple LLC entities to file LLET returns in accordance with KRS 141.0401 for tax years beginning in 2015[2014].

(95)[(93)] Revenue Form 41A725(I), "Instructions, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", shall be used by a single member LLC individually owned to file its 2015[2014] Kentucky Income and LLET return and related schedules.

(96)[(94)] Revenue Form 41A750, "Form 750, 2015[2014] Business Development Corporation Tax Return", shall be used by a corporation organized under the provisions of KRS Chapter 155 to determine its excise tax due in accordance with KRS 155.170 for tax years beginning in 2015[2014].

(97)[(95)] Revenue Form 41A765, "Form 765, 2015[2014] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP or LP to file its Kentucky income and LLET return in accordance with KRS 141.0401 and 141.206 for tax years beginning in 2015[2014].

(98)[(96)] Revenue Form 41A765(I), "Instructions, 2015[2014] Kentucky Partnership Income and LLET Return", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or

LP to file its 2015[2014] Kentucky income and LLET return and related schedules.

(99)[(97)] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", shall be used for tax years beginning in 2015[2014] by partnerships with economic development projects to determine the partners' share of income, credits, deductions, etc., excluding the economic development projects.

(100)[(98)] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2015[2014] Partner's Share of Income, Credits, Deductions, Etc.", shall be used by an entity taxed as a partnership and organized as a LLC, LLP, or LP to report to its partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes.

(101)[(99)] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nexus with the Commonwealth of Kentucky.

(102)[(100)] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", shall be used by a corporation or pass-through entity to determine if the entity has nondeductible related party expense.

Section 2. Individual Income and Withholding Taxes. (1) Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", shall be submitted to the Department of Revenue to request an installment agreement to pay tax due.

(2) Revenue Form 40A100, "Application for Refund of Income Taxes", shall be presented to the Department of Revenue to request a refund of income taxes paid.

(3) Revenue Form 40A102, "2015[2014] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", shall be submitted to the Department of Revenue by individuals, partnerships, and fiduciaries prior to the date prescribed by law for filing a return to request a six (6) month extension to file the return or to remit payment of tax prior to the date the return is due.

(4) Revenue Form 40A103, "Application for New Home Tax Credit", shall be submitted to the Department of Revenue by individuals to request approval for the new home tax credit.

(5) Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", shall be used by a pass-through entity doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual or corporate partner doing business in Kentucky only through its ownership interest in the pass-through entity.

(6) Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", shall be used by a pass-through entity doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual and corporate partners.

(7) Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2016[2015] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", shall be used by every pass-through entity for the declaration and payment of estimated tax if required.

(8) Revenue Form 40A201NP-WH-SL, "Extension of Time to File Kentucky Form 740NP-WH", shall be used by a pass-through entity to request a six (6)-month extension to file Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(9) Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", shall be used by a pass-through entity to compute the interest and penalty on the underpayment and late payment of estimated tax on Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return.

(10) Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", shall be used by a taxpayer or tax preparer to order

individual income tax forms.

(11) Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", shall provide instructions for employers and shall contain forms used for withholding and reporting Kentucky income tax withholding.

(12) Revenue Form 42A003(T), "2016[2015] Withholding Tax Tables Computer Formula", shall be used by an employer for computing employees' Kentucky income tax withholding each pay period.

(13) Revenue Form 42A740, "Form 740, 2015[2014] Kentucky Individual Income Tax Return, Full-Year Residents Only", shall be completed by a resident individual to report taxable income and income tax liability for taxable years beginning in 2015[2014], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(14) Revenue Form 42A740-A, "Schedule A, Form 740, 2015[2014] Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2015[2014].

(15) Revenue Form 42A740-EPAY, "Form 740-EPAY, 2015 Kentucky Electronic Payment Request Form", shall be completed, signed by the individual taxpayer or taxpayers, and maintained by the preparer or taxpayer in support of an electronic payment made.

(16) Revenue Form 42A740ES, "Form 740-ES, 2016[2015] Individual Income Tax Kentucky Estimated Tax Voucher", shall be submitted to the Department of Revenue by individuals with payment of quarterly estimated tax.

(17)[(46)] Revenue Form 42A740-EZ, "Form 740-EZ, 2015[2014] Kentucky Individual Income Tax Return for Single Persons with No Dependents", shall be completed by resident individuals to report taxable income and income tax liability for taxable years beginning in 2015[2014], and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(18)[(47)] Revenue Form 42A740(I), "2015[2014] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", shall be used by resident individuals to file the 2015[2014] Kentucky Individual Tax Return and related schedules.

(19)[(48)] Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", shall be completed by individuals and attached to Form 740 to compute tax liability by averaging farm income for taxable years beginning after December 31, 1997.

(20)[(49)] Revenue Form 42A740-KNOL, "Schedule KNOL, 2015[2014] Kentucky Net Operating Loss Schedule", shall be used by individuals to compute and carry forward a net operating loss to subsequent years.

(21)[(20)] Revenue Form 42A740-M, "Schedule M, 2015[2014] Kentucky Federal Adjusted Gross Income Modifications", shall be completed by individuals and attached to Form 740 in support of additions to and subtractions from federal adjusted gross income.

(22)[(21)] Revenue Form 42A740-NP, "Form 740-NP, 2015[2014] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", shall be completed by part-year or full-year nonresident individuals to report taxable income and income tax liability for taxable years beginning in 2015[2014], and shall be filed within three and one-half (3 1/2) months after the close of the taxable year.

(23)[(22)] Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2015[2014] Kentucky Schedule A Itemized Deductions", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support the itemized deductions claimed for 2015[2014].

(24)[(23)] Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2015[2014] Moving Expense and Reimbursement", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support moving expenses and reimbursement by employers for moving expenses for 2015[2014].

(25)[(24)] Revenue Form 42A740-NP(I), "Instructions for 2015[2014] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be used by nonresident or part-year resident individuals to file the 2015[2014] Kentucky Form 740-NP and related schedules.

(26)[(25)] Revenue Form 42A740-NP-R, "Form 740-NP-R,

2015[2014] Kentucky Income Tax Return Nonresident - Reciprocal State", shall be completed by resident individuals of reciprocal states to request a refund of Kentucky withholding for 2015[2014].

(27)[(26)] Revenue Form 42A740-NP(P), "2015[2014] Kentucky Income Tax Return Nonresident or Part-Year Resident", shall be a packet containing forms and instructions and shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2015[2014].

(28)[(27)] Revenue Form 42A740(PKT), "2015[2014] Kentucky Individual Income Tax Forms", shall be a packet containing forms and instructions and shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2015[2014].

(29)[(28)] Revenue Form 42A740-P, "Schedule P, 2015[2014] Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2015[2014].

(30)[(29)] Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", shall be completed by individuals and attached to Form 740 or Form 740-NP to provide the Office of Employment and Training Certificate Numbers in support of credit claimed for hiring an unemployed person.

(31)[(30)] Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2005 or future years.

(32)[(31)] Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return for 2004 or prior years.

(33)[(32)] Revenue Form 42A740-S1, "Form 2210-K, 2015[2014] Underpayment of Estimated Tax by Individuals", shall be filed by individuals to request a waiver of estimated tax penalty or to compute and self assess an estimated tax penalty for a tax year beginning in 2015[2014].

(34)[(33)] Revenue Form 42A740-S4, "2016[2015] Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2016[2015].

(35)[(34)] Revenue Form 42A740-S18, "Form 8582-K, 2015[2014] Kentucky Passive Activity Loss Limitations", shall be completed by an individual taxpayer and attached to the individual tax return in support of an allowable passive loss deduction and carryover of a passive activity loss.

(36)[(35)] Revenue Form 42A740-S21, "Form 4972-K, 2015[2014] Kentucky Tax on Lump-Sum Distributions", shall be completed by an individual taxpayer to compute tax liability on a lump sum distribution and attached to the taxpayer's individual income tax return.

(37)[(36)] Revenue Form 42A740-S22, "Form 8879-K, 2015[2014] Kentucky Individual Income Tax Declaration for Electronic Filing", shall be completed, signed by the individual taxpayer or taxpayers and maintained by the preparer or taxpayer in support of an electronically filed return.

(38)[(37)] Revenue Form 42A740-S23, "Form 740-V, 2015[2014] Kentucky Electronic Payment Voucher", shall be used by the individual taxpayer or taxpayers for the payment of additional tax due on an electronically filed return and submitted to the Department of Revenue.

(39)[(38)] Revenue Form 42A740-S24, "Form 8863-K, 2015[2014] Kentucky Education Tuition Tax Credit", shall be used by an individual taxpayer or taxpayers to claim a tuition tax credit on the taxpayer's individual Kentucky income tax return.

(40)[(39)] Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", shall be used by the preparer to indicate the reason the return is not being filed electronically.

(41)[(40)] Revenue Form 42A741, "Form 741, 2015[2014] Kentucky Fiduciary Income Tax Return", shall be used by a fiduciary of an estate or trust to report income and tax liability of an estate or trust and be filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year.

(42)[(41)] Revenue Form 42A741-D, "Schedule D, Form 741,

2015[2014] Kentucky Capital Gains and Losses", shall be completed and attached to Form 741 by a fiduciary to report income from capital gains and losses.

(43)[(42)] Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", shall be the instruction guide provided by the Department of Revenue for completing the 2015[2014] Form 741.

(44)[(43)] Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2015[2014] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", shall be filed by the fiduciary with Form 741 to report each beneficiary's share of income, deductions, and credits.

(45)[(44)] Revenue Form 42A765-GP, "Form 765-GP, 2015[2014] Kentucky General Partnership Income Return", shall be completed and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year by a general partnership to report income, deductions, and credits of a general partnership for 2015[2014].

(46)[(45)] Revenue Form 42A765-GP(I), "Instructions, 2015[2014] Kentucky General Partnership Income Return", shall be provided to assist the general partnership in completing a general partnership income return.

(47)[(46)] Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2015[2014] Partner's Share of Income, Credits, Deductions, etc.", shall be filed by the general partnership with Form 765-GP to report each general partner's share of income, deductions, and credits.

(48)[(47)] Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", shall be used by a general partnership which has one (1) or more economic development projects to determine the total general partners' share of income, credits, deductions, etc., excluding the amount of each item of income, credit, deduction, etc., attributable to the projects.

(49)[(48)] Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and taxes withheld for the filing period.

(50)[(49)] Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", shall be used by employers to correct wages and taxes reported for the filing period.

(51)[(50)] Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers who remit taxes withheld electronically to report wages and tax withheld for the filing period.

(52)[(51)] "Form W-2, 2015[2014] Wage and Tax Statement", shall be used by an employer to report each of its employees' wages and Kentucky tax withheld for the calendar year 2015[2014].

(53)[(52)] Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and tax withheld for the filing period and annually reconcile wages and taxes reported.

(54)[(53)] Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", shall be used by employers to amend wages and taxes reported for the filing period and the annual reconciled wages and taxes reported.

(55)[(54)] Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers to report wages and tax withheld for the filing period and to annually reconcile wages and taxes reported.

(56)[(55)] Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", shall be used by an employee to inform the employer of the number of exemptions claimed in order to determine the amount of Kentucky tax to withhold from wages each pay period.

(57)[(56)] Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", shall be used by an employee to determine additional withholding exemptions.

(58)[(57)] Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", shall be used by employees to inform employers of special tax exempt status.

(59)[(58)] Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", shall be used by employees to inform employers of special tax exempt status as a nonresident military spouse.

(60)[(59)] Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", shall be used by employers annually to submit Form W-2 Wage and Tax Statements.

(61)[(60)] Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", shall be completed by nonresident employees working at Fort Campbell, Kentucky, to inform employers of special tax exempt status.

(62)[(61)] Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", shall be used by employers to request authorization to annually submit wage and tax statements via the Kentucky Department of Revenue Web site.

(63)[(62)] Revenue Form 42A809, "Certificate of Nonresidence", shall be used by employees to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(64)[(63)] Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", shall be used by individuals to submit a sworn statement concerning residency status.

(65)[(64)] Revenue Form 42A811, "KREDA Annual Report", shall be completed by employers to report KREDA employee wage assessment fee information to the Department of Revenue.

(66)[(65)] Revenue Form 42A812, "KIDA Annual Report", shall be completed by employers to report KIDA employee wage assessment fee information to the Department of Revenue.

(67)[(66)] Revenue Form 42A813, "KJDA Annual Report", shall be completed by employers to report KJDA employee wage assessment fee information to the Department of Revenue.

(68)[(67)] Revenue Form 42A814, "KIRA Annual Report", shall be completed by employers to report KIRA employee wage assessment fee information to the Department of Revenue.

(69)[(68)] Revenue Form 42A815, "Withholding Tax Refund Application", shall be completed by employers to request a refund of withholding tax paid.

(70)[(69)] Revenue Form 42A816, "KEOZ Annual Report", shall be completed by employers to report KEOZ employee wage assessment fee information to the Department of Revenue.

(71)[(70)] Revenue Form 42A817, "KJRA Annual Report", shall be completed by employers to report KJRA employee wage assessment fee information to the Department of Revenue.

(72)[(71)] Revenue Form 42A818, "KBI Annual Report", shall be completed by employers to report KBI employee wage assessment fee information to the Department of Revenue.

(73)[(72)] Revenue Form 42D003, "2015[2014] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", shall be used by employers to order wage and tax statements.

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

(a) Corporation income taxes - referenced material:

1. Revenue Form 41A720, "Form 720, 2015[2014] Kentucky Corporation Income Tax and LLET Return", 2015[2014];

2. Revenue Form 41A720A, "Schedule A, Apportionment and Allocation (For corporations and pass-through entities taxable both within and without Kentucky)", October 2015[2014];

3. Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet (For corporations and pass-through entities taxable both within and without Kentucky)", October 2015[2014];

4. Revenue Form 41A720A-N, "Schedule A-N, Apportionment Factor Schedule (For a Nexus Consolidated Tax Return)", October 2015[2014];

5. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel", October 2015[2014];

6. Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", October 2015[2014];

7. Revenue Form 41A720-CCI, "Schedule CCI, Application and

Credit Certificate of Clean Coal Incentive Tax Credit", October 2015[2014];

8. Revenue Form 41A720CELL, "Schedule CELL, Application and Credit Certificate of Income Tax/LLET Credit Cellulosic Ethanol", October 2015[2014];

9. Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", October 2015[2014];

10. Revenue Form 41A720COGS, "Schedule COGS, Limited Liability Entity Tax Cost of Goods Sold", October 2015[2014];

11. Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", October 2015[2014];

12. Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", October 2015[2014];

13. Revenue Form 41A720DS, "Schedule DS, Distilled Spirits Tax Credit", October 2015;

14. Revenue Form 41A720DS-R, "Schedule DS-R, Distilled Spirits Tax Credit Recapture", October 2015;

15. Revenue Form 41A720ES, "Form 720-ES Kentucky, 2016[2015] Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2015[2014];

16.[14-] Revenue Form 41A720ES(I), "Form 720ES, Instructions for Filing Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June 2015[2014];

17.[15-] Revenue Form 41A720ETH, "Schedule ETH, Application and Credit Certificate of Income Tax/LLET Credit Ethanol", October 2015[2014];

18.[16-] Revenue Form 41A720FD, "Schedule FD, Food Donation Tax Credit", June 2015[2014];

19.[17-] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October 2015[2014];

20.[18-] Revenue Form 41A720(I), "Instructions, 2015[2014] Kentucky Corporation Income Tax and LLET Return", November 2015[2014];

21.[19-] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", October 2015[2014];

22.[20-] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule - Continuation Sheet", October 2015[2014];

23.[21-] Revenue Form 41A720KESA, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of a Corporation)", October 2015[2014];

24.[22-] Revenue Form 41A720KESA-SP, "Schedule KESA-SP, Tax Credit Computation Schedule (For a KESA Project of a Pass-Through Entity)", October 2015[2014];

25.[23-] Revenue Form 41A720KESA-T, "Schedule KESA-T, Tracking Schedule for a KESA Project", October 2015[2014];

26.[24-] Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", October 2015[2014];

27.[25-] Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", October 2015[2014];

28.[26-] Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2015[2014];

29.[27-] Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet (For a Limited Liability Pass-through Entity with Economic Development Project(s))", October 2015[2014];

30.[28-] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", October 2015[2014];

31.[29-] Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky NOL Carry forward Schedule", October 2015[2014];

32.[30-] Revenue Form 41A720-O, "Schedule O-720, Other Additions and Subtractions To/From Federal Taxable Income", December 2015[2014];

33.[31-] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October 2015[2014];

34.[32-] Revenue Form 41A720RC, "Schedule RC, Application for Income Tax/LLET Credit for Recycling and/or Composting Equipment or Major Recycling Project", October 2015[2014];

35.[33-] Revenue Form 41A720RC-C, "Schedule RC-C,

Schedule RC - Part I Continuation", October 2015[2014];

36.[34-] Revenue Form 41A720RC(I), "Instructions For Schedule RC", October 2015[2014];

37.[35-] Revenue Form 41A720RC-R, "Schedule RC-R, Recycling or Composting Equipment Tax Credit Recapture", October 2015[2014];

38.[36-] Revenue Form 41A720RPC, "Schedule RPC, Related Party Costs Disclosure Statement," June 2015[2014];

39.[37-] Revenue Form 41A720RR-E, "Schedule RR-E, Application and Credit Certificate of Income Tax/LLET Credit Railroad Expansion", October 2015[2014];

40.[38-] Revenue Form 41A720RR-I, "Schedule RR-I, Railroad Maintenance and Improvement Tax Credit", October 2015[2014];

41.[39-] Revenue Form 41A720S, "Form 720S, 2015[2014] Kentucky S Corporation Income Tax and LLET Return", 2015[2014];

42.[40-] Revenue Form 41A720S(I), "Instructions, 2015[2014] Kentucky S Corporation Income Tax and LLET Return", November 2015[2014];

43.[41-] Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Project(s)", October 2015[2014];

44.[42-] Revenue Form 41A720S(K-1), "Kentucky Schedule K-1 (Form 720S), 2015[2014] Shareholder's Share of Income, Credits, Deductions, Etc.", 2015[2014];

45.[43-] Revenue Form 41A720S-O, "Schedule O-PTE, Other Additions and Subtractions To/From Federal Ordinary Income", November 2015[2014];

46.[44-] Revenue Form 41A720SL, "Extension of Time to File Kentucky Corporation/LLET Return", June 2015[2014];

47.[45-] Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", October 2015[2014];

48.[46-] Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit", October 2015[2014];

49.[47-] Revenue Form 41A720-S1, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", October 2011;

50.[48-] Revenue Form 41A720-S2, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", October 2011;

51.[49-] Revenue Form 41A720-S3, "Form 720-AMENDED (2007-2008), Amended Kentucky Corporation Income Tax and LLET Return", October 2011;

52.[50-] Revenue Form 41A720-S4, "Form 851-K, Kentucky Affiliations and Payment Schedule", October 2015[2014];

53.[51-] Revenue Form 41A720-S6, "Form 2220-K, Underpayment and Late Payment of Estimated Income Tax and LLET", October 2015[2014];

54.[52-] Revenue Form 41A720-S7, "Form 5695-K, Kentucky Energy Efficiency Products Tax Credit", October 2015[2014];

55.[53-] Revenue Form 41A720-S8, "Form 8879(C) – K, Kentucky Corporation or Pass-Through Entity Tax Return Declaration for Electronic Filing", October 2015[2014];

56.[54-] Revenue Form 41A720-S9, "Schedule 8903-K, Kentucky Domestic Production Activities Deduction", October 2015[2014];

57.[55-] Revenue Form 41A720-S11, "Form 8908-K, Kentucky ENERGY STAR (Homes and Manufactured Homes) Tax Credit", October 2015[2014];

58.[56-] Revenue Form 41A720-S12, "720-V, Electronic Filing Payment Voucher, 2015[2014]", October 2015[2014];

59.[57-] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of a Corporation)", October 2015[2014];

60.[58-] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October 2015[2014];

61.[59-] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity)", October 2015[2014];

62.[60-] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of a Corporation)", October 2015[2014];

63.[61-] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project" October 2015[2014];

64.[62-] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity)", October 2015[2014];

65.[63-] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of a Corporation)", October 2015[2014];

66.[64-] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", October 2015[2014];

67.[65-] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity)", October 2015[2014];

68.[66-] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of a Corporation)", October 2015[2014];

69.[67-] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", October 2015[2014];

70.[68-] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity)", October 2015[2014];

71.[69-] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of a Corporation)", October 2015[2014];

72.[70-] Revenue Form 41A720-S36, "Schedule KRA-SP, Tax Computation Schedule (For a KRA Project of a Pass-Through Entity)", October 2015[2014];

73.[71-] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for a KRA Project", October 2015[2014];

74.[72-] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of a Corporation)", October 2015[2014];

75.[73-] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity)", October 2015[2014];

76.[74-] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", October 2015[2014];

77.[75-] Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of a Corporation)", October 2015[2014];

78.[76-] Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule for a KJRA Project", October 2015[2014];

79.[77-] Revenue Form 41A720-S47, "Schedule KJRA-SP, Tax Computation Schedule (For a KJRA Project of a Pass-Through Entity)", October 2015[2014];

80.[78-] Revenue Form 41A720-S50, "Schedule IEIA, Tax Credit Computation Schedule (For an IEIA Project of a Corporation)", October 2015[2014];

81.[79-] Revenue Form 41A720-S51, "Schedule IEIA-T, Tracking Schedule for an IEIA Project", October 2015[2014];

82.[80-] Revenue Form 41A720-S52, "Schedule IEIA-SP, Tax Computation Schedule (For an IEIA Project of a Pass-Through Entity)", October 2015[2014];

83.[81-] Revenue Form 41A720-S53, "Schedule KBI, Tax Credit Computation Schedule (For a KBI Project of a Corporation)", October 2015[2014];

84.[82-] Revenue Form 41A720-S54, "Schedule KBI-SP, Tax Computation Schedule (For a KBI Project of a Pass-Through Entity)", October 2015[2014];

85.[83-] Revenue Form 41A720-S55, "Schedule KBI-T, Tracking Schedule for a KBI Project", October 2015[2014];

86.[84-] Revenue Form 41A720-S56, "Schedule FON, Tax Credit Computation Schedule (For a FON project of a corporation)", October 2015[2014];

87.[85-] Revenue Form 41A720-S57, "Schedule FON-SP, Tax Computation Schedule (For a FON project of a Pass-Through Entity)", October 2015[2014];

88.[86-] Revenue Form 41A720-S58, "Schedule FON-T, Tracking Schedule for a FON Project", October 2015[2014];

89.[87-] Revenue Form 41A720-S80, "Form 8874(K), Application for Certification of Qualified Equity Investments Eligible for Kentucky New Markets Development Program Tax Credit", May 2015[2014];

90.[88-] Revenue Form 41A720-S81, "Form 8874(K)-A, Notice of Kentucky New Markets Development Program Tax Credit and Certification", May 2015[2014];

91.[89-] Revenue Form 41A720-S82, "Form 8874(K)-B, Notice of Kentucky New Markets Development Program Tax Credit Recapture", May 2015[2014];

92.[90-] Revenue Form 41A720-S83, "Form 8874(K)-C, Kentucky New Markets Development Program Tax Credit Request for Refund of Performance Fee", May 2015[2014];

93.[91-] Revenue Form 41A725, "Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", 2015[2014];

94.[92-] Revenue Form 41A725CP, "Schedule CP, Form 725, 2015[2014] Kentucky Single Member LLC Individually Owned Composite Return Schedule", 2015[2014];

95.[93-] Revenue Form 41A725(I), "Instructions, 2015[2014] Kentucky Single Member LLC Individually Owned Income and LLET Return", October 2015[2014];

96.[94-] Revenue Form 41A750, "Form 750, 2015[2014] Business Development Corporation Tax Return", September 2015[2014];

97.[95-] Revenue Form 41A765, "Form 765, 2015[2014] Kentucky Partnership Income and LLET Return", 2015[2014];

98.[96-] Revenue Form 41A765(I), "Instructions, 2015[2014] Kentucky Partnership Income and LLET Return", November 2015[2014];

99.[97-] Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Project(s)", October 2015[2014];

100.[98-] Revenue Form 41A765(K-1), "Kentucky Schedule K-1 (Form 765), 2015[2014] Partner's Share of Income, Credits, Deductions, Etc.", 2015[2014];

101.[99-] Revenue Form 41A800, "Corporation and Pass-through Entity Nexus Questionnaire", December 2015[2014];[and]

102.[100-] Revenue Form 41A802, "Corporation and Pass-through Entity Related Party Expense Questionnaire", June 2015[2014]; and

(b) Individual income and withholding taxes - referenced material:

1. Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", November 2015[2014];

2. Revenue Form 40A100, "Application for Refund of Income Taxes", October 2015[2014];

3. Revenue Form 40A102, "2015[2014] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", September 2015[2014];

4. Revenue Form 40A103, "Application for New Home Tax Credit", June 2010;

5. Revenue Form 40A200, "Form PTE-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income", October 2015[2014];

6. Revenue Form 40A201, "Form 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return", October 2015[2014];

7. Revenue Form 40A201ES, "Form 740NP-WH-ES, Instructions – 2016[2015] Pass-Through Entity Nonresident Distributive Share Withholding Report and Composite Income Tax Return Voucher", October 2015[2014];

8. Revenue Form 40A201NP-WH-SL, "Extension of Time to File Kentucky Form 740NP-WH", October 2015[2014];

9. Revenue Form 40A201-WHP, "Form 740NP-WH-P, Underpayment and Late Payment of Estimated Tax on Form 740NP-WH", October 2015[2014];

10. Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", October 2015[2014];

11. Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", May 2015[August 2014];

12. Revenue Form 42A003(T), "2016[2015] Withholding Tax Tables Computer Formula", November 2015[October 2014];

13. Revenue Form 42A740, "Form 740, 2015[2014] Kentucky Individual Income Tax Return, Full-Year Residents Only", 2015[2014];

14. Revenue Form 42A740-A, "Schedule A, Form 740, 2015[2014] Kentucky Itemized Deductions", 2015[2014];

15. Revenue Form 42A740-EPAY, "Form 740-EPAY, Kentucky Electronic Payment Request Form", 2015;

16. Revenue Form 42A740ES, "Form 740-ES, 2016[2015] Individual Income Tax Kentucky Estimated Tax Voucher", September 2015[2014];

17.[146-] Revenue Form 42A740-EZ, "Form 740-EZ, 2015[2014] Kentucky Individual Income Tax Return for Single Persons with No Dependents", 2015[2014];

18.[147-] Revenue Form 42A740(I), "2015[2014] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", October 2015[2014];

19.[148-] Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", October 2015[2014];

20.[149-] Revenue Form 42A740-KNOL, "Schedule KNOL, 2015[2014] Kentucky Net Operating Loss Schedule", 2015[2014];

21.[20-] Revenue Form 42A740-M, "Schedule M, 2015[2014] Kentucky Federal Adjusted Gross Income Modifications", 2015[2014];

22.[21-] Revenue Form 42A740-NP, "Form 740-NP, 2015[2014] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", 2015[2014];

23.[22-] Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2015[2014] Kentucky Schedule A Itemized Deductions", 2015[2014];

24.[23-] Revenue Form 42A740-NP-ME, "Schedule ME, Form 740-NP, 2015[2014] Moving Expense and Reimbursement", 2015[2014];

25.[24-] Revenue Form 42A740-NP(I), "Instructions for 2015[2014] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", October 2015[2014];

26.[25-] Revenue Form 42A740-NP-R, "Form 740-NP-R, 2015[2014] Kentucky Income Tax Return Nonresident - Reciprocal State", 2015[2014];

27.[26-] Revenue Form 42A740-NP(P), "2015[2014] Kentucky Income Tax Return Nonresident or Part-Year Resident", October 2015[2014];

28.[27-] Revenue Form 42A740(PKT), "2015[2014] Kentucky Individual Income Tax Forms", October 2015[2014];

29.[28-] Revenue Form 42A740-P, "Schedule P, 2015[2014] Kentucky Pension Income Exclusion", 2015[2014];

30.[29-] Revenue Form 42A740-UTC, "Schedule UTC, Unemployment Tax Credit", October 2015[2014];

31.[30-] Revenue Form 42A740-X, "Form 740-X, Amended Kentucky Individual Income Tax Return", November 2015[2014];

32.[31-] Revenue Form 42A740-XP, "Form 740-XP, Amended Kentucky Individual Income Tax Return, 2004 and Prior Years", November 2008;

33.[32-] Revenue Form 42A740-S1, "Form 2210-K, 2015[2014] Underpayment of Estimated Tax by Individuals", 2015[2014];

34.[33-] Revenue Form 42A740-S4, "2016[2015] Instructions for Filing Estimated Tax Vouchers", October 2015[2014];

35.[34-] Revenue Form 42A740-S18, "Form 8582-K, 2015[2014] Kentucky Passive Activity Loss Limitations", 2015[2014];

36.[35-] Revenue Form 42A740-S21, "Form 4972-K, 2015[2014] Kentucky Tax on Lump-Sum Distributions", 2015[2014];

37.[36-] Revenue Form 42A740-S22, "Form 8879-K, 2015[2014] Kentucky Individual Income Tax Declaration for Electronic Filing", 2015[2014];

38.[37-] Revenue Form 42A740-S23, "Form 740-V, 2015[2014] Kentucky Electronic Payment Voucher", September 2015[2014];

39.[38-] Revenue Form 42A740-S24, "Form 8863-K, 2015[2014] Kentucky Education Tuition Tax Credit", 2015[2014];

40.[39-] Revenue Form 42A740-S25, "Form 8948-K, Preparer Explanation For Not Filing Electronically", October 2015[2014];

41.[40-] Revenue Form 42A741, "Form 741, 2015[2014] Kentucky Fiduciary Income Tax Return", 2015[2014];

42.[41-] Revenue Form 42A741-D, "Schedule D, Form 741, 2015[2014] Kentucky Capital Gains and Losses", 2015[2014];

43.[42-] Revenue Form 42A741(I), "Instructions - Form 741,

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44.[43-] Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2015[2014] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2015[2014];

45.[44-] Revenue Form 42A765-GP, "Form 765-GP, 2015[2014] Kentucky General Partnership Income Return", 2015[2014];

46.[45-] Revenue Form 42A765-GP(I), "Instructions, 2015[2014] Kentucky General Partnership Income Return", November 2015[2014];

47.[46-] Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2015[2014] Partner's Share of Income, Credits, Deductions, etc.", 2015[2014];

48.[47-] Revenue Form 42A765-GP(K), "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October 2015[2014];

49.[48-] Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", November 2014;

50.[49-] Revenue Form 42A801(D), "Form K-1, Amended Employer's Return of Income Tax Withheld", April 2008;

51.[50-] Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014;

52.[51-] "Form W-2, 2015[2014] Wage and Tax Statement", 2015[2014];

53.[52-] Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", November 2014;

54.[53-] Revenue Form 42A803(D), "Form K-3, Amended Employer's Return of Income Tax Withheld", April 2008;

55.[54-] Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", November 2014;

56.[55-] Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", November 2013;

57.[56-] Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", April 2008;

58.[57-] Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", May 2015[April 2014];

59.[58-] Revenue Form 42A804-M, "Form K-4M, Nonresident Military Spouse Withholding Tax Exemption Certificate", November 2010;

60.[59-] Revenue Form 42A806, "Transmitter Report for Filing Kentucky W2/K2, 1099 and W2-G Statements", August 2014;

61.[60-] Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", August 2006;

62.[61-] Revenue Form 42A808, "Authorization to Submit Employees Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", March 2006;

63.[62-] Revenue Form 42A809, "Certificate of Nonresidence", March 2007;

64.[63-] Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April 1989;

65.[64-] Revenue Form 42A811, "KREDA Annual Report", December 2007;

66.[65-] Revenue Form 42A812, "KIDA Annual Report", December 2007;

67.[66-] Revenue Form 42A813, "KJDA Annual Report", December 2007;

68.[67-] Revenue Form 42A814, "KIRA Annual Report", December 2007;

69.[68-] Revenue Form 42A815, "Withholding Tax Refund Application", August 2006;

70.[69-] Revenue Form 42A816, "KEOZ Annual Report", December 2007;

71.[70-] Revenue Form 42A817, "KJRA Annual Report", October 2010;

72.[71-] Revenue Form 42A818, "KBI Annual Report", October 2015[2010]; and

73.[72-] Revenue Form 42D003, "2015[2014] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", July 2015[2014].

(2) This material may be inspected, copied, or obtained,

subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

THOMAS B. MILLER, Commissioner

APPROVED BY AGENCY: December 4, 2015

FILED WITH LRC: December 7, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2016 at 10a.m. in Room 386, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed amended administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Frankfort, Kentucky 40601, phone (502) 564-9826, fax (502) 564-2541.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting and paying corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2015; withholding taxes for calendar year 2015; and installments of estimated tax for tax years beginning in 2016.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to provide taxpayers necessary tax forms for reporting and paying their corporation income tax, limited liability entity tax, individual income tax for tax years beginning in 2015; withholding taxes for calendar year 2015; and installments of estimated tax for tax years beginning in 2016.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating forms by reference.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes forms to be used by taxpayers to report and pay corporation taxes, limited liability entity taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

(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 contains income and limited liability entity tax forms to be used for tax years beginning in 2015, and estimated tax forms to be used for tax years beginning in 2016.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms to the current tax laws in effect for years beginning in 2015.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay income

taxes, limited liability entity taxes, and individual withholding taxes for tax years beginning in 2015.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individual, pass-through entity and corporate tax filers are 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: Individual, pass-through entity, and corporate tax filers will use the forms contained in this administrative regulation to report, pay, and withhold taxes due pursuant to KRS Chapter 141 for tax years beginning in 2015.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of filing tax returns contained in this administrative regulation with the Commonwealth of Kentucky should be comparable to filing tax returns with surrounding states.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The forms contained in this administrative regulation should simplify and expedite the reporting and paying of taxes required by KRS Chapter 141.

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

(a) Initially: The cost of printing and designing the forms.

(b) On a continuing basis: Forms are updated each year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds will be provided by the Department of Revenue.

(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 additional funding will be required 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 or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as the forms included in this administrative regulation apply to all taxpayers taxed pursuant to KRS Chapter 141.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 131.130(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. This administrative regulation will not increase revenues or expenses for the Commonwealth, but will expedite the collection of taxes provided by KRS Chapter 141.

(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 additional revenue will be collected as a result of 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? None.

(c) How much will it cost to administer this program for the first year? A very small increase in expenditures will occur in the administrative regulation process that will be absorbed by the

department operating budget.

(d) How much will it cost to administer this program for subsequent years? No costs for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Real Estate Commission (Amendment)

201 KAR 11:350. Seller's disclosure of property conditions form.

RELATES TO: KRS 324.360, 44 C.F.R. 64.3(b)

STATUTORY AUTHORITY: KRS 324.281(5), 324.282, 324.360(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.360(2) requires the Kentucky Real Estate Commission to promulgate an administrative regulation authorizing a ["]seller's disclosure of conditions form["] and KRS 324.360(3) mandates the disclosures that[sets forth matters which] the form shall contain and allows the inclusion of additional matters at the discretion of the commission. This administrative regulation establishes the required Seller's["Seller] Disclosure of Property Condition["] form required by KRS 324.360.

Section 1. Definition. "Single family residential real estate dwelling" means any:

(1) Duplex, triplex, fourplex; condominium, townhouse, or residential unit;

(2) Manufactured home permanently attached to land; or

(3) Residential unit otherwise conveyed on a unit-by-unit basis, even if the unit is part of a larger building or parcel of real estate containing more than four (4) residential units.

Section 2. The Seller's["Seller] Disclosure of Property Condition["] form~~[established in Section 2 of this administrative regulation]~~ shall be completed and signed by the seller of residential real estate, as required by KRS 324.360, upon execution of the listing agreement[by a seller of residential real estate].

~~[Section 2. "The Seller Disclosure of Property Condition" form shall be in the following format:~~

"SELLER DISCLOSURE OF PROPERTY CONDITION

~~The information in this form is based upon the undersigned's observation and knowledge about the property during the period beginning on the date of his or her purchase of it on (date of purchase) and ending on (date of this form):~~

~~PROPERTY ADDRESS:~~

~~This form applies to sales and purchases of residential real estate:~~

~~This form is not required for:~~

~~1. Residential purchases of new homes if a warranty is offered;~~

~~2. Sales of real estate at auction; or~~

~~3. A court supervised foreclosure.~~

~~PURPOSE OF STATEMENT: Completion of this form shall satisfy the requirements of KRS 324.360 which mandates the seller's disclosure of information about the property he is about to sell. This disclosure is based solely on the seller's observation and knowledge of the property's condition and the improvements thereon. This statement shall not be a warranty by the seller or seller's agent and shall not be intended as a substitute for an inspection or warranty the purchaser may wish to obtain. This is a statement of the conditions and information concerning the property known by the seller. Unless otherwise advised, the seller does not possess any expertise in construction, architectural, engineering, or any other specific areas related to the construction~~

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or condition of the improvements on the property. Other than having lived at or owning the property, the seller possesses no greater knowledge than that which could be obtained upon a careful inspection of the property by the potential buyer. Unless otherwise advised, the seller has not conducted any inspection of generally-inaccessible areas such as the foundation or roof. It is not a warranty of any kind by the seller or by any agent representing any seller in this transaction. It is not a substitute for any inspections. Purchaser is encouraged to obtain his or her own professional inspections.

INSTRUCTIONS TO THE SELLER: (1) Complete all numbered items. (2) Report all known conditions affecting the property. (3) Attach additional pages, if necessary, with your signature and date and time of signing. (4) Complete this form yourself or sign the authorization at the end of this form to authorize the licensee to complete this form on your behalf in accordance with KRS 324.360(9). (5) If some items do not apply to your property, write "not applicable". (6) If you do not know the answer to a question, write "unknown".

SELLER'S DISCLOSURE: As seller, I/we disclose the following information regarding the property. This information is true and accurate to the best of my/our knowledge as of the date signed. Seller authorizes the agent to provide a copy of this statement to a person or entity in connection with actual or anticipated sale of the property or as otherwise provided by law. The following are not the representations of the agent.

Please answer all questions. If the answer is yes, please explain. If additional space is needed, use the reverse side or make attachments.

1. HOUSE SYSTEMS	Yes	No	Unknown
Any past or current problems affecting:			
(a) Plumbing			
(b) Electrical system			
(c) Appliances			
(d) Floors and wall			
(e) Doors and windows			
(f) Ceiling and attic fans			
(g) Security system			
(h) Sump pump			
(i) Chimneys, fireplaces, inserts			
(j) Pool, hot tubs, sauna			
(k) Sprinkler system			
(l) Heating: age			
(m) Cooling/air conditioning: age			
Explain:			
2. FOUNDATION/STRUCTURE/BASEMENT			
(a) Any defects or problems, current or past, to the foundation or slab?			
(b) Any defects or problems, current or past, to the structure or exterior veneer?			
Explain:			
(c) Has the basement leaked at any time since you have owned or lived in the property?			
(d) When was the last time the basement leaked?			
(e) Have you ever had any repairs done to the basement?			
(f) If you have had repairs done to the basement relative to leaking, when was the repair performed?			
Explain:			
(g) If the basement presently leaks, how often does it leak? (e.g., every time it rains, only after an extremely heavy rain, etc.)			

(h) Have you experienced, or are you aware of, any water or drainage problems with regard to the crawl space?			
3. ROOF			
(a) Age of the roof?			
(b)1. Has the roof leaked at any time since you have owned or lived in the property?			
2. When was the last time the roof leaked?			
(c)1. Have you ever had any repairs done to the roof?			
2. If you have ever had the roof repaired, when was the repair performed?			
(d)1. Have you ever had the roof replaced?			
2. If you have had the roof replaced, when was the replacement performed?			
(e) If the roof presently leaks, how often does it leak? (e.g., every time it rains, only after an extremely heavy rain, etc.)			
(f)1. Have you ever had roof repairs that involved placing shingles on the roof instead of replacing the entire roof?			
(f)2. If you have ever had roof repairs that involved placing shingles on the roof instead of replacing the entire roof, when was the repair performed?			
4. LAND/DRAINAGE			
(a) Any soil stability problems?			
(b) Has the property ever had a drainage, flooding, or grading problem?			
(c) Is the property in a flood plain zone?			
(d) Is there a retention/ detention basin, pond, lake, creek, spring, or water shed on or adjoining this property?			
Explain:			
5. BOUNDARIES			
(a) Have you ever had a staked or pinned survey of the property?			
(b) Do you know the boundaries?			
(c) Are the boundaries marked in any way?			
(d) Are there any encroachments or unrecorded easements relating to the property of which you are aware?			
Explain:			
6. WATER			
(a)1. Source of water supply			
2. Are you aware of below normal water supply or water pressure?			
(b) Is there a water purification system or softener remaining with the house?			
(c) Has your water ever been tested? If yes, give results			
Explain:			
7. SEWER SYSTEM			
(a) Property is serviced by:			
1. Category I. Public Municipal Treatment Facility;			

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2. Category II. Private Treatment Facility;			
3. Category III. Subdivision Package Plant;			
4. Category IV. Single Home Aerobic Treatment System (AKA: "Home Package Plant");			
5. Category V. Septic Tank with drainfield, lagoon, wetland, or other onsite dispersal;			
6. Category VI. Septic Tank with dispersal to an offsite, multi-property cluster treatment system;			
7. Category VII. No Treatment/Unknown			
(b) For properties with Category IV, V, or VI systems: Date of last inspection sewer:			
Date of last inspection: and			
Date last cleaned:			
(c) Are you aware of any problems with the sewer system?			
Explain:			
8. CONSTRUCTION/REMODELING			
(a) Have there been any additions, structural modifications, or other alterations made?			
(b) Were all necessary permits and government approvals obtained?			
Explain:			
9. HOMEOWNER'S ASSOCIATION			
(a)1. Is the property subject to rules or regulations of a homeowner's association?			
2. If yes, what is the yearly assessment? \$			
(b) Are you aware of any condition which may result in an increase in taxes or assessments?			
(c) Are any features of the property shared in common with adjoining landowners, such as walls, fences, driveways, etc.?			
Explain:			
10. MISCELLANEOUS			
(a) Was this house built before 1978?			
(b) Are you aware of any use of ureaformaldehyde, asbestos materials, or lead-based paint in or on this home?			
(c)1. Are you aware of any testing for radon gas?			
2. Results, if tested:			
(d) Are you aware of any underground storage tanks, old septic tanks, field lines, cisterns, or abandoned wells on the property?			
(e) Are you aware of any present or past wood infestation (i.e., termites, bores, carpenter ants, fungi, etc.)?			
(f) Are you aware of any damage due to wood infestation?			

(g)1. Have the house or other improvements ever been treated for wood infestation?			
2. If yes, when, by whom, and any warranties?			
(h) Are you aware of any existing or threatened legal action affecting this property?			
(i) Are there any assessments other than property assessments that apply to this property (i.e., sewer assessments)?			
(j) Are you aware of any violations of local, state, or federal laws, codes, or ordinances relating to this property?			
(k) Are you aware of any other conditions which are defective with regard to this property?			
(l) Are there any environmental hazards known to seller?			
(m) Are there any warranties to be passed on?			
(n) Has this house ever been damaged by fire or other disaster (i.e., tornado, hail, etc.)? If yes, please explain:			
(o) Are you aware of the existence of mold or other fungi in the property?			
(p) Has this house ever had pets living in it? If yes, explain:			
(q) Is the property in a historic district?			
SPACE FOR ADDITIONAL INFORMATION:			

The seller has owned this property since (date) and makes these representations only since that date. Seller agrees to immediately notify buyer of any changes which may become known to seller prior to closing.

Seller:

Date:

Seller:

Date:

THE LICENSEE NAMED HERE (NAME) HAS BEEN REQUESTED BY THE OWNER TO COMPLETE THIS FORM AND HAS DONE SO. I HEREBY AGREE TO HOLD HARMLESS THE NAMED LICENSEE FOR ANY REPRESENTATION THAT APPEAR ON THIS FORM IN ACCORDANCE WITH KRS 324.360(9).

Seller:

Date:

THE SELLER REFUSES TO COMPLETE THIS FORM AND ACKNOWLEDGES THAT THE AGENT SHALL SO INFORM THE BUYER.

Seller:

Date:

THE SELLER HAS REFUSED TO COMPLETE THE FORM AND HAS REFUSED TO ACKNOWLEDGE HIS FAILURE TO COMPLETE THE FORM.

Broker/Agent:

Date:

THE BUYER ACKNOWLEDGES RECEIPT OF THIS FORM.

Buyer:

Date:

Buyer:

Date:

THE SELLER MAY DISCLOSE ADDITIONAL INFORMATION NOT REQUESTED ON THIS FORM AND MAY RESPOND TO ADDITIONAL INQUIRIES OF THE BUYER.]"

Section 3. (1) The Seller's Disclosure of Property Condition

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~~form~~ [In addition to the information specified in Section 2 of this administrative regulation, the seller's disclosure of property conditions form set out in it] shall also include [the following additional information]:

(a) ~~Whether or not the residence is located within a special flood hazard area as identified in 44 C.F.R. 64.3(b) mandating the purchase of flood insurance for federally backed mortgages. (Zones A, A1-30, AE, A99, AO, AH, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, V1-30, VE, V, VO, M, and E.); [The property address, which shall appear at the top of each page of the form; and]~~

~~(b) Contact information for any homeowner's association; and~~

~~(c) Notice of the written disclosure of methamphetamine contamination required by KRS 224.1-410(1) and 902 KAR 47:200 [The initials of all parties who sign the form, including the date and time for the initialing, all of which shall appear at the bottom of each page of the form].~~

(2) If the property that is the subject of the seller disclosure of property form is listed, the listing agent shall solicit the initials of all property owners-sellers and the date and time for the initialing at the time he or she executes any listing agreement or similar agreement by which a licensee intends to market the property.

(3) If the property that is the subject of the seller disclosure of property conditions form is not listed, any licensee involved in the transaction shall solicit:

(a) The initials of all property owners-sellers and the date and time for the initialing; and

(b) The initials of all prospective buyers and the date and time for initialing.

Section 4. Incorporation by Reference. (1) "Seller's Disclosure of Property Condition", 11/2015 edition, 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., and is also available on the Web site at www.krec.ky.gov.

KIMBERLY SICKLES, Chairperson

APPROVED BY AGENCY: December 7, 2015

FILED WITH LRC: December 9, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 26, 2016 at 9:00 a.m., in the Boardroom of the Kentucky Real Estate Commission located at 10200 Linn Station Road, Suite 201, in Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this 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. 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 close of business on February 1, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rhonda K. Richardson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation authorizes the use of a "seller's disclosure of conditions form" for sales and purchases involving single-family residential real estate dwellings.

(b) The necessity of this administrative regulation: This

administrative regulation is necessitated by KRS 324.360, which mandates the Kentucky Real Estate Commission to promulgate an administrative regulation authorizing the use of the "seller's disclosure of conditions form."

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation sets forth the required disclosures mandated to be a part of the form.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the required disclosures and the form to be used in making the disclosures mandated 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 amendment adds the following property owner(s) disclosure requirement and notice to parties of: Definition of "single-family residential real estate dwelling;" Contact information for any homeowners association; and Notice of the methamphetamine contamination disclosure required by KRS 224.1-410(1) and 902 KAR 47:200. The amendment also removes the form from the regulation and incorporates by reference the revised form containing the additional disclosure and notice information.

(b) The necessity of the amendment to this administrative regulation: Based on constituent input and the Commission's professional judgment, the Commission determined the above additions and changes were necessary to protect the public and make the form more readable.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 324.360 provides that the form shall provide for disclosure by the seller of "Other matters the commission deems appropriate."

(d) How the amendment will assist in the effective administration of the statutes: The amendments provide for disclosure by the seller of additional matters the commission deemed appropriate, and the form was revised to make it more readable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any real estate licensee assisting a party in the sale or purchase of a single-family residential real estate dwelling is 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: Any seller or purchaser of a single-family residential real estate dwelling that lists a property with a licensed real estate agent or any licensed real estate agent representing a buyer in the transaction purchase of a single-family residential real estate dwelling are required to be provided the Seller's Disclosure of Condition Form to complete by the licensee.

(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: Real estate licensees must provide the form to the property seller(s), and ask that they complete same or attest to the property owner's refusal to execute the disclosure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Real estate licensees will incur the cost of reproducing the form and providing same in every applicable real estate transaction. Cost per reproduction is minimal, but unknown.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Real estate licensees will have no direct benefit beyond compliance with the law.

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

(a) Initially: Staff time to revise the administrative regulation and form. No additional costs were incurred.

(b) On a continuing basis: No costs beyond staff time will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Real Estate Commission is funded through the fees

and charges assessed to applicants and 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: 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 applied as the administrative regulation is uniformly applied to all real estate 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 promulgating agency, which is the Kentucky Real Estate Commission, will need to check for compliance with the requirements of the administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 324.360

(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? No administrative costs will be incurred.

(d) How much will it cost to administer this program for subsequent years? No administrative costs will be incurred.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Board of Social Work (Amendment)

201 KAR 23:070. Qualifying education and qualifying experience under supervision.

RELATES TO: KRS 335.010, 335.080(1)(c), (3), 335.100(1)(a), (b), (3)

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(c), (3), 335.100(1)(a), (b), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(c) and 335.100(1)(a) require an applicant for a certified social worker license or a licensed clinical social worker license to have a master's degree or a doctoral degree in social work from an educational institution approved by the board. KRS 335.080(3) allows a certified social worker to engage in the practice of clinical social work under the supervision of a licensed clinical social worker as directed by the board by promulgation of an administrative regulation. KRS 335.100(1)(b) requires an applicant for a licensed clinical social worker license to have acquired post-master's experience under approved[~~appropriate~~] supervision as established by the board by promulgation of an administrative regulation. KRS 335.100(3) requires a licensed clinical social worker to assume responsibility for and supervise the certified social worker's practice of clinical social work as directed by the

board by promulgation of an administrative regulation. This administrative regulation establishes the educational institutions approved by the board, the definitions relating to supervision, the content of a Contract for Clinical Social Work Supervision, and the requirements for experience under supervision.

Section 1. Definitions. (1) "Educational institution approved by the board" means a graduate school of social work accredited by the Council on Social Work Education.

(2) "Electronic supervision" means the use of computers and other electronic means by which the supervisor and supervisee use interactive video technology, in real-time, with video and audio interaction for individual and group supervision.

(3) "Practice of clinical social work" means the practice of social work that focuses on the evaluation, diagnosis, and treatment of an emotional disorder or mental illness as related to the total health of the individual and that meets the requirements of Section 2 of this administrative regulation.

(4)[(3)] "Supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing clinical social work services.

(5)[(4)] "Supervisor of record" means the supervisor who assumes responsibility for the practice of a certified social worker pursuant to KRS 335.080(3) and 335.100(3).

Section 2. Practice of Clinical Social Work. (1) The practice of clinical social work shall be based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics.

(2) A practitioner of clinical social work shall:

(a) Possess competencies including skills necessary for:

1. Individual, marital, family, and group psychotherapy; and

2. Other recognized treatment modalities; and

(b) Establish a therapeutic relationship with his client that:

1. Leads to correction of the dysfunction;

2. Includes:

a. Diagnosis using professionally recognized clinical nomenclature;

b. Treatment planning that includes development, implementation, and modification of the plan;

c. Evaluation of progress; and

d. Termination of the treatment process; and

3. Is characterized by face-to-face contact with the client throughout the treatment process.

Section 3. Supervision. (1) A supervisor shall be a licensed clinical social worker who:

(a) Provides supervision to a certified social worker pursuant to KRS 335.080(3) and 335.100(3);

(b) Does not have:

1. An unresolved citation filed against him by the board;

2. A suspended or probated license; or

3. A previous or existing personal relationship with a supervisee; and

(c) Has:

1. Been in the practice of clinical social work for three (3) years following licensure as a licensed clinical social worker; and

2. Completed a board-approved three (3) hour training course on supervisory practices and methods for licensed clinical social workers relating to the requirements in KRS Chapter 335 and this administrative regulation.

(2) Supervisory experience obtained in Kentucky with a supervisor who has not completed the course required by subsection (1)(c) 2 of this section shall not be approved by the board.

(3) The supervisory training course shall be completed every licensure period to maintain supervisory status with the board.

(4) A licensed clinical social worker shall not serve as a supervisor of record for more than six (6) certified social workers with whom he has a contract to be held accountable to the board at the same time.

(5) An applicant receiving supervision outside of Kentucky shall

demonstrate that his or her supervisor has been in the practice of clinical social work for a period of three (3) years following licensure as a clinical social worker or its equivalent effective at the time of the supervision.

(6) To be ~~approved~~recognized as a supervisor, a licensed clinical social worker who meets the requirements of this section shall submit a written request to become a supervisor in Kentucky along with a copy of the supervisory training certificate.

Section 4. Contract for Clinical Social Work Supervision. The Contract for Clinical Social Work Supervision required by KRS 335.080(3) and 335.100(3) shall contain:

- (1) The name and license number of the supervisee;
- (2) The name and license number of the supervisor of record;
- (3) The name and license number of ~~additional~~other 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 ~~who~~which will be seen;
 - (b) Therapies and treatment modalities which will be used including the prospective length of treatment; and
 - (c) Problems which will 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;
- (8) A statement that:
 - (a) The supervisor of record understands that he shall be held accountable to the board for the care given to the supervisee's clients;
 - (b) The certified social worker is an employee of an agency, institution, or organization, and has Social Security and income tax deducted from his salary;~~and~~
 - (c) The supervisor of record and ~~additional~~other supervisors meet the criteria established in Section 3(1) through (4) of this administrative regulation;~~and~~
 - (d) The supervisor and supervisee may use electronic supervision if requested;
- (9) An individualized job description that:
 - (a) Describes in detail how the requirements of Sections 6 and 7 of this administrative regulation will be met; and
 - (b) Is on office or agency letterhead and is signed by the executive director, the agency director, or the individual who heads the office; and
- (10) A copy of each supervisor's supervisory training certificate attached to the contract for clinical social work supervision.

Section 5. Notice to Client. If an employee is practicing under the supervision of a licensed clinical social worker, the employee shall notify in writing each client during the period of the supervision. The notification shall contain:

- (1) The name, office address, telephone number, and license number of the supervisor of record; and
- (2) A statement that the employee is licensed by the board.

Section 6. Experience under Supervision. Experience under supervision shall consist of:

- (1) At least sixty (60) percent of the required experience in a direct client-professional relationship;
- (2) Direct responsibility for a specific individual or group of clients; and
- (3) Broad exposure and opportunity for skill development with a variety of dysfunctions, diagnoses, acuity levels, and population groups.

Section 7. Supervision Requirements. (1) Supervision shall relate specifically to the qualifying experience and shall focus on:

- (a) The accurate diagnosis of a client problem leading to

proficiency in applying professionally recognized clinical nomenclature;

- (b) The development and modification of the treatment plan;
- (c) The development of treatment skills suitable to each phase of the therapeutic process;
- (d) Ethical problems in the practice of clinical social work; and
- (e) The development and use of the professional self in the therapeutic process.

(2)(a) Supervision shall total a minimum of 200 hours, which shall include individual supervision of not less than two (2) hours during every two (2) weeks of clinical social work practice.~~;~~

(b) Individual supervision may include electronic supervision of one direct meeting per month. Electronic supervision may be used for one (1) direct meeting per month but only after the first twenty-five (25) hours of individual supervision hours have been obtained in face-to-face, in-person meetings where the supervisor and supervisee are physically present in the same room. No more than fifty (50) percent of the individual supervision hours may be obtained in an electronic format.

(c) A supervisee shall not obtain more than 100 hours of the required~~supervision by~~ group supervision.

(d) No more than fifty (50) percent of the group supervision hours may be obtained in an electronic format.

(e) Electronic supervision shall conform to all state and federal laws governing electronic practice to ensure the confidentiality of the patient's medical information is maintained as required by this chapter and by all applicable state and federal law.

~~(f) ; and~~

(e) Group supervision shall not be permitted in groups of more than six (6) supervisees.

(3) Documentation that establishes that an individual has been licensed in another jurisdiction at the clinical level and has been engaged in the active practice of clinical social work in that jurisdiction for five (5) years immediately preceding the filing of an application with the board meets the requirement for supervision set forth in this administrative regulation.

Section 8. Evaluation by Board. (1) The period of supervised experience required by KRS 335.100(1)(b) shall be evaluated by the board according to one (1) of the following methods:

(a) Post experience evaluation. ~~An applicant~~A candidate whose experience was obtained while~~employed at an agency exempted under KRS 335.010(3), (4) or (5) or while~~ licensed in another state shall submit his application along with~~appropriate~~ documentation of supervision upon completion of the experience.

(b) Transitional evaluation. ~~An applicant~~A candidate who has accumulated an amount less than the full amount of qualifying experience while~~employed at an agency exempted under KRS 335.010 (3), (4) or (5) or while~~ licensed in another state ~~or while working in a clinical social work setting that does not meet the requirements under Section 6(3) of this administrative regulation;~~ and who is seeking to obtain the remainder of his experience in ~~nonexempt employment;~~ shall submit his application along with appropriate documentation of supervision completed to the date of his application. He shall also submit with his application a contract under paragraph (c) of this subsection for the remainder of the supervised experience.

(c) Preapproved evaluation. Prior to beginning supervision, an applicant~~Candidates not otherwise exempted under KRS 335.010(3), (4) or (5)]~~ shall submit a contract for the supervised experience which will be taking place over the required time period and shall have the contract approved by the board~~[prior to beginning supervision]~~. This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

(2) A certified social worker who desires to practice clinical social work that does not qualify as supervised experience pursuant to KRS 335.100(1)(b), shall submit a contract pursuant to KRS 335.080(3). This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

(3) A certified social worker who desires to practice clinical social work that meets all the other supervised experience

requirements other than the requirement listed in Section 6(3) of this administrative regulation may submit a contract pursuant to KRS 335.080(3). The supervision hours obtained in this clinical setting may be considered by the board upon submission of a transitional evaluation contract.

Section 9. (1) Changes to Section A of the Plan of Clinical Social Work Activities~~[that portion]~~ of the Contract for Clinical Social Work Supervision ~~that~~ describes the clinical nature of the practice and experience that the supervisee is to obtain as required by Section 4(5) of this administrative regulation shall be submitted to the board for approval.

(2) If the supervisee changes his supervisor of record, a new Contract for Clinical Social Work Supervision shall be submitted to the board for approval.

(3) A supervisee shall notify the board by letter of changes of additional supervisors who are not the supervisor of record, but who are identified in the Contract for Clinical Social Work Supervision pursuant to Section 4(3) of this administrative regulation, and attach a copy of the supervisor's supervisory training certificate.

Section 10. Incorporation by Reference. (1) "[~~Contract for~~Clinical Social Work Supervision Contract", 12/2015~~10/2010~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Social Work, 44 Fountain Place~~[944 Leewood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM M. ADCOCK, Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 26, 2016, at 9:00 a.m., local time, at the Kentucky Board of Social Work, 44 Fountain Place, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. 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: Florence S. Huffman, Executive Director, Kentucky Board of Social Work, 44 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-2350. fax (502) 696-8030, email florence.huffman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Florence S. Huffman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the qualifying education and qualifying experience under supervision for a certified social worker who is an applicant for licensure as a licensed clinical social worker.

(b) The necessity of this administrative regulation: This administrative is necessary to set the requirements for education and supervision of a certified social worker who desires to practice clinical social work.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.080(1)(c) and 335.100(1)(a) require an applicant for a certified social worker license or a licensed clinical social worker license to have a master's degree or

a doctoral degree in social work from an educational institution approved by the board. KRS 335.080(3) requires a certified social worker who desires to practice clinical social work under the supervision of a licensed clinical social worker as directed by the board by promulgation of an administrative regulation. KRS 335.100(1)(b) provides that an applicant for a licensed clinical social worker license to have acquired post-master's experience under appropriate supervision as established by the board by promulgation of an administrative regulation. KRS 335.100(3) provides that a licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice of clinical social work as directed by the board by promulgation of an administrative regulation. This administrative regulation is necessary to establish the educational institutions approved by the board, the definitions relating to supervision, the content of a supervisory contract, and the requirements of experience under supervision.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs an applicant of the education and supervision requirements established by the board.

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

(a) How the amendment will change this existing administrative regulation: This amendment establishes that qualifying experience under supervision may be provided by electronic supervision through the use of computers and other electronic means by interactive video technology rather than face-to-face supervision. The amendment also specifies that the board may consider supervision hours obtained by an applicant who is working in a clinical practice setting that does meet the broad exposure requirement, and makes other minor corrective changes.

(b) The necessity of the amendment to this administrative regulation: This administrative is necessary to allow supervised experience to be conducted by electronic means and to modify the requirement of broad exposure in the clinical practice setting, and to make other minor corrections.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 335.080(3) permits a certified social worker to engage in the practice of clinical social work under the supervision of a licensed clinical social worker as directed by the board by promulgation of an administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation informs the supervisors and supervisees that electronic supervision may be used.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 2,000 certified social workers are under supervision.

(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 to permit electronic supervision changes how supervision may be conducted: it alleviates the current requirement that qualifying supervision between the certified social worker and their supervisor(s) must be conducted face-to-face and in person each time. Electronic supervision may be used for one (1) direct meeting per month but only after the first twenty-five (25) hours of individual supervision hours have been obtained in face-to-face, in-person meetings where the supervisor and supervisee are physically present in the same room. No more than fifty (50%) percent of the individual supervision hours may be obtained in an electronic format.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost for a supervision course is established by the provider. Typically, the cost of these courses does not exceed two hundred dollars.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By allowing electronic

supervision, supervisors and their supervisees may avoid cancelling individual supervision typically caused by inclement weather or challenges due to the distances between rural settings, and take advantage of growing technological opportunities for face-to-face meetings that are not in-person, in the same physical place.

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

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

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

(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 as well as continuing education providers and sponsors.

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

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

(9) TIERING: Is tiering applied? 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? None.

(2) Identify each state or federal statute or state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.070(3), 335.080(1)(c), (3), 335.100(1)(a), (b), (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? The board estimates that no additional costs will be incurred by this amendment.

(d) How much will it cost to administer this program for subsequent years? The board estimates that no additional costs will be incurred by this amendment.

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

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation: None.

GENERAL GOVERNMENT CABINET Real Estate Appraisers Board (Amendment)

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure.

RELATES TO: KRS 324A.010, 324A.030, 324A.035(1), (3), 324A.040(2), 324A.052

STATUTORY AUTHORITY: KRS 324A.035(1), (3), 12 U.S.C. 3331 - 3351

NECESSITY, FUNCTION, AND CONFORMITY: 12 U.S.C. 3331 through 3351 requires the board to promulgate administrative regulations for certification and licensure of appraisers of real property in federally related transactions. This administrative regulation establishes the types of appraisers required in federally related transactions, scope of the practice, and general requirements for certification or licensure.

Section 1. Types of Appraisers. An appraiser for a federally related transaction shall be a:

- (1) Certified general real property appraiser;
- (2) Certified residential real property appraiser;
- (3) Licensed real property appraiser; or
- (4) Associate real property appraiser.

Section 2. Scope of Practice. (1) Certified general real property appraiser. A certified general real property appraiser may perform appraisals of all types of real property.

(2) Certified residential real property appraiser. A certified residential real property appraiser may perform residential appraisals of one (1) to four (4) units.

(3) Licensed real property appraiser. A licensed real property appraiser may perform appraisals of:

(a) Noncomplex, one (1) to four (4) residential units with a transaction value less than \$1,000,000; and

(b) Complex, one (1) to four (4) residential units with a transaction value less than \$250,000.

(4)(a) Associate. An associate real property appraiser may perform an appraisal of property that the supervising appraiser of the associate may appraise and shall be subject to the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040.

(b) A separate appraisal log shall be maintained for each supervising appraiser.

(c) The associate shall record in the log for each appraisal the following:

1. Type of property;
2. Client name and address;
3. Address of appraised property;
4. Description of work performed by the associate;
5. Scope of the review;
6. Scope of the supervision by the supervising appraiser;
7. Number of actual hours worked by the associate on the assignment; and
8. Signature and state certification number of the supervising appraiser.

(d) The associate shall be entitled to obtain copies of the appraisal reports he or she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.

(e) The supervising appraiser shall:

1. Have been certified by the board for a period of three (3) years;

2. Be in good standing with the board and shall not have received a suspension, a revocation, or other sanction that limited or prohibited that licensee's practice of real property appraising within the three (3) year period immediately prior to applying to become a supervision appraiser; and

3. Be responsible for the training and supervision of the associate.

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(f) Only a certified general real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise a person acquiring experience toward a Certified General Real Property Appraiser certificate.

(g) Any certified general real property appraiser or a certified residential real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise a person acquiring experience toward a Certified Residential Real Property Appraiser certificate.

(h) The supervising appraiser shall:

1. Accept responsibility for an associate's appraisal report by signing and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040;

2. Review reports by the associate;

3. Personally inspect each appraised property and the comparable sales with the associate on the associate's first fifty (50) real property appraisal assignments, to ensure that the associate is competent and is acting in accordance with the competency provision of the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040, for the property type;

4. Allow an associate who has completed the fifty (50) appraisal assignments required by subparagraph 3. of this paragraph to inspect properties located within fifty (50) miles of the supervisor's office without being accompanied by the supervisor, if the supervisor has determined pursuant to this administrative regulation that the associate is competent to perform an appraisal;

5. For the twelve (12) months following the date of issuance of an associate license, accompany the associate and inspect each appraised property and the comparable sales on each appraisal assignment located more than fifty (50) miles from the supervisor's office;

6. Be limited to a maximum of three (3) real property associates at a time; and

7. Notify the board immediately if the supervision of a real property associate has terminated; and

8. Not be employed by an associate or by a company, firm, or partnership in which the associate has a controlling interest.

(i) A person otherwise qualified for supervising appraiser who has been disciplined by the board under KRS 324A.050 shall be subject to one (1) or more of the following, according to the severity of the prior violation:

1. Prohibited from supervising associates;

2. Limited to the number of associates to supervise; or

3. Be required to take additional courses approved by the board before being permitted to supervise an associate.

(j) An associate shall submit to the board two (2) complete summary appraisal reports.

1. The first report shall be submitted to the board six (6) months following the date of issuance of the associate license. The second report shall be submitted to the board twelve (12) months following the date of issuance of the associate license.

2. If necessary to determine the competency of the associate, the board shall request additional reports from the associate.

(5)(a) A first time supervisor and a new associate shall attend the board-approved course in supervision practices prior to beginning supervision or training.

(b) To be eligible to provide supervision, a supervisor shall attend the board-approved course in supervision practices every three (3) years.

(c) To continue logging credible experience, an associate shall attend the board-approved course in supervision practices every three (3) years.

Section 3. General Requirements for Certification or Licensure. Except as provided by Section 4 of this administrative regulation, certification or licensure, as appropriate, of the types of appraisers specified in Section 1 of this administrative regulation, shall be granted if an applicant:

(1) Has met the examination, education, experience, and fee requirements established by 201 KAR 30:050, 30:060, and 30:190; and

(2) Applies to the board on the notarized Appraiser License/Certification Application.

Section 4. Armed Forces Exemption. An applicant who was a member of a Reserve component of the US Armed Forces, who was pursuing an appraiser licensure or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the examination, education, and experience requirements under the 2008 Real Property Appraiser Qualification Criteria instead of the requirements under Section 3(1) of this administrative regulation for a time period equal to the applicant's time of active duty, plus twelve (12) months.

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

(a) "Appraiser License/Certification Application", KREAB Form APP100, 1/09; and

(b) "Real Property Appraiser Qualification Criteria", 1/08.

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

LARRY DISNEY, Executive Director

APPROVED BY AGENCY: December 14, 2015

FILED WITH LRC: December 15, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2016, at 1:30 p.m., in the office of the Kentucky Real Estate Appraisers Board; 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658. 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 close of business on February 1, 2016. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Disney

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the standards and requirements of certification and licensure for appraisers.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with 12 U.S.C. 3331 through 3351 and KRS 324A.035(1) and (3), requiring the board to promulgate administrative regulations for certification and licensure of appraisers of real property.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the standards and requirements of licensure and practice certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in enforcing the standard of practice of the profession.

(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 requires a board-approved supervision practices course for associates to be completed every three (3) years.

(b) The necessity of the amendment to this administrative regulation: This amendment increases the Associate training requirements by adding a board-approved supervision-practices course every three (3) years.

(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 standards and requirements of practice.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation allows the board to ensure that certified and licensed associate appraisers are attending the board-approved course in supervision practices every three (3) years ensuring adequate training and further protecting the public.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately one thousand eight hundred persons certified by the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: An Associate shall attend the board-approved course in supervision practices every three (3) years.

(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 other than cost of the board-approved supervision practices course required every three (3) years.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be up to date in the profession and receive additional instruction in appraisal supervision and training.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

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

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all certificate holders. 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 Real Estate Appraisers Board and its licensed or certified Associates.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 324A.035(1) and (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:

GENERAL GOVERNMENT CABINET Real Estate Appraisers Board (Amendment)

201 KAR 30:040. Standards of practice.

RELATES TO: KRS 324A.035, 324A.050(1)(j), 12 C.F.R. 225.62-225.67, 12 U.S.C. 3331, 3336, 3339

STATUTORY AUTHORITY: KRS 324A.035(3)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.035(3)(d) requires the board to establish by administrative regulation standards of professional appraisal practice. 12 U.S.C. 3331, 3336, and 3339 and 12 C.F.R. 225.64 and 225.65 require that real estate appraisals in connection with federally related transactions be performed in accordance with appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. This administrative regulation establishes the standards of professional practice.

Section 1. Certificate holders or licensees listed in subsections (1) through (5) of this section shall comply with the Uniform Standards of Professional Appraisal Practice:

- (1) A certified general real property appraiser;
- (2) A certified residential real property appraiser;
- (3) A licensed real property appraiser;
- (4) An associate real property appraiser; and
- (5) A licensed nonfederal real property appraiser.

Section 2. The standard for the calculation and reporting of above-grade square footage and below-grade square footage in single-family houses shall be the American National Standard for Single-Family Residential Buildings; Square Footage-Method for Calculating, ANSI Z765 2013.

Section 3. Appraisal Reporting Requirements. For each appraisal assignment that includes an appraisal management company reference as the client or agent for the client, an appraiser shall identify within the appraisal report:

- (1) The name that is on file with the board for the appraisal management company;
- (2) The Kentucky registration number that is on file with the board for the appraisal management company; and
- (3) The fee that will be paid to the appraiser for each appraisal assignment ordered by an appraisal management company, unless the appraiser is a W-2 employee of the appraisal management company.

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

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(a) "Uniform Standards of Professional Appraisal Practice", 2016-2017[2014–2045]; and

(b) "American National Standard for Single Family Residential Buildings; Square Footage Method for Calculating, ANSI Z765 2013", 2013.

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

(3) This material may also be obtained from the Appraisal Standards Board of the Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, D.C. 20005, (202) 347-7722.

LARRY DISNEY, Executive Director

APPROVED BY AGENCY: December 14, 2015

FILED WITH LRC: December 15, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2016, at 1:30 p.m., in the office of the Kentucky Real Estate Appraisers Board; 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658. 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 close of business on February 1, 2016. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larry Disney

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the standards of practice for certified and licensed appraisers.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and to establish the standards of practice.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the standards of practice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in enforcing the standard of practice of the profession.

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

(a) How the amendment will change this existing administrative regulation: This amendment replaces the obsolete version of Uniform Standards of Professional Appraisers Practice ("USPAP") reference manual to the current 2016-1017 version.

(b) The necessity of the amendment to this administrative regulation: This amendment amends the regulation to incorporate the most recent USPAP version regarding practice standards in the industry.

(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 standards of practice.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation allows the board to ensure that certified and licensed appraisers are relying on the most recent USPAP manual.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately one thousand eight hundred persons certified by the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A certificate holder or licensee must comply with the Uniform Standards of Professional Appraisal Practice.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be up to date in the profession.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

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

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all certificate holders. 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 Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 324A.035(3)(d).

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

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subsequent years? None

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (Amendment)

501 KAR 6:030. Kentucky State Reformatory.

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 Kentucky State Reformatory.

Section 1. Incorporation by Reference. (1) Kentucky State Reformatory policies and procedures December 14, 2015[July 9, 2007], are incorporated by reference. Kentucky State Reformatory policies and procedures include:

<u>KSR 01-00-08</u>	<u>Communication Among the Warden, Management Staff, Department Heads and Inmates (Added 12/14/15)</u>	
KSR 02-00-01	Inmate Canteen (Amended 12/14/15[05/04/07])	
KSR 02-00-03	Screening Disbursements from Inmate[Personal] Accounts (Amended 12/14/15[07/09/07])	
KSR 02-00-11	Inmate[Personal] Accounts (Amended 12/14/15 [07/09/07])	
KSR 02-00-13	Inmate Canteen Committee (Amended 12/14/15 [Added 07/09/07])	
KSR 06-00-03	Kentucky Open Records Law and Release of Institutional and Medical Information (Amended 12/14/15[05/04/07])	
[KSR 08-00-08]	Death of an Inmate and Notification of Inmate Family About Critical Medical Emergency (Amended 07/09/07)]	
KSR 09-00-28	Restricted Areas (Amended 12/14/15[05/04/07 10/14/05])	
KSR 09-00-30	Parole Board (Amended 12/14/15[05/04/07])	
KSR 10-01-02	Special Management Unit[Segregation—] General Operational Procedures (Amended 12/14/15[07/09/07])	
KSR 10-01-03	Special Management Unit - Inmate Tracking System and Record System (Amended 12/14/15[07/09/07])	
KSR 10-01-09	[Special Management Population]Hold Ticket Inmates (Amended 12/14/15[07/09/07])	
KSR 10-02-08	Corrections[Correctional] Psychiatric Treatment Unit (Amended 12/14/15[07/09/07])	
KSR 11-00-01	Meal Planning and Procedure (Amended 12/14/15 [05/04/07])	
KSR 11-00-05	Food Service Department Clothing Issuance, Laundry and Sanitation (Amended 12/14/15[05/04/07])	
KSR 11-00-06	Health Standards and Regulations for Food Service Employees (Amended 12/14/15[07/09/07])	
KSR 12-00-03	State and Personal Hygiene Items Issued to Inmates (Amended 12/14/15[07/09/07])	

KSR 12-00-07	Regulations for Inmate Barbershop (Amended 12/14/15[05/04/07])
KSR 12-00-09	Treatment of Inmates with Body Lice (Amended 12/14/15[05/04/07])
KSR 13-00-03	Medication for Inmates Leaving Institutional Grounds (Amended 12/14/15[10/14/05])
KSR 13-00-04	Medical and Dental Care (Amended 12/14/15 [10/14/05])
KSR 13-00-05	Medical Records (Amended 12/14/15[12/13/05 10/14/05])
[KSR 13-00-08]	Institutional Specimen Processing Center (Amended 10/14/05)]
KSR 13-00-09	Institutional Pharmacy Procedures (Amended 12/14/15[10/14/05])
KSR 13-00-10	Requirements for Medical Personnel (Amended 12/14/15[10/14/05])
[KSR 13-00-11]	Health Evaluation (Amended 10/14/05)
KSR 13-00-12	Vision Care and Ophthalmology Services (Amended 10/14/05)
KSR 13-00-14	Periodic Health Examinations for Inmates (Amended 10/14/05)
KSR 13-00-15	Medical Alert System (Amended 10/14/05)]
KSR 13-00-17	Special Care (Amended 12/14/15[10/14/05])
KSR 13-01-01	Death of an Inmate and Notification of Inmate Family About a Critical Medical Emergency (Added 12/14/15)
KSR 13-02-01	Mental Health Services (Amended 12/14/15 [10/14/05])
[KSR 13-02-02]	Mentally Retarded Inmates (Amended 10/14/05)]
KSR 13-02-03	Suicide Prevention and Intervention Program (Amended 12/14/15[10/14/05])
KSR 13-02-08	Inmate[Offender] Observer Program (Amended 12/14/15[12/13/05])
[KSR 14-00-01]	Inmate Rights]
KSR 14-00-02	Americans with Disabilities Act and Inmate Program Access (Amended 12/14/15)
[KSR 15-00-02]	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)]
KSR 15-00-06	Inmate Identification[I.D.] Cards (Amended 12/14/15)
[KSR 15-00-07]	Inmate Rules and Discipline — Adjustment Committee Procedures]
KSR 15-00-08	Minimum Security Unit (Amended 12/14/15) [Firehouse Living Area]
KSR 15-00-09	Tobacco Free Environment (Amended 12/14/15)[Use of Tobacco Products for Inmates and Staff]
KSR 15-00-10	Program Services for Special Housing Placement (Amended 12/14/15)
KSR 15-01-01	Responsibilities of Staff Assigned to Units[Operational Procedures and Rules and Regulations for Unit] A, B & C (Amended 12/14/15)[: Functions of Assigned Personnel]
KSR 15-01-02	Staff Operational Procedures[and Rules and Regulations] for Unit A, B, & C (Amended 12/14/15)[: Staff Operational Procedures]
KSR 15-01-03	Inmate[Operational Procedures and] Rules and Regulations for General Population Living Areas (Amended 12/14/15)[Unit A, B & C: Inmate Rules and Regulations]
KSR 15-01-04	Operational Procedures and Rules and Regulations for Unit A, B & C: Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05	Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services]
KSR 15-01-06	[Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate] Honor Housing Criteria and Rules (Amended 12/14/15)
KSR 15-01-07	Nursing Care Facility Operational Procedures

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- and Rules and Regulations (Added 12/14/15)
[Regulations]
- KSR 16-00-02 Inmate Correspondence and Mailroom Operations (Amended 12/14/15)
- KSR 16-00-03 Inmate Access to Telephones (Amended 12/14/15)
- KSR 16-01-01 Visiting Regulations (Amended 12/14/15)
- [KSR 16-01-03 Night Visit Regulations]
- KSR 17-00-05 Inmate Reception and Orientation (Amended 12/14/15)[Assessment and Orientation, Consent Decree Notification to Inmates]
- KSR 17-00-07 Inmate Personal Property (Amended 12/14/15)
- [KSR 17-00-08 Repair of Inmate Owned Appliances by Outside Dealers]
- KSR 18-00-04 Inmate Transfers, Admission, and Discharge Procedures (Amended 12/14/15)[Intratransfers, Identification Department, Departure Admission and Discharge]
- KSR 18-00-05 Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally III]
- KSR 18-00-06 Classification (Amended 12/14/15)
- KSR 18-00-07 Kentucky State Reformatory Placement Committee (Amended 12/14/15)
- KSR 18-01-00 Youthful Offenders (Added 12/14/15)
- KSR 18-02-01 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Added 12/14/15)
- [KSR 19-00-01 Inmate Work Incentives]
- KSR 19-00-02 Inmate Work Programs (Amended 12/14/15)[On-the-job (OJT) Training Program]
- KSR 19-00-03 Safety Inspections of Inmate Work Assignment Locations (Amended 12/14/15)
- [KSR 19-00-05 Unassigned Status/Placement (Amended 10/14/05)]
- KSR 20-00-01 LaGrange Education Center Programming (Amended 12/14/15)[Technical and Adult Basic Level Learning Center Programs]
- KSR 20-00-04 Criteria for Participation in A College Program]
- KSR 20-00-06 English as a Second Language (Amended 12/14/15)
- KSR 21-00-01 Legal Aide Office and Inmate Law Library Services and Supervision (Amended 12/14/15)
- KSR 21-00-02 [Inmate]Library Services (Amended 12/14/15)
- [KSR 21-00-03 Library Services for Special Management Unit (SMU)]
- KSR 21-00-05 Library Services for Correctional Psychiatric Treatment Unit]
- KSR 22-00-03 Inmate Organizations (Amended 12/14/15)
- KSR 22-00-07 Inmate Magazine (Amended 12/14/15)
- KSR 24-00-01 Social Services Staff (Added 12/14/15)
- [KSR 22-00-08 Privilege Trips]
- KSR 23-00-02 Chaplain's Responsibility and Inmate Access to Religious Representatives
- KSR 23-00-03 Religious Programming]
- KSR 24-00-02 Substance Abuse and Chemical Dependency Program (Amended 12/14/15)
- KSR 24-00-03 Social Services Program (Added 12/14/15)
- KSR 25-00-01 Discharge of Inmates to Hospital or Nursing Home (Amended 12/14/15)
- KSR 26-00-01 Volunteer Services Program (Amended 12/14/15)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: November 30, 2015

FILED WITH LRC: December 14, 2015 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on

January 21, 2016 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 close of business on February 1, 2016. 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, 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 Kentucky State Reformatory regarding the rights and responsibilities of Kentucky State Reformatory employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 139.200, 139.210, 196.035, 197.020 and 197.025 and to meet ACA requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs every aspect of the operation of Kentucky State Reformatory.

(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 Kentucky State Reformatory employees and the inmate 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 amendments shall bring the policies and procedures in compliance with state and federal law, ACA Standards and updates current practices for the facility.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirement of KRS 139.200, 139.210, 196.035, 197.020 and 197.025.

(c) How the amendment conforms to the content of the authorizing statutes: It permits the commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of Kentucky State Reformatory.

(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) Type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation: 650 employees of the Kentucky State Reformatory and 1, 946 inmates and all visitors to Kentucky State Reformatory.

(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 and inmates will have to follow the changes made in the policies and procedures. The institution, employees, and inmates of the Department of Corrections will have

to change their actions to comply with any operational changes made by this regulation and all smoking is to be prohibited from the institutional grounds.

(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 anticipated

(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 institutions.

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

(a) Initially: No additional cost anticipated

(b) On a continuing basis: No additional cost anticipated

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky State Reformatory budgeted funds

(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: No increase in fees anticipated

(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? Kentucky State Reformatory, LaGrange, Kentucky 40031

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.870 – 61.884, 196.035, 197.020, 197.025, 197.202, 219.011 – 219.081, 422.317, 439.510

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional cost anticipated.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendments to this regulation do not create any revenue for the Kentucky State Reformatory.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendments to this regulation do not create any revenue for the Kentucky State Reformatory.

(c) How much will it cost to administer this program for the first year? No additional cost anticipated.

(d) How much will it cost to administer this program for subsequent years? No additional cost anticipated.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET Horse Racing Commission (Amendment)

811 KAR 2:190. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund.

RELATES TO: KRS 138.510, 230.215, 230.225, 230.443, 230.445

STATUTORY AUTHORITY: KRS 230.215, 230.260, 230.445

NECESSITY, FUNCTION AND CONFORMITY: KRS 230.215 and 230.260 authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of purses and payments in these races.

Section 1. Definitions. (1) "Broodmare" means a mare that conceives and carries her genetic foal to term.

(2) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.

(3) "Fund" means the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund established by KRS 230.445.

(4) "Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 811 KAR 2:010, Section 1(37).

(5) "Inter-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted outside of Kentucky.

(6) "Intra-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted at another Kentucky association.

(7) "Kentucky bred" means, for purposes of this administrative regulation, a horse that meets the requirements of this administrative regulation and is:

(a) A Quarter Horse registered with the American Quarter Horse Association, or its successor;

(b) An Appaloosa registered with the Appaloosa Horse Club, or its successor;

(c) An Arabian registered with the Arabian Horse Association Registry, or its successor; or

(d) A Paint Horse registered with the American Paint Horse Association, or its successor.

(8) "Live racing handle" means the monies wagered by individuals present on association grounds on Quarter Horse, Paint Horse, Appaloosa, or Arabian races physically conducted on that association's grounds.

(9) "Mare" means a broodmare, donor mare, or recipient mare.

(10) "Nonlive racing handle" means the monies wagered at an association located in Kentucky on Quarter Horse, Paint Horse, Appaloosa, or Arabian races not physically conducted on that association's grounds.

(11) "Recipient mare" means a mare of any breed implanted with an embryo from a donor mare as defined by this administrative regulation, and who carries the non-genetic foal to term. A recipient mare shall be implanted with an electronic horse identification microchip that accurately identifies the horse and is compliant with international standards ISO 11784.

Section 2. Advisory Committee. The fund advisory committee shall consist of five (5) members, all of whom shall be Kentucky residents, to be appointed by the chairman of the commission by July 1 of each year. The committee shall consist of the following:

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- (1) One (1) member of the commission;
- (2) One (1) officer or director of a licensed racing association in Kentucky conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing;
- (3) One (1) owner of a horse nominated to the fund;
- (4) One (1) owner of a mare registered with the fund; and
- (5) One (1) member of the Kentucky Quarter Horse Racing Association recommended by that organization's board of directors.

Section 3. Mare Eligibility. (1) In order for a foal to be eligible to earn money from the fund, the broodmare or both the donor and recipient mares shall be registered with the fund on or before February 15 of the year of conception. Late registration may be made on or before June 15 of the year of conception as provided by subsection (3) of this section.

(2) In order to be eligible to be registered with the fund, a mare, whether a broodmare, donor mare, or recipient mare, shall reside in Kentucky continuously from conception or embryo transfer implantation until foaling unless one (1) of the following exceptions is met:

(a) Medical procedure.

1. A medical procedure is required to be performed to protect the health of the mare or the unborn foal that involves an extraordinary medical situation and the owner of the mare desires to have an expert located outside of Kentucky conduct the procedure;

2. The owner of the mare files with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky no later than fourteen (14) days after the mare leaves Kentucky and provides information related to the procedure as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare remains under the care of a veterinarian during the entire period of time she is not residing in Kentucky, other than the time during which she is traveling to and from Kentucky;

5. The mare returns to Kentucky following the medical procedure for which her departure was authorized; and

6. The mare is in Kentucky for foaling and documentation establishing that fact to the satisfaction of the commission is provided;

(b) Racing.

1. The owner of the mare desires to race the mare in a sanctioned pari-mutuel race held outside of Kentucky;

2. The owner of the mare files with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the race outside of Kentucky as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare returns to Kentucky within ten (10) days after the running of the approved race; and

5. The mare is in Kentucky for foaling and documentation establishing that fact to the satisfaction of the commission is provided; or

(c) Auction.

1. The owner of the mare desires to enter her for sale at a catalogued auction for her breed held outside of Kentucky;

2. The owner of the mare files with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the auction as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare returns to Kentucky no later than thirty (30) days after the auction; and

5. The mare is in Kentucky for foaling and documentation establishing that fact to the satisfaction of the commission is

provided.

(d) The owner of a mare approved to leave the state under this subsection is required to provide the commission with written notification of the mare's return within forty-eight (48) hours of her return.

(3) A mare shall be registered with the fund by:

(a) Completing and filing with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form;

(b) Providing the commission with a photocopy of the mare's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, the Arabian Horse Association Registry, or The Jockey Club or their respective successors, or documentation regarding a recipient mare's electronic horse identification microchip; and

(c) Paying the registration fee as follows:

1. A twenty-five (25) dollar fee for registrations postmarked no later than February 15 of the year of conception; or

2. A \$200 late fee for registrations postmarked no later than June 15 of the year of conception.

3. Registration postmarked after June 15 of the year of conception shall not be accepted.

Section 4. Nomination. (1) Except as set forth in subsection (4) of this section, in order for a horse to be eligible to earn money from the fund, it shall be a Kentucky bred as defined in this administrative regulation and it shall be nominated to the fund on or before December 31 of its yearling year by:

(a) Completing and filing with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form;

(b) Providing the commission with a photocopy of the horse's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors; and

(c) Paying the nomination fee as follows:

1. A twenty-five (25) dollar fee for nominations postmarked no later than December 31 of the yearling year; or

2. A \$100 late fee for nominations postmarked no later than December 15 of the yearling year.

3. Except as provided in subsection (4) of this section, nominations postmarked after December 15 of the yearling year shall not be accepted.

(2) In order for a foal that is the product of an embryo transfer to be eligible to earn monies from the fund, the donor mare and the recipient mare shall be registered as provided in Section 3 of this administrative regulation and shall meet the other requirements of this administrative regulation.

(3) If a registered donor mare produces more than one (1) foal in one (1) breeding season, two (2) genetic foals may be nominated to the fund as determined by the owner of the donor mare.

(4) A horse born in 2016 or before shall be eligible to be nominated to the fund and to participate in races offering monies from the fund. A horse shall be nominated by:

(a) Completing and filing with the commission a Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form;

(b) Paying a nomination fee of \$300; and

(c) Including the following with the nomination form:

1. A photocopy of the official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An official breed registry shipped semen report or a stallion breeders certificate demonstrating that the horse was conceived in Kentucky; and

4. A signed affidavit from the owner of the mare at the time of her pregnancy stating that the mare resided in Kentucky during the entirety of her pregnancy.

(5) Nothing in this section shall prevent a registered mare from being eligible to race for monies from the fund.

Section 5. Monies Earned. (1) One (1) live association.

(a) Live racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of the total live racing handle pursuant to KRS 138.510(1).

(b) Nonlive racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of two (2) percent of the total non-live racing handle pursuant to KRS 138.510(2).

(2) More than one (1) live association. Unless there is a commission approved agreement among the associations conducting live racing to the contrary, if two (2) or more associations are conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races on the same day, the monies earned from the handle for that day shall be divided as follows:

(a) Live racing handle. An association conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of that association's live racing handle pursuant to KRS 138.510(1).

(b) The intra-state wagering monies shall be allocated to that association on which the wagering is placed for purposes of calculating that association's fund earnings.

(c) Inter-state wagering monies originating from an association conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall be allocated to that association for purposes of calculating that association's fund earnings.

(d) Inter-state wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live races.

(3) Historical horse race handle. An association offering wagering on historical horse races shall earn monies to be deposited in the fund account for that association as provided in KRS 138.510(1).

Section 6. Distribution of Funds. (1) Each association shall submit a request to the advisory committee, including the proposed races eligible to receive monies from the fund and the proposed purse structure for those races, at least forty-five (45) days prior to the opening day of the live racing meet.

(2) Unless there is a commission approved proposal to the contrary, the proposed purse structure shall not exceed the total dollars generated by that breed to the association's fund account.

(3) The advisory committee shall review the proposed eligible races and purse structure and make a recommendation whether to approve the proposed races and purse structure to the commission based upon the best interests of Kentucky racing.

(4) Two (2) or more associations conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing may request permission from the advisory committee to combine their respective fund monies to supplement purses at one (1) of the associations. The advisory committee shall recommend to the commission whether to approve the request.

Section 7. Reconciliation. (1) Each association shall file with the commission a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report. These reports shall be filed weekly.

(2) Each association shall report to the commission the actual purse distribution no later than fifteen (15) calendar days after the last day of a live race meeting.

(3) The commission shall on a monthly basis reconcile the weekly reports submitted by the association with the Department of Revenue's reports and deposits.

(4) If, at the close of a live race meet, an association has a balance of monies earned for that meet, which has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute the remaining balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use fund monies previously earned to supplement purses at future live racing meets held by that association; or

(b) Use fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.

(5) If, at the close of a live race meet, an association offering wagering on historical horse races has a balance of fund monies earned from historical horse race wagers, which has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute a portion of the balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use the historical horse race fund monies previously earned to supplement purses at future live racing meets held by that association;

(b) Use historical horse race fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations; or

(c) Use historical horse race fund monies previously earned to supplement purses at another licensed Kentucky racetrack.

(6) Reasonable and customary administrative charges for time spent reconciling the account may be charged to each association by the commission based on the percentage of funds generated by each association for the previous calendar year.

(7) Each association shall sign an agreement stating that it accepts and agrees with the reconciliation prior to reimbursement of any funds.

Section 8. Consent to Investigate. The filing of a registration form shall authorize the advisory committee and commission to investigate and verify information provided by the applicant, including conducting site visits to verify the residency of a registered mare.

Section 9. Penalties. (1) An applicant who provides incorrect, false, or misleading information concerning the registration of a mare or the nomination of a foal or horse, or who violates this administrative regulation in any other manner shall be subject to the following penalties:

(a) A fine of not more than \$5,000;

(b) Denial or revocation of the registration of the mare or the nomination of the foal or horse with the fund; or

(c) A bar from registering mares to the fund or from being eligible to receive monies from the fund for a period of one (1) to five (5) years, based on the seriousness of the violation.

(2) In addition to the penalties provided in subsection (1) of this section, a second or subsequent violation of this administrative regulation may result in a lifetime bar of the applicant from being eligible to register mares with the fund or to receive monies from the fund.

(3) In addition to the penalties provided in subsection (1) of this section, the commission may deny or revoke the registration of a mare or nomination of a foal or horse or the purse money earned by the foal or horse if the applicant is charged or convicted of a crime, offense, or other criminal or civil violation involving cruelty, mistreatment, abuse, or neglect of any horse. A person charged, but not convicted of any crime, offense, or other criminal or civil violation as provided in this subsection may petition the commission for reinstatement. The commission shall reinstate the registration or purse upon submission of proof satisfactory to the commission that the charges were dismissed and the facts forming the basis of the charges were false.

(4) The advisory committee may recommend, and the commission may impose, one (1) or more of the penalties provided in subsection (1) of this section.

(5) Any penalty imposed under this section shall be subject to appeal and adjudication in accordance with 811 KAR 2:105 and KRS Chapter 13B.

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

(a) "Kentucky Quarter Horse, Paint Horse, Appaloosa, Arabian

Development Fund Mare Registration Form," KHRC 190-1, 12/15;

(b) "Kentucky Quarter Horse, Paint Horse, Appaloosa, Arabian Development Fund Nomination Form," KHRC 190-2, 12/15; and

(c) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky KHRC 190-3 12/15.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at <http://khrc.ky.gov>. ["Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.

(2) "Kentucky bred" means a horse that meets the other requirements of this administrative regulation and is:

(a) A quarter horse or appaloosa, whose sire is a quarter horse, appaloosa, or thoroughbred currently registered with the KQHAADF;

(b) A quarter horse or appaloosa whose dam is a quarter horse, appaloosa, or thoroughbred currently registered with the KQHAADF; or

(c) An Arabian whose sire and dam are Arabians currently registered with the KQHAADF.

(3) "Kentucky Quarter Horse, Appaloosa, and Arabian Development Fund" or "KQHAADF" means the trust and revolving fund established by KRS 230.445.

(4) "Kentucky Quarter Horse Racing Association Stallion Auction" means the auction of stallion seasons offered by the Kentucky Quarter Horse Racing Association.

Section 2. Advisory Committee. (1) The proposed distribution of money for KQHAADF funded races shall be reviewed and addressed annually, not later than December 31 of each calendar year, by an advisory committee consisting of at least one (1) representative of each of the following:

(a) The racing commission;

(b) The licensed racing associations in Kentucky that host quarter horse, appaloosa, or Arabian racing;

(c) The owner of a stallion registered with the KQHAADF, that resides in Kentucky;

(d) The owner of a mare registered with the KQHAADF, that resides in Kentucky; and

(e) One member of the Kentucky Quarter Horse Racing Association that resides in Kentucky, selected by that organization's board of directors.

(2) The final determination regarding the distribution of money from the KQHAADF shall be made by the commission.

Section 3. Stallion Eligibility. (1) In order for a stallion's progeny to be eligible to earn KQHAADF money, the stallion shall be registered with the KQHAADF on or before December 31 of the year prior to the breeding year.

(2) In order to be eligible to be registered with the KQHAADF, a stallion shall:

(a) Be domiciled in Kentucky continuously from its first cover of the breeding season until its last cover of the breeding season; or

(b) Have a breeding season purchased through the Kentucky Quarter Horse Racing Association Stallion Auction.

(3) If a KQHAADF registered stallion leaves Kentucky to breed a mare, his registration for that year shall be revoked and his progeny shall not be eligible to register with the KQHAADF.

(4) A stallion shall be registered with the KQHAADF by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/ Arabian Stallion Registration, KHRC 190-1 (5/11); and

(b) Paying a registration fee of \$100.

Section 4. Broodmare Eligibility. (1) In order for a broodmare's progeny to be eligible to earn KQHAADF money, the broodmare shall be registered with the KQHAADF on or before December 31 of the year prior to the breeding year.

(2) In order to be eligible to be registered with the KQHAADF,

a broodmare shall be domiciled in Kentucky continuously from December 31 of the year prior to the breeding year until delivery of her foal.

(3) A broodmare shall be registered with the KQHAADF by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/Arabian Broodmare Registration, KHRC 190-2 (2/11); and

(b) Paying a registration fee of twenty-five (25) dollars.

(4) Broodmares that have competed in a race during the breeding year and are registered with the Kentucky Quarter Horse Racing Association as racing stock shall be registered as breeding stock prior to being bred. The registration shall be accompanied by a registration fee of twenty-five (25) dollars.

Section 5. Racing Stock Nomination. (1) Except as set forth in subsection (3) of this section, in order for racing stock to be eligible to earn KQHAADF money, it shall be nominated to the KQHAADF on or before December 31 of its three (3) year-old year by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/Arabian Racing Stock Nomination, KHRC 190-3 (2/11); and

(b) Paying a nomination fee of twenty five (25) dollars if nominating as a yearling, fifty (50) dollars if nominating as a yearling, or \$100 if nominating as a two (2) or three (3) year-old.

(2) Foals that are the product of an embryo transfer may be nominated to the KQHAADF if the recipient mare is domiciled in Kentucky as set forth in Section 4 of this administrative regulation. If a donor mare produces more than one (1) foal in a breeding season, only the first born foal may be nominated to the KQHAADF.

(3) Until December 31, 2012, racing stock of any age shall be eligible to be nominated to the KQHAADF and to participate in races, a part of the purse for which is provided by money from the KQHAADF. A horse shall be nominated by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/Arabian Racing Stock Nomination, KHRC 190-3 (2/11);

(b) Paying a nomination fee of fifty (50) dollars; and

(c) Including the following with the nomination:

1. DNA parentage verification;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An American Quarter Horse Association shipped semen report or a stallion breeders certificate demonstrating that the horse was bred in Kentucky; and

4. Mare pregnancy verification and care records from a licensed veterinarian showing that the dam was domiciled in Kentucky during the entirety of her pregnancy.

Section 6. Kentucky Quarter Horse Racing Association Stallion Auction. (1) A stallion not domiciled in Kentucky continuously from its first cover of the breeding season until its last cover of the breeding season shall become eligible to be registered with the KQHAADF if its ownership donates one (1) breeding season to the Kentucky Quarter Horse Racing Association Stallion Auction and that breeding season is sold at the auction. The eligibility shall pertain only to the year in which the breeding season is donated.

(2) A breeding season shall bring no less than fifty (50) percent of its advertised value in order to sell at the stallion auction.

(3) Any foal that is the result of breeding an eligible mare with a stallion that had a breeding season purchased through the Kentucky Quarter Horse Racing Association Stallion Auction Program shall be eligible to be nominated to the KQHAADF, if all other criteria described in this administrative regulation are satisfied.

Section 7. Compliance. (1) The commission shall be the official registrar for the KQHAADF.

(2) Questions as to eligibility, registration, nomination, or breeding of a Kentucky bred horse shall be decided exclusively by the commission.

(3) The commission may demand and inspect the records pertaining to any horse registered with or nominated to the

KQHAADF and may conduct on-site visits to verify the domicile of the horse.

(4) Any person who knowingly fails to disclose or knowingly falsifies any information required in the registration process for the KQHAADF may be disqualified and excluded from participation in the fund.

~~Section 8. Distribution of Funds. (1) At least forty-five (45) days prior to the opening day of the live racing meet, each association offering quarter horse, appaloosa, or Arabian racing shall submit to the advisory committee established by Section 2 of this administrative regulation:~~

~~(a) The conditions and rules for KQHAADF funded races for the upcoming year; and~~

~~(b) A plan for the distribution of funds for KQHAADF funded races for the upcoming year.~~

~~(2) The advisory committee shall review the proposed conditions, rules, and plan for distribution of funds for KQHAADF funded races and make a recommendation to the commission regarding approval based upon the best interests of Kentucky racing.~~

~~(3) At one (1) of its scheduled meetings, the commission shall, based upon the advice of the advisory committee:~~

~~(a) Approve the conditions and rules for the KQHAADF funded races;~~

~~(b) Approve the distribution of funds for KQHAADF funded races for the upcoming year; and~~

~~(c) Authorize expenditures at a time it designates.~~

~~(4) The racing dates for KQHAADF funded races shall be issued after the track has established its race dates.~~

~~Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Quarter Horse/Appaloosa/Arabian Stallion Registration", KHRC 190-1, 2/11;~~

~~(b) "Quarter Horse/Appaloosa/Arabian Broodmare Registration", KHRC 190-2, 5/11; and~~

~~(c) "Quarter Horse/Appaloosa/Arabian Racing Stock Nomination", KHRC 190-3, 2/11.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site, www.khrc.ky.gov.]~~

ROBERT M. BECK, JR., Chairman

AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: December 1, 2015

FILED WITH LRC: December 3, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2016 at 10:00 a.m., at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 405011. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by January 20, 2016, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 2, 2016. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Susan B. Speckert, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, email susan.speckert@ky.gov, phone (859) 246-2040, fax (859) 246-

2039.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Susan B. Speckert

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation provides the rules governing eligibility for participation in the Kentucky Quarter Horse, Paint Horse, Appaloosa and Arabian Development Fund (the "Fund") and the administration of the Fund.

(b) The necessity of this administrative regulation: KRS 230.445 requires the Kentucky Horse Racing Commission ("KHRC") to promulgate administrative regulations regarding eligibility for participation in the Fund and the administration of the Fund. This regulation fulfills that statutory mandate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.445(2) establishes the Fund and requires the KHRC to "use the development fund to promote races and to provide purses for races for horses bred and foaled in the Commonwealth" and to "provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed tracks within Kentucky conducting quarter horse, paint horse, Appaloosa, or Arabian horse racing." This regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of payments from the Fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specific rules for eligibility to earn monies from the Fund, conditions for races with purses supplemented by monies from the Fund, and the distribution of monies from the Fund.

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

(a) How the amendments will change this existing administrative regulation: The primary substantive amendments are as follows:

* Include "paint horse" as a breed eligible to participate in the Fund pursuant to statutory changes to the enabling statute.

* Provide that 2 genetic foals from a registered donor mare may be nominated to the Fund as determined by the owner of the donor mare.

* Clarify deadlines for receipt of nomination and registration forms.

* Update requirements for a horse registered with the Fund to leave the state under certain specific circumstances.

* Make provisions related to how an association earns monies from the Fund consistent with the pari-mutuel wagering tax statute, KRS 138.510.

* Clarify how an association earns monies from the Fund when more than one association is running live.

* Provide that unless there is a commission approved proposal to the contrary, the proposed purse structure submitted by an association shall not exceed the total dollars generated by that breed to the association's Fund account.

* Provide that two or more associations may request permission from the Commission to combine their respective Fund monies to supplement purses at one of the associations.

* Provide reconciliation requirements, including how an association may distribute monies if the association has a balance at the end of a live race meet.

* Remove stallion eligibility requirements, including annual registration fee of \$100 and the requirement for stallion to be standing in Kentucky during the breeding season.

* Remove Kentucky Quarter Horse Racing Association Stallion Auction.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary due to the statutory addition of paint horses as an eligible breed under the Fund. The amendments are also necessary to make the distribution provisions consistent with the pari-mutuel wagering tax statute, KRS 138.510, and to update the regulation as requested by the Advisory Committee.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments relate to the eligibility

requirements and administration of the Fund.

(d) How the amendment will assist in the effective administration of the statutes: The amendments relate to the eligibility requirements and administration of the Fund.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect those persons who breed and race Quarter Horses, Paint Horses, Appaloosas and Arabians in conformity with the requirements of the 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: Persons who breed and race Quarter Horses, Paint Horses, Appaloosas, and Arabians in Kentucky will have to comply with the requirements and pay the fees set forth in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendments do not establish any new fees. Mare registration: \$25 for registrations postmarked no later than February 15 of the year of conception, or \$200 for late registrations postmarked no later than June 15 of the year of conception. Nominations: \$25 for nominations postmarked no later than December 31 of the weanling year, or \$100 for late nominations postmarked no later than December 31 of the yearling year.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Persons who breed and race Quarter Horses, Paint Horses, Appaloosas, and Arabians in Kentucky will have an opportunity to earn money from the Fund in accordance with the statute and regulation.

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

(a) Initially: The costs will be dependent on the number of participants in the program. If the number of participants increases, there will be a corresponding increase in the cost of administration.

(b) On a continuing basis: See answer to (5)(a).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation will be funded out of the Fund pursuant to KRS 230.445 (4)(b).

(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 established any fees or directly or indirectly increased any fees: The amendments do not establish any fees or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All aspects of this regulation will be applied equally to the affected parties.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Horse Racing Commission.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.445.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There are potential indirect benefits to state and local governments

through employee taxes and sales and use taxes. Each horse participating in the program for breeding purposes will be located in the state and will require feed, hay, veterinarian services, etc., as well as employee management.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? See answer to 4 (a).

(c) How much will it cost to administer this program for the first year? Currently, there is very little Quarter Horse and Arabian racing in the Commonwealth and no Paint Horse or Appaloosa racing. However, if the number of participants increases, there will be a corresponding increase in the costs associated with administering the Fund.

(d) How much will it cost to administer this program for subsequent years? See answer to 4 (c).

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

Revenues: (+/-)

Expenditures: (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET Office of Occupations and Professions Board of Home Inspectors (Amendment)

815 KAR 6:010. Home inspector licensing requirements and maintenance of records.

RELATES TO: KRS 198B.700, 198B.706, 198B.712, 198B.714, 198B.716, 198B.722, 198B.724, 198B.738

STATUTORY AUTHORITY: KRS 198B.706, 198B.722

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.706(1) and (15) require the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for licensing and certification as well as prescribing forms and applications. KRS 198B.706(7) requires the board to promulgate administrative regulations to provide for the inspection of the records of a licensee. KRS 198B.706(11) requires the board to establish continuing education requirements. KRS 198B.722 requires the board to establish requirements for renewal of licenses and authorizes the board to establish an inactive license. This administrative regulation establishes the licensure and record requirements for home inspectors.

Section 1. Application Requirements. (1) An applicant for a home inspector license shall submit:

(a) A completed Initial Licensure Application, Form KBHI 1;

(b) A current two (2) inch by two (2) inch passport photograph affixed to the application form;

(c) A certificate of course completion and the applicant's national examination test score;

(d) A certificate of insurance;

(e) If applicable, other state or local licensure, certification, registration, or permit;

(f) A recent background check performed by the Kentucky State Police and a nationwide criminal background investigation check performed by the Federal Bureau of Investigation. If an applicant submits an application for a nationwide criminal background investigation check performed by the Federal Bureau of Investigation (FBI) and the FBI cannot complete the background investigation check within thirty (30) days of the request, an applicant may submit an Optional Affidavit for Licensure and submit the performed nationwide criminal background investigation check within fourteen (14) days of its completion. If an applicant has a felony conviction during the applicant's lifetime, a misdemeanor conviction within the past five (5) years or a pending charge, the applicant shall not use the optional affidavit; and

(g) A nonrefundable fee of \$250.

(2) An applicant for a home inspector license shall:

(a) Complete and pass a precertifying training course approved by the board pursuant to subsection (8) of this section and that is administered by a provider who has been approved by the board in accordance with 815 KAR 6:040 and subsection (8) of this section; and

(b) Pass an examination conducted by a board-approved test provider.

(3) A request to sit for the examination shall be made directly to the test provider.

(4) The examination fee shall be set by the testing company and shall be paid directly to the test provider.

(5) A passing score on the examination shall be valid for a period of three (3) years.

(6) Failing the examination.

(a) An applicant who fails to pass the examination two (2) times shall wait at least fourteen (14) calendar days from the date of the second failed examination prior to retaking the examination.

(b) An applicant who fails to pass the examination three (3) or more times shall wait at least thirty (30) calendar days from the date of the third or subsequent failed examination prior to retaking the examination.

(c) An applicant who fails to pass the examination three (3) times shall not be eligible to retake the examination until the applicant has again completed and again passed the precertifying training course required by subsection (2)(a) of this section before retaking the examination a fourth time, and also for each subsequent examination failure thereafter.

(7) Procedures and conduct.

(a) The applicant shall follow:

1. Procedures and appropriate conduct established by the board or testing service administering an examination if the procedures and conduct requirements are provided or made available to each applicant or orally announced before the start of the examination; and

2. Written instructions communicated prior to the examination date and instructions communicated at the testing site, either written or oral, on the date of the examination.

(b) Failure to comply with all procedures established by the board or the testing service with regard to conduct at the examination shall be grounds for denial of the application.

(8) Course requirements. To be approved by the board, a precertifying training course shall require a minimum of:

(a) Sixty-four (64) credit hours of training in the subject areas listed in subparagraphs 1 through 9 of this paragraph for at least the number of hours specified:

1. Manufactured housing: two (2)~~three (3)~~ hours;

2. Standards of practice, KRS Chapter 198B and 815 KAR Chapter 6, contracts, report writing, and communications: twelve (12)~~eleven (11)~~ hours;

3. Exterior, roofing, insulation, and ventilation: six (6) hours;

4. Structure and interior: nine (9) hours;

5. Electrical and plumbing: nine (9) hours;

6. Heating and air conditioning: six (6) hours;

7. Field training: sixteen (16) hours, including not more than eight (8) hours in a laboratory;

8. General residential construction: three (3) hours; and

9. Environmental hazards, mitigation, water quality, and indoor air quality: one (1) hour;

(b) The completion of three (3) unpaid home inspections under the supervision of a Kentucky licensed home inspector with satisfactory written reports submitted to the course provider in addition to the sixteen (16) hours of field training required by paragraph (a)7 of this subsection; and

(c) An exit examination with a passing score.

(9) An online precertifying training course shall not be accepted by the board unless the applicant:

(a) Is enrolled in a precertifying course on or before the effective date of this administrative regulation;

(b) Maintains continuous enrollment; and

(c) Completes the precertifying course no later than six (6) months from the effective date of this administrative regulation.

(10) Criminal background checks and other disciplinary

proceedings.

(a) Except as established in subsection (1)(f) of this section, each applicant shall submit a recent background check performed by the Kentucky State Police and a nationwide criminal background investigation check performed by the Federal Bureau of Investigation.

(b) If an applicant has resided in a state for less than five (5) years prior to application, the applicant shall also obtain and submit a state-wide criminal background check by a law enforcement agency capable of conducting a state-wide background check from the state where the applicant previously resided.

Section 2. Reciprocity. An applicant seeking a license through reciprocity in accordance with KRS 198B.714 shall:

(1) Submit a completed Initial Licensure Application, Form KBHI 1, and attachments established in Section 1(1)(b) through (f) of this administrative regulation; and

(2) Pay the fee established in Section 1(1)(g) of this administrative regulation.

Section 3. Nonresident Licensees. A nonresident licensee shall:

(1) Submit a completed Initial Licensure Application, Form KBHI 1, and attachments established in Section 1(1)(b) through (f) of this administrative regulation;

(2) Pay the fee established in Section 1(1)(g) of this administrative regulation; and

(3) Comply with the provisions established in KRS 198B.716 and this administrative regulation.

Section 4. Renewal of Licenses. (1) To be eligible for renewal of license, an applicant shall hold a valid and current license issued by the board and shall:

(a) Satisfy the continuing education requirements of Section 5 of this administrative regulation;

(b) Pay a nonrefundable renewal fee of \$250 per year for each year of licensure;

(c) Submit a fully-completed Application for Renewal Licensure as a Kentucky Home Inspector, Form KBHI 2 and attachments, including:

1. A certificate of completion for continuing education;

2. A certification of insurance information;

3. If applicable, other state or local licensure, certification, registration, or permit; and

4. A state-wide criminal background check; and

(d) Submit a copy of a completed inspection report that has been compiled within the previous twelve (12) months immediately preceding renewal.

(2)(a) The renewal application shall be postmarked by the last day of the month in which the licensee is to renew the license.

(b) If the renewal application is postmarked within sixty (60) days after the last day of the licensee's renewal month, the licensee shall pay a nonrefundable:

1. Renewal fee of \$250 per year for each year of licensure; and

2. Late fee of \$250.

(3) If a licensee has not submitted a renewal application within sixty (60) days of the last day of the licensee's renewal month, the licensee shall be cancelled and the licensee shall cease and desist from conducting home inspections.

(4)(a) If a licensee failed to submit a renewal application more than sixty (60) days from the last day of the licensee's renewal month and wants to be licensed, the licensee shall submit a License Reinstatement Application within 120 days of the last day of the licensee's renewal month. The licensee shall pay a nonrefundable:

1. Renewal fee of \$250 per year for each year of licensure; and

2. Late fee of \$500.

(b) If a licensee failed to submit a renewal application or a License Reinstatement Application within 120 days of the last day of the licensee's renewal month and wants to be licensed, the licensee shall submit a new application in accordance with existing requirements for initial applicants under KRS Chapter 198B and 815 KAR Chapter 6.

Section 5. Continuing Education. (1) The continuing education requirements of this section shall apply only to those licensees who will have been licensed at least twelve (12) months at license renewal.

(2) Each licensee who renews a license in an odd year shall have at least fourteen (14) hours of continuing education per license year. Each licensee who renews a license during an even year shall have at least twenty-eight (28) hours of continuing education during the license biennial period.

(3) Prior to renewal, the continuing education shall include a minimum of:

- (a) ~~Two (2)~~~~Three (3)~~ hours in manufactured housing;
- (b) Three (3) hours in KRS Chapter 198B and 815 KAR Chapter 6;
- (c) Three (3) hours in report writing; and
- (d) ~~Six (6)~~~~Five (5)~~ hours in technical courses, including identification and determination, as applicable within the standards of practice.

(4)(a) The continuing education courses identified in subsection (3)(a) through (c) of this section shall be completed face-to-face. An online continuing education course shall not satisfy the continuing education requirement for each respective category.

(b) The face-to-face requirement identified for the continuing education courses shall be effective beginning the next renewal period following the effective date of this administrative regulation.

(5) Continuing education shall be obtained from those providers approved by the board as provided in 815 KAR 6:080.

(6) An approved precursing course shall satisfy the initial fourteen (14) hour continuing education requirement.

(7) A maximum of three (3) hours per license year shall be awarded for teaching part of a home inspection credit course or home inspection continuing education course as applied to the appropriate content area established in subsection (3)(a) through (d) of this section.

(8) A maximum of three (3) hours per license year shall be awarded for appointment to the board for a board member who is licensed and who has attended not less than eighty (80) percent of the board meetings each license year as applied to the content area established in subsection (3)(b) of this section.

(9) A licensee shall not take the same continuing education course during a licensure period.

(10) A licensee may complete the required continuing education hours within the sixty (60) day grace period from the last day of the licensee's renewal month.

Section 6. Inactive License. (1) Placement of a license in inactive status.

(a)1. To place a license in inactive status, a licensee shall submit a notarized statement indicating the desire to have the license placed in inactive status.

2. This notarized statement shall be mailed to the board and shall be accompanied by:

- a. A check for ten (10) dollars made payable to the Kentucky State Treasurer;
 - b. The actual license card of the licensee; and
 - c. A current mailing address for the licensee.
- (b) A licensee in inactive status shall not engage in home inspection activities within the Commonwealth of Kentucky.

(2) Renewal of license in inactive status.

(a) A licensee with an inactive license shall pay an annual inactive status fee equal to fifty (50) percent of the current renewal fee for an active license.

(b) Failure to pay this annual fee shall result in the expiration of the license on the last day of the licensee's birth month.

(3) Insurance coverage for licensees with inactive license. A licensee with an inactive status license shall not be required to maintain the insurance coverage required by KRS 198B.712(3)(d) during inactive status.

Section 7. Reactivation of Inactive License to Active Status. (1) A licensee who wishes to reactivate a license shall contact the board and submit a notarized statement requesting approval to

return to active status.

(2) This request shall be accompanied by:

- (a) The name of the licensee requesting activation;
- (b) The license number of the licensee requesting reactivation;
- (c) The birth date of the licensee requesting reactivation;
- (d) A current mailing address for the licensee requesting reactivation;
- (e) A check in the amount of ten (10) dollars made payable to the Kentucky State Treasurer;
- (f) Proof of liability insurance naming the individual in the amount of \$250,000 as required by KRS 198B.712(3)(d);
- (g) A state-wide criminal background check administered by a law enforcement agency capable of conducting a state-wide background check; and
- (h) Proof of continuing education as required by Section 8 of this administrative regulation.

(3) A license that has been inactive for a period of five (5) years from the date of board action shall be considered expired.

Section 8. Continuing Education Requirements for Licensees in Inactive Status Returning to Active Status. (1) Except as provided by subsection (2) of this section, a licensee with an inactive status who wishes to reactivate the license shall complete the continuing education requirements established in this subsection prior to application to return to active status. The licensee shall complete fourteen (14) hours per year that the license has been inactive, which shall include:

- (a) Three (3) hours in manufactured housing;
- (b) Three (3) hours of KRS Chapter 198B and 815 KAR Chapter 6; and
- (c) Eight (8) hours, in any combination, of:
 - 1. Electrical;
 - 2. Plumbing;
 - 3. Heating, ventilation, and air conditioning;
 - 4. Roofing; or
 - 5. Report writing.

(2) A board approved sixty-four (64) hour precursing training course may be used to satisfy the requirement established in subsection (1) of this section.

Section 9. Maintenance of Records. (1) Address.

(a) A license holder shall report a change of address to the board in writing within ten (10) days after the change.

(b) The board shall not be responsible for the license holder's failure to receive notices, communications, or correspondence caused by the license holder's failure to promptly notify the board of a change of address.

(2) Names.

(a) A license holder shall notify the board in writing of a name change within thirty (30) days of the change.

(b) The notification shall be accompanied by a copy of a marriage certificate, divorce decree, court order, or other documentation that verifies the name change.

(c) The board shall not be responsible for the license holder's failure to receive notices, communications, or correspondence caused by the license holder's failure to promptly notify the board of a name change.

(3) Inspection records.

(a) A licensed home inspector shall retain for at least three (3) years from the date of the inspection:

- 1. The written reports;
 - 2. The contract; and
 - 3. Supporting documentation, if applicable.
- (b) Records may be retained in retrievable, electronic format.
- (c) The licensee shall provide all records requested by the board within ten (10) days of receipt of the request.

Section 10. (1) The board may deny a license or refuse to renew or reactivate a license to an applicant or licensee who:

- (a) Has entered a guilty plea to, pled guilty to, or been convicted of a:
 - 1. Felony; or
 - 2. Misdemeanor; or

(b) Has had disciplinary action taken against a professional license, certificate, registration, or permit held by the applicant or licensee in any jurisdiction or state, including Kentucky.

(2) The board shall base its decision on the seriousness of the offense or disciplinary action, the length of time since the offense or disciplinary action, and the applicant's or licensee's showing of remorse, rehabilitation, and restitution by clear and convincing evidence.

Section 11. The board shall deny a license or refuse to renew or reactivate a license to an applicant or licensee who fails to comply with a provision of KRS Chapter 198B or this administrative regulation.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Licensure[Initial Licensure Application]", Form KBHI-1, 10/2015[July 2014];

(b) "Application for License Renewal[Licensee as a Kentucky Home Inspector]", Form KBHI 2, 10/2015[7/2014];

(c) "Application for Licensure Reinstatement[License Reinstatement Application]", Form KBHI 6, 10/2015[7/2014]; and

(d) "Optional Affidavit for Licensure", Form KBHI 7, 6/2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30[5] p.m.

JIM CHANDLER, Board Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2016, at 9:00 a.m. Eastern Time at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky. 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 close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Megan Woodson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation governs the application and examination process, and the required pre-licensure course requirement.

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

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.706(1) requires administrative regulations governing the examination of applicants for registration.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the requirements concerning examination.

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

(a) How the amendment will change the existing administrative regulation: This amendment decreases the require hours for manufactured housing from three hours to hours; and update the forms.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address the home inspection market and update the forms.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.706(1) requires administrative regulations governing of applicants for licensure.

(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 amending the hours of manufactured housing required and updating the forms used by the board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 382 licensed home inspectors, six precicensing providers, and five continuing education providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants will now only be required to complete two hours of manufactured housing and submit an updated form.

(b) In complying with this administrative regulation or amendment, how much will it cost for each of the entities: There is no new cost associated with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants can obtain more education in the general areas of home inspections, standards of practice, KRS Chapter 198B and 815 KAR Chapter 6, contracts, report writing, and communications.

(5) Estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) The source of funding for the implementation and enforcement of this administrative regulation: The Kentucky Board of Home Inspectors is funded from fees paid by licensees and applicants as well as a quarterly stipend.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: No increase in fees or funding will be necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation directly impacts the Kentucky Board of Home Inspectors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.706(1)(a) and 198B.712(2)(c)

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for the first year? This regulation will not generate any new revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any new revenue.

(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

**PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors
(Amendment)**

815 KAR 6:040. Home inspector preclicensing providers.

RELATES TO: KRS 198B.712, 198B.722, 198B.724

STATUTORY AUTHORITY: KRS 198B.706(2), (13), (15), 198B.712(2)(c), 198B.724

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738. KRS 198B.712(2)(c) requires an applicant to complete a board-approved course of study. This administrative regulation establishes the procedures for being approved by the board as a preclicensing provider.

Section 1. Preclicensing Course Provider Approval. An applicant to be a preclicensing course provider shall submit:

(1) A completed Pre-Licensing Course Provider Application, Form KBHI 3;

(2) A \$500 nonrefundable application fee;

(3) A copy of the Certificate of Approval from the Kentucky State Commission for Proprietary Education, if required by KRS Chapter 165A or proof that the applicant is exempt from licensure;

(4) A syllabus of all courses that will be offered, which shall include the physical location of each laboratory and field training portion of the courses;

(5) A list of all course instructors;

(6) A copy of each brochure used to advertise the courses; and

(7) A sample of the official transcript.

Section 2. Renewals. A provider's approval shall expire every two (2) years. To renew its approval, each provider shall submit the application and fee required for initial approval.

Section 3. Required records. (1) Each provider shall maintain with respect to each course:

(a) The time, date, and place each course is completed;

(b) The name, address, and qualifications of each instructor who teaches any portion of the course and if each instructor has been approved by the board;

(c) The name and address of each person who registered for the course;

(d) The course syllabus used for each course; and

(e) The course evaluations.

(2) The provider shall issue to each person who successfully completes an approved course, a certificate of completion containing:

(a) The name of the attendee;

(b) The name of the provider;

(c) The course name;

(d) The course number;

(e) The date of the course; and

(f) The total number of contact hours successfully completed in each subject covered by the course.

(3) Each provider shall maintain its records for at least three (3) years after the completion of each course. These records shall be submitted to the board or its agents upon request.

(4) Each provider shall submit to the board, in writing, notice of any changes in the information provided in the initial registration of the provider. The notification shall be made within thirty (30) days following the date the change is effective.

Section 4. Qualifications of Course Instructors. (1) Each course instructor shall be qualified, by education or experience, to teach the course, or parts of a course, to which the instructor is assigned.

(2) Any person with a four (4) year college degree or graduate degree, with at least two (2) years of work experience in that field, shall be qualified to teach a preclicensing course in that person's field of study.

(3) To qualify as an instructor based on experience, an individual shall:

(a) Be licensed and have actively practiced for at least five (5) years as a home inspector; or

(b) Have five (5) years of experience in a related field of home inspection or the building sciences.

(4) A licensee whose license is suspended or revoked as a result of board discipline shall not teach or serve as a course instructor during the time the license is suspended or revoked.

(5) A course provider may request prior approval by the board regarding the qualifications of a particular instructor for a particular course.

Section 5. Course Syllabus. (1) Each course shall have a course syllabus that identifies:

(a) The name of the course;

(b) The number of the course assigned by the board;

(c) The name and address of the provider;

(d) A description or outline of the contents of the course; and

(e) The location of each course component.

(2) Each person who registers for a course shall be given the course syllabus prior to the beginning of the course.

Section 6. Course Advertising. (1) A provider shall not advertise a course as approved until the approval is granted by the board.

(2) A provider shall not include any false or misleading information regarding the contents, instructors, location of classrooms or laboratory courses, or number of contact hours of any course approved under this administrative regulation.

(3) A provider shall include its provider number and course numbers in all advertising.

Section 7. Incorporation by Reference. (1) "Application for Pre-Licensing Course Provider~~[Preclicensing Course Provider Application]~~", Form KBHI 3, 10/2015~~[11/2014]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Home Inspectors, Division of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM CHANDLER, Board Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2016, at 9:00 a.m. Eastern Time at the Office of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky. 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.

VOLUME 42, NUMBER 7 – JANUARY 1, 2016

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 close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Megan Woodson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application process for the Board to approve pre-licensing courses.

(b) The necessity of this administrative regulation: The necessity of this regulation is to provide guidance to applicants who wish to provide pre-licensing courses in home inspection.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is given the authority to promulgate administrative regulations per KRS 198.706.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation specifies the documents required to be submitted with the application and also notifies applicants that they must also apply with the Kentucky Board of Proprietary Education to operate a school.

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

(a) How the amendment will change this existing administrative regulation: The amendment changes the existing pre-licensing provider application to correct clerical mistakes, remove the requirements for a surety bond, and reference the correct provisions of the regulations.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the form so an applicant to be a prelicensing provider is not obtaining unnecessary bonds and referencing the correct law of what is required to be submitted as part of the application.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to KRS 198B.706 by detailing the application process for Board approval of pre-licensing courses.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide the board with a form to be completed by a prelicensing course provider which provides the board will required information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently there are approximately five board approved pre-licensing course providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with the administrative regulation or amendment: Applicants will have to submit the new application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No new fees are associated with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A pre-license course provider will provide specific information detailed in the updated form to obtain approval to provide the course.

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

(a) Initially: Costs to implement this administrative regulation

will be minimal, mainly consisting of the cost to make copies of the revised application form.

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

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation directly impacts the Kentucky Board of Home Inspectors and Office of Occupations and Professions, which provides administrative services to the Kentucky Board of Home Inspectors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.706(1)(a) and 198B.712(2)(c)

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will generate any new revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will generate any new revenue.

(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

PUBLIC PROTECTION CABINET Office of Occupations and Professions Board of Home Inspectors (Amendment)

815 KAR 6:080. Continuing education provider.

RELATES TO: KRS 198B.712, 198B.722, 198B.724

STATUTORY AUTHORITY: KRS 198B.706(15), 198B.712(3)(c), 198B.724

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for continuing education. KRS 198B.724 requires the board to establish continuing education requirements. This administrative regulation establishes the procedures for being approved as a continuing education provider.

Section 1. Preapproval of Continuing Education Hours. (1) An entity seeking to obtain approval of a continuing education course prior to its offering shall submit a Continuing Education – Provider Application to the board at least thirty (30) days prior to the next regularly scheduled board meeting and provide:

(a) A completed Continuing Education – Course Application, KBHI 5;

(b) A published course description;

(c) A copy of the course agenda indicating hours of education and breaks;

(d) The number of continuing education hours requested;

(e) The name and address of competent instructors, as documented by academic training, professional licensure or certification, or professionally recognized experience;

(f) An official certificate of completion; and

(g) A \$500 fee, which shall be a two (2) year course provider approval fee.

(2) The board shall approve continuing education courses that appropriately relate to the technical skills required of licensees, containing sufficient educational content to improve the quality of licensee performance and that comply with this administrative regulation.

(3) If a course is approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

(4) The board may approve a course for hours different than the provider's request.

Section 2. Duration of Approval. (1) Continuing education course approval shall be valid for two (2) years from date of issue if no substantial change is made in the course and the board has not imposed discipline upon the provider or its instructors.

(2) Substantial changes, such as a change in the agenda, published course description, or instructor, made in any course shall require a new approval of that course. A provider shall apply for course approval forty-five (45) days prior to the date of expiration of the original course approval.

Section 3. Denial of Application. A course that has been denied may be resubmitted to the board after adopting the suggested modifications provided by the board.

Section 4. Subsequent Approval of Continuing Education Course. A licensee may request approval for continuing education activities not approved by the board. The request shall be as set forth in Section 1 of this administrative regulation. The licensee shall submit documentation of attendance and participation in the form of official documents, including transcripts, certificates, affidavits signed by instructors, and receipts for fees paid to the provider, for the board to review.

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

(a) "Application for Continuing Education Course[-] Provider[Application]", Form KBHI 4, 10/2015[11/2014]; and

(b) "Application for Continuing Education Course[Application]", Form KBHI 5, 10/2015[11/2014].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JIM CHANDLER, Board Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2016, at 9:00 a.m. Eastern Time at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky. 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 close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Megan Woodson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation creates a regulation specific to continuing education providers only. It was dissected from 815 KAR 6:040, which also addresses pre-licensure providers. The regulation establishes the procedures the Board will follow to approve continuing education courses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to inform the public and potential continuing education providers of the process to obtain approval of continuing education courses, which licensees are required to obtain annually.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation establishes the application process for approval of a continuing education course.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation lists the information that must be submitted to the board for approval of a continuing education course and sets deadlines for submission that coordinate with monthly board meetings.

(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 has no substantive change to the regulation. It corrects clerical mistakes found during a review of the application.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to correct clerical mistakes and refer to appropriate regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to KRS 198B.706(1) delegating the Board with the authority to prescribe which forms are required to be submitted.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide continuing education course providers with prescribed forms to be completed to obtain Board approval as a provider and a course.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 382 licensed home inspectors, six precicensing providers, and five continuing education providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with the administrative regulation or amendment: Providers will have to submit the new applications rather than the older application which contain the clerical mistakes.

(b) In complying with this administrative regulation or

amendment, how much will it cost each of the entities identified in question (3): The amendment does not create any new fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees are assured continuing education courses received from the listed associations will be accepted by the board. Also, licensees will have the opportunity to receive post-approval for continuing education courses they have already attended.

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

(a) Initially: The cost to implement this regulation is minimal and consists of the cost of making copies of the application.

(b) On a continuing basis: Minimal.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: The prior version of the regulation established a fee for course approvals to be twenty-five (\$25) dollars per class, per date offered, not to exceed \$250 in course approval fees in any one (1) year. The amended regulation requires a single fee of \$500 for a two-year approval of a continuing education provider. There is not a separate fee per class or per date.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not create any new fees.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation directly impacts the Kentucky Board of Home Inspectors and the Office of Occupations and Professions, which provides administrative services to the Kentucky Board of Home Inspectors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.724

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 effected by the 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? N/A.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? See 3(a) above

(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? See 3(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

PUBLIC PROTECTION CABINET Office of Occupations and Professions Board of Home Inspectors (Amendment)

815 KAR 6:090. Procedures for complaints and administrative hearings.

RELATES TO: KRS 198B.706(3), (4), (12), 198B.712, 198B.722, 198B.728, 198B.730

STATUTORY AUTHORITY: KRS 198B.706(1), (3), (12), (15)
NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(4) requires the board to investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738, and, if appropriate, take action in accordance with KRS 198B.728 and 198B.730. KRS 198B.730(1) requires the board to schedule and conduct an administrative hearing in accordance with the provisions of KRS Chapter 13B. KRS 411.272(2) requires KRS 411.270 to 411.282 to prevail over any conflicting law otherwise applicable to any action, claim or cause of action against a home inspector, with specified exceptions. KRS 198B.728 requires the board to take disciplinary actions against or impose sanctions on a licensee for failing to comply with any provision of KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738. KRS 198B.706(1) requires the board to find the requirements for and prescribe the form of documents that are required by KRS 198B.700 to 198B.738. KRS 198B.706(15) requires the board to promulgate administrative regulations to carry out the requirements of KRS 198B.700 to 198B.738. This administrative regulation establishes supplemental administrative hearing procedures for matters before the commission and the required forms for a complaint or answer.

Section 1. Complaint Screening Committee. (1) The committee shall consist of three (3) board members, appointed by the chair of the board to:

- (a) Review complaints and investigative reports;
 - (b) Participate in informal proceedings to resolve formal complaints; and
 - (c) Make recommendations for disposition of complaints to the full board.
- (2) The committee may be assisted by the board staff and counsel to the board.

Section 2. Complaint Process and Disciplinary Action Against a Licensee. (1) The board may investigate complaints related to violations of this administrative regulation and may:

- (a) Deny issuance of a license;
- (b) Refuse to renew a license;
- (c) Refuse to reinstate a license;
- (d) Establish probation of a licensee;
- (e) Suspend a license;
- (f) Revoke a license;
- (g) Issue a public or private written reprimand; or
- (h) Subject the licensee to a combination of one (1) or more penalties established in paragraphs (a) through (g) of this subsection.

(2) A complaint may be initiated by the board, an individual, an entity, or any governmental agency. It shall be completed on a Complaint Form, KBHI-7, and shall:

- (a) State the basis of the complaint fully and concisely, including the name of the person who the complaint is against;
- (b) Include any documentation in support of the complaint; and
- (c) If the complaint is initiated by the public, be notarized by a notary public.

(3) A copy of the initiating complaint shall be mailed to the licensee to his or her last known address on file with the board. The licensee shall file a written response to the initiating complaint with the board within twenty-one (21) days of the date on which the initiating complaint was mailed. The written response shall:

- (a) Identify the respondent;
- (b) State his or her response to the complaint;
- (c) Include any documentation in dispute of the complaint;
- (d) If applicable, state if he or she proposes to inspect the residence that is the subject of the claim and to complete the inspection within twenty-one (21) calendar days of the date on which the initiating complaint was mailed. Any proposal shall include the statement that the home inspector shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim; offer to compromise and settle the claim by monetary payment without inspection; or state that the home inspector disputes the claim; and
- (e) Be notarized by a notary public.

(4) Once the written response is received, the complaint screening committee shall review the case. The committee shall report the committee's findings and recommendations to the board. The board shall:

(a) Dismiss the complaint and notify the person making the complaint and the licensee that no further action shall be taken at the present time;

(b) Find an investigation is warranted; or

(c) Find a violation of a provision of KRS 198B.700 to 198B.738 or 815 KAR Chapter 6 and issue notice of disciplinary action to the licensee.

(5)(a) The board may appoint any of its members or any agent or representative of the board to conduct an investigation of the complaint.

(b) Upon the completion of the investigation, the person or persons making that investigation shall submit a written report to the board containing a succinct statement of the facts disclosed by the investigation.

(c) Based on consideration of the complaint and the investigative report, if any, the board shall find if there has been a prima facie violation of a provision of KRS 198B.700 to 198B.738 or 815 KAR Chapter 6.

(d) If the investigator is a member of the board, he or she shall not vote.

(e) If it is found that the facts alleged in the initiating complaint or investigative report do not constitute a prima facie violation of the statutes or administrative regulations, the board shall notify the person making the complaint and the licensee that no further action shall be taken at the present time.

(6) If it is found that there is a prima facie violation of a provision of KRS 198B.700 to 198B.738 or 815 KAR Chapter 6, the board shall issue written notice of disciplinary action sent to the licensee's address on file with the board and inform the licensee:

(a) Of the specific reason for the board's action, including:

- 1. The statutory or regulatory violation; and
 - 2. The factual basis on which the disciplinary action is based;
- (b) Of the penalty imposed; and

(c) That the licensee may appeal the penalty to the board within twenty (20) calendar days of the date of the board's notice.

(7) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(8) If the request for an appeal is not timely filed, the notice of disciplinary action shall be effective upon the expiration of the time for the licensee to request an appeal.

(9) A complaint initiated by the public shall be filed within one (1) year of the date the complainant knew or should have known of a violation of a provision of KRS 198B.700 to 198B.738 or a provision of 815 KAR Chapter 6 by the licensee.

(10) The complainant may withdraw a complaint, and thereby render the complaint null, void, and without effect, if:

(a) An answer has not been filed in accordance with this section;

(b) The withdrawal is made within twenty (20) days of the date the complaint was filed; or

(c) There is good cause for the withdrawal and the board approves the withdrawal.

(11) A complaint that has been dismissed shall not be refiled or

reheard.

Section 3. Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may, at any time during the complaint process established in Section 2 of this administrative regulation, enter into informal proceedings with the licensee who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 4. Disciplinary Action Against a Prelicensing Provider or Continuing Educational Provider. (1) The board may deny, suspend, probate, or revoke the registration of any prelicensing course provider for:

(a) Obtaining or attempting to obtain registration or approval through fraud, deceit, false statements, or misrepresentation;

(b) Failing to provide complete and accurate information in the initial registration or in any notification of change in information;

(c) Failing to timely notify the board of a change in the information required for registration of the provider;

(d) Falsifying of any records regarding the courses conducted by the provider or the persons who attended the courses offered;

(e) Failing to maintain any required records regarding course offerings conducted by the provider or the persons who attended the course;

(f) Failing to adequately train the staff responsible for taking attendance at any approved course;

(g) Failing to provide the board with copies of any document or other information required to be maintained by the provider pursuant to this administrative regulation;

(h) Advertising that a provider has been approved by the board prior to the date the approval is granted;

(i) Failing to include provider and course numbers in advertisements;

(j) Failing to maintain a record of instructors;

(k) Failing to resolve attendance reporting problems; or

(l) Failing to comply with any other duty established for providers in 815 KAR 6:040 or 815 KAR 6:080.

(2) The board shall issue written notice of disciplinary action sent to the prelicensing course or continuing educational provider's address on file with the board and inform the provider:

(a) Of the specific reason for the board's action, including:

- 1. The statutory or regulatory violation; and
 - 2. The factual basis on which the disciplinary action is based;
- (b) Of the disciplinary action being taken by the board; and

(c) That the provider may appeal the disciplinary action to the board within ten (10) calendar days of the date of the board's notice.

(3) A written request for an administrative hearing shall be postmarked to the board within ten (10) calendar days of the date of the board's notice.

(4) If the request for an appeal is not timely filed, the notice of disciplinary action shall be effective upon the expiration of the time for the licensee to request an appeal.

(5) A provider whose registration has been revoked shall not reapply for registration for two (2) years from the date of revocation.

Section 5. Right of Appeal from a Denial of or Refusal to Renew or Reinstate a License. (1) The board shall issue written notice of the denial informing the applicant:

(a) Of the specific reason for the board's action, including:

- 1. The statutory or regulatory violation; and
- 2. The factual basis on which the denial is based; and

(b) That the applicant may appeal the pending denial to the board within twenty (20) calendar days after receipt of this notification, excluding the day he or she receives notice.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the

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board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an appeal is not timely filed, the notice of denial shall be effective upon the expiration of the time for the certificate holder to request an appeal.

Section 6. Revocation of Probation. (1) If the board moves to revoke probation, the board shall issue written notice of the revocation and inform the probationee:

(a) Of the factual basis on which the revocation is based;

(b) Of each probation term violated; and

(c) That the probationee may appeal the revocation to the board within twenty (20) calendar days of the date of notification of revocation. The notification shall be sent to the last known address on file with the board for the certificate holder.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an appeal is not timely filed, the notice of revocation shall be effective upon the expiration of the time for the certificate holder to request an appeal.

Section 7. Summary Suspension. The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

Section 8. Unauthorized Practice and Claims. (1) On the written complaint of any person, submitted to the board on board-approved forms that require notarized statements sworn under the penalties of perjury, as set out in Section 1 of this administrative regulation, the board shall investigate the actions of any person who acts, or is believed to have acted, in the capacity of a licensee or who engages in activities for which a home inspector license is required, as set forth in KRS 198B.712, or who is believed to have engaged in prohibited activities specified in KRS 198B.732, if the complaint, together with any evidence presented in connection with it, alleges a case that a prima facie violation of KRS 198B.712 or 198B.732 has been committed.

(2) If the board:

(a) Determines that an individual is not licensed under KRS 198B.700 to 198B.738 and is engaged in or believed to be engaged in activities for which a license is required under KRS 198B.700 to 198B.738, the board shall issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from the activities. The show cause order shall set forth a date, time, and place for a hearing at which the individual shall appear and show cause why the individual should not be subject to inspector licensing under KRS 198B.700 to 198B.738;

(b) After a hearing, determines that the activities in which the individual is engaged are subject to licensing under KRS 198B.700 to 198B.738, the board may issue a cease and desist order that identifies the individual and describes activities that are the subject of the order.

Section 9. Cease and Desist Orders. A cease and desist order issued under this section shall be enforceable in the circuit court of the county where the board's office is located, the circuit court of the county where the violation occurred, or any other circuit court of the commonwealth.

Section 10. Any request for an administrative hearing shall be sent to the Board of Home Inspectors by mail to P.O. Box 1360, Frankfort, Kentucky 40602 or by delivery to 911 Leawood Drive, Frankfort, Kentucky 40601.

Section 11.[8.] Each appeal shall be governed in accordance with KRS Chapter 13B.

Section 12.[9.] Each appeal shall be limited to the specific issues in dispute identified in the request for an administrative hearing.

Section 13.[40.] Incorporation by Reference. (1) "Complaint Form", Form KBHI 7, 7/2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Home Inspectors, 911 Leawood Drive, Frankfort, Kentucky, phone (502) 564-3296, Monday through Friday, 8:30 a.m. to 5 p.m.

JIM CHANDLER, Board Chair

APPROVED BY AGENCY: December 15, 2015

FILED WITH LRC: December 15, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2016, at 9:00 a.m. Eastern Time at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky. 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 close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Megan Woodson, Board Administrator, Kentucky Board of Home Inspectors, Division of Occupations and Professions, 911 Leawood Drive, P. O. Box 1360, Frankfort, Kentucky 40601, phone (502) 782-8816, fax (502) 696-3842.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Megan Woodson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedural guidelines for board hearings and the processing of complaints against licensees.

(b) The necessity of this administrative regulation: The necessity of this regulation is to allow for disciplinary action to be taken against a licensee and ensure that licensees are placed on notice as to the proper guidelines and process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.706 gives the board authority to promulgate regulations regarding the practice of home inspections. KRS 198B.706(3) authorizes the board to issue or deny applications for licensure and renewal. KRS 198B.706(12) authorizes the board to discipline licensees for violation of law regarding the practice of home inspections. KRS 198B.730 authorizes the board to hold disciplinary hearings, issue emergency suspensions, and prosecute persons not licensed who engage in the practice of home inspections.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which summary suspensions, disciplinary action, and cease and desist orders are taken.

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

(a) How the amendment will change the existing administrative regulation: The amendment provides: (i) a procedure for an individual to withdraw complaints; (ii) a procedure for summary suspensions; (iii) a procedure for individuals engaged in the unauthorized practice of home inspections; and (iv) a procedure for the issuance of cease and desist orders.

(b) The necessity of the amendment to this administrative regulation: The board has no established procedure for allowing an individual to withdraw a complaint and believes one is necessary to maintain consistency. The other procedures are required because the board has had issues with addressing individuals engaged in the unauthorized practice of home inspections.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.706 gives the board authority to regulate the practice of home inspections and enforce the administrative regulations of the board. It also gives the board the authority to cause the prosecution of persons violating the administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which disciplinary action is taken against a licensee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 382 licensed home inspectors, six prelicensing providers, and five continuing education providers.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulation informs a complainant seeking to withdraw a complaint what the timeline and procedure to do so without seeking approval of the board.

(b) In complying with this administrative regulation or amendment, how much will it cost for each of the entities: The cost of the entities will vary depending on the nature of the administrative action, length and complexity.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The benefit is that those effected will know the procedures and rights which should reduce legal costs for cases.

(5) Estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The amendment to the regulation should reduce costs by allowing individuals to withdraw a complaint without board approval and establish procedures that would reduce the costs associated with the prosecution of persons engaged in the unlawful practice of home inspections.

(b) On a continuing basis: See above.

(6) The source of funding for the implementation and enforcement of this administrative regulation: The board is funded strictly from fees paid by applicants and licensees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: No increase in fees will be necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire boards, or school districts) will be impacted by this administrative regulation? This administrative regulation directly impacts the Kentucky Board of Home Inspectors and Office of Occupations and Professions, which provides administrative services to the Kentucky Board of Home Inspectors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 198B.706(1)(a), KRS 198B.706(3), KRS 198B.706(4), KRS 198B.706(8), KRS 198B.706(12), KRS

198B.728, and KRS 198B.730.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire boards, 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 boards, or school districts) for the first year? This regulation will generate approximately \$500 in revenue, which is a decrease from the current amount.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire boards, or school districts) for subsequent years? This regulation will generate approximately \$500 in revenue, which is a decrease from the current amount.

(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

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

902 KAR 20:275. Mobile health services.

RELATES TO: KRS 216B.010-216B.131, 216B.990

STATUTORY AUTHORITY: KRS 216B.042[, 314.011(8), EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the minimum licensure requirements for the operation of and services provided by mobile health services. The administrative regulation establishing standards for mobile health services, 902 KAR 20:270, was found deficient by the Interim Joint Committee on Health and Welfare at its November 15, 1995, meeting. The finding of deficiency resulted from the lack of guidelines to coordinate the relationship between home IV therapy service and home health agencies. Legislation to establish such guidelines was not enacted during the 1996 Regular Session of the General Assembly. Therefore, pursuant to KRS 13A.333(1), 902 KAR 20:270 expired. KRS 216B.042 requires the cabinet to establish standards for health facilities and services, and authorizes it to promulgate administrative regulations. Without an administrative regulation establishing standards for mobile health services, the cabinet would be in violation of the legislative mandate expressed in KRS 216B.042. KRS 13A.333(6) prohibits an administrative body from promulgating an administrative regulation that is identical to or substantially the same as an administrative regulation that has expired. This administrative regulation is not identical to or substantially the same as 902 KAR 20:270, because:

(1) Only the lack of guidelines to coordinate the relationship between home IV therapy services and home health services was found deficient;

(2) This administrative regulation includes guidelines to coordinate the relationship between home IV therapy service and home health agencies; and

(3) It is required by the legislative mandate of KRS 216B.042.

Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector

General and its programs under the Cabinet for Health Services].

Section 1. Definitions. (1) ~~"Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:040 to 105:070 as an operator of sources of radiation.~~

(2) "Computed tomography (CT) scanning" means a radiological diagnostic imaging procedure that shows cross sectional images of internal body structures.

(2)(3) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation[,] in which the ultimate responsibility and authority for the conduct of the institution is vested.

(3)(4) "IV therapy" means the administration, by a registered nurse under the supervision of a licensed physician, of various pharmaceutical and nutritional products by intravenous, subcutaneous, or epidural routes.

(4)(5) "IV therapy service" means pharmaceutical and nursing services, including direct hands-on care, limited to and necessary for the:

(a) Preparation, dispensing, and delivery of pharmaceutical and nutritional products and equipment; and

(b) Related clinical consultation, training, and assessment or care incidental to initial start-up of IV therapy.

(5)(6) "License" means an authorization issued by the cabinet for the purpose of operating mobile health services.

(6)(7) "Lithotripter" means a noninvasive treatment technique that utilizes shock waves to shatter kidney stones.

(7)(8) "Magnetic resonance imaging (MRI)" means a diagnostic imaging modality which utilizes magnetic resonance, an interaction between atoms and electromagnetic fields, to project images of internal body structures.

(8)(9) "Other diagnostic and treatment services" means those health services which are determined to require licensure pursuant to KRS 216B.042 as a mobile health service.

(9) "Positron emission tomography (PET) scanning" means an imaging procedure that uses a radioactive substance to reveal how organs and tissues are working.

(10) "Qualified anesthesiologist" means a person who:

(a) Is a doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery;

(b) ~~and who~~ Is board certified or in the process of being certified by the American Board of Anesthesiology or the American Osteopathic Board of Surgery; and

(c) ~~who otherwise~~ Meets the criteria established by the mobile health service's governing authority.

(11) "Qualified urologist" means a person who:

(a) Is a doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery;

(b) ~~and who~~ Is board certified or is in the process of being certified by the American Board of Urology or the American Osteopathic Board of Surgery; and

(c) ~~who otherwise~~ Meets criteria established by the mobile health service's governing authority.

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

(13) "Therapy practice" means a practice:

(a) That does not meet the licensure exemption criteria of KRS 216B.020(2); and

(b) Employs, directly or by contract, at least one (1) or any combination of the following practitioners:

1. Occupational therapists and occupational therapy assistants licensed pursuant to KRS Chapter 319A;

2. Physical therapists and physical therapy assistants licensed or certified pursuant to KRS Chapter 327; or

3. Speech-language pathologists and speech language pathology assistants licensed pursuant to KRS Chapter 334A[means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041].

Section 2. Scope of Operation and Services. (1) Mobile health services:

(a) Provide medical services in various locations, which may include settings such as the office of the licensee, a health facility licensed under KRS Chapter 216B, or a home- or community-

based setting; and

(b) May[~~in some instances~~] utilize a specially equipped vehicle, including[such as] a:

1. Van;

2. [~~]~~ Trailer; or

3. Mobile home.

(2) A mobile health service does not include a private office or entity exempt from licensure pursuant to KRS 216B.020(2).

(3) Mobile health[These] services include:

(a) Mobile diagnostic imaging and examination services; or

(b) [~~]~~ Mobile treatment services.

(4) Mobile health services may be:

(a) [~~and any other medical or dental services~~] Provided through the use of a mobile vehicle; or

(b) Performed at various locations.

Section 3. Administration. (1) Licensee.

(a) The licensee shall be legally responsible for:

1. All activities of the mobile health service; and

2. [the service and for] Compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the service, limited to the scope of the service's certificate of need.

(b) The licensee shall:

1. Establish lines of authority; and

2. Designate an administrator who shall[will] be principally responsible for the daily operation of the service.

(2) If a mobile health service's[In the case of a service whose] governing authority is comprised of more than one (1) licensed hospital, a separate administrator may be designated from each hospital to serve as[the] administrator during the time in which services are[of the service when it is being] provided at the hospital where the designee is employed.

(3)(2) Policies. A mobile health service shall establish and follow[There shall be] written administrative policies[which the service follows] covering all aspects of operation, including:

(a) A description of organizational structure, staffing, and allocation of responsibility and accountability;

(b) [A description of linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performances;

(c)(d) A written program narrative describing in detail each service[the service(s)] offered, methods and protocols for service delivery, qualifications of personnel involved in the delivery of the services, and goals of each service[the service(s)];

(d)(e) A description of the administrative and patient care records and reports; and

(e)(f) Procedures to be followed if the licensee performs any functions related to[~~in~~] the storage, handling, and administration of drugs and biologicals.

(4)(3) Personnel.

(a) Medical director. Except for a therapy practice or entity that is licensed pursuant to this administrative regulation to provide only therapy services, the mobile health service shall have a medical director who[~~The medical director~~] shall be a licensed physician or dentist with specialized training and experience in, and responsibility for[~~]~~ all medical or dental aspects of the service.

(b) A mobile health service shall be exempt from paragraph (a) of this subsection if:

1. The[In the case of a service whose governing authority is comprised of more than one (1) licensed hospital, a separate medical director may be designated from each hospital's medical staff to serve as the medical director of the service when it is being provided at the hospital where the physician is on staff. If a] service operates only diagnostic examination equipment;

2. [~~and if~~] The service is offered only to licensed hospitals[~~]~~ and

3. Personnel make[if the employees of the service makes] no medical assessment of the diagnostic patient data collected[~~then the service shall be exempt from the requirements of this paragraph~~].

(5) A mobile health[~~(b) The~~] service shall employ[~~]~~ or contract with a[~~provide for through a written contractual agreement~~].

sufficient number of qualified personnel to provide effective patient care and all other related services.

(6) The licensee shall provide written personnel policies, which shall:

- (a) Be available to each employee;
- (b) Be [all employees,] reviewed on an annual basis;
- (c) Be [and] revised as necessary; and
- (d) Contain a job description for each position subject to review and revision as necessary.

(7) The licensee shall maintain [If the staff-to-patient ratio does not meet the needs of the patients, the Division of Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.]

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) There shall be an employee health program for mutual protection of employees and patients including provisions for preemployment and periodic health examination, tuberculin test, and other appropriate tests.

(e) current personnel records [shall be maintained] for each employee that shall contain [which include] the following:

- (a) [4.] Name and [.] address and Social Security number;
- (b) [2.] Evidence of current registration, certification, or professional licensure [of personnel];
- (c) Documentation [3. Records] of training and experience;
- (d) [and 4. Records of] Performance evaluations; and
- (e) Record of pre-employment and regular health exams related to employment [evaluation].

(8) [(4)] In-service training. [All] Personnel shall attend [participate in ongoing in-service] training programs relating to their respective job activities. The training programs shall include:

- (a) [including] Thorough job orientation for new employees; and
- (b) In-service training programs, emphasizing competence and professionalism necessary for effective health care.

(9) [(5)] Medical records.

(a) The licensee [service] shall maintain medical records that [which] contain [at least] the following:

1. Medical and social history relevant to each service [the service(s)] provided, including data obtained [obtainable] from other providers;

2. [Names of referring physician, if any, and] Physician's orders if an order is required for a specific diagnostic service [for special diagnostic services such as x-ray or CT scans];

3. Description of each medical visit or contact, including a description of the:

- a. [to include] Condition or reason for the [necessitating] visit or contact;
- b. [.] Assessment;
- c. Diagnosis;
- d. [.] Services provided;
- e. If applicable, medications and treatments prescribed; [.] and
- f. Disposition made;

4. Reports of all physical examinations, laboratory, x-ray, and other test findings related to each service [relevant to the service(s)] provided; and

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

(b) Ownership.

1. Medical records shall be the property of the mobile health service.

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

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

(c) Confidentiality and security: use and disclosure.

1. The mobile health service shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as

amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

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

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

(d) [Confidentiality of all patient records shall be maintained at all times. (c)] Transfer of records. The licensee [service] shall:

- 1. Establish systematic procedures to assist in continuity of care [if/where] the patient moves to another source of care; [.] and
- 2. Upon proper release, [the service shall, upon proper release,] transfer medical records or an abstract [if/thereof when] requested.

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

- 1. Six (6) [five (5)] years; or
- 2. If [in case of] a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest [longer].

(f) Mammography and other radiology records shall be retained in accordance with federal requirements.

(g) [(e)] A specific location shall be designated by the mobile health service for the maintenance and storage of the service's medical records.

(h) The licensee shall have [(f)] provisions for the storage of medical records [if/in the event] the mobile health service ceases to operate because of disaster [.] or for any other reason.

(i) The licensee shall safeguard the record and its content against loss, defacement, and tampering.

(j) If a therapy practice licensed pursuant to this administrative regulation provides physical therapy, occupational therapy, or speech pathology services under a contractual agreement with another facility or service licensed under 902 KAR Chapter 20, the therapy practice shall:

- 1. Be exempt from the requirements of this subsection; and
- 2. Demonstrate compliance with Section 5(3)(d)1.d. and Section 5(3)(d)3. of this administrative regulation.

(10) Kentucky Health Information Exchange (KHIE).

(a) A mobile health service shall participate in the KHIE pursuant to the requirements of 900 KAR 9:010.

(b) If a mobile health service has not implemented a certified electronic health record, the service may meet the requirement of paragraph (a) of this subsection by participating in the direct secure messaging service provided by KHIE.

Section 4. Requirements for any Vehicle that a Patient Enters for Diagnostic or Treatment Services [Vehicle Requirements]. (1) A vehicle used for the delivery of medical or dental services [All vehicles used in the provision of a health service, as provided by the service's certificate of need,] shall be kept [.] in optimum order with clean interiors and equipment.

(2) The following standards shall apply only to a vehicle in [these vehicles] which the patient enters; [.]

(a) There shall be adequate heating and air-conditioning capability in both the driver and patient compartments; [.]

(b) There shall be a minimum of two (2) potential power sources for the vehicle;

(c) [.] To insure an immediately available source of power [if/in the event of] a power failure occurs, one (1) power source shall [must] be self-contained on the vehicle, and [.] the other source shall [must] be an exterior source of power hookup;

(d) [.] (e) The vehicle shall be accessible to users with disabilities [either] through the use of a wheelchair lift or a ramp that [which] complies with applicable American National Standards Institute (ANSI) requirements; and

(e) [.] (d) The vehicle shall have adequate and safe space for staff and examination procedures.

~~(3)[, as determined by the cabinet. (e)]~~ Equipment. A vehicle used for the delivery of health services~~Vehicles used in the provision of a health service, as provided by the service's certificate of need,~~ shall have the following essential equipment:

- ~~(a)[1-]~~ One (1) five (5) pound dry chemical fire extinguisher;
- ~~(b)[2-]~~ One (1) first aid kit;
- ~~(c)[3-]~~ Suction apparatus; and
- ~~(d)[4-]~~ Oxygen equipment (portable), including:
 - ~~1.[a-]~~ One (1) "D" size oxygen cylinder;
 - ~~2.[b-]~~ One (1) pressure gauge and flow rate regulator;
 - ~~3.[c-]~~ Adaptor and tubing; and
 - ~~4.[d-]~~ Transparent masks for adults and children. Nasal cannulas may be substituted.

~~(4)[(f)]~~ Personnel. Each mobile health service vehicle shall~~at a minimum~~ be staffed by at least one (1) person[,] who may~~also~~ be the driver of the vehicle and[, who] shall have the following qualifications:

- ~~(a)[1-]~~ Red Cross Advanced and Emergency Care Certification, each with supplemental CPR instruction certified by the American Red Cross or the American Heart Association;
- ~~(b)[or 2-]~~ EMT-first responder certification;
- ~~(c)[or 3-]~~ EMT-A certification; or
- ~~(d)[4-]~~ Licensure as a registered nurse, physician, or dentist.

Section 5. Requirements for Provision of Services; Diagnostic Services and Treatment Services. (1) Unless an exemption applies, a licensed mobile health service shall comply with the:

~~(a)~~ Requirements listed in Sections 3, 4, and 6 of this administrative regulation;

~~(b)[, the]~~ Service's program narrative;[, and]

~~(c)~~ ~~the~~ Additional requirements of this section that[which] relate to the particular service[service(s)] offered by the licensee.

~~(2)[(4)]~~ Diagnostic services. Diagnostic services ~~are~~these services which are performed to ascertain and assess an individual's physical health condition.

(a) Diagnostic services, except for mammography services, shall be performed only on the order of a physician or advanced practice registered nurse as authorized in KRS 314.011(8).

(b) The licensee~~[service]~~ shall prepare a record for each patient that includes the following:

- ~~1.[to include the]~~ Date of the procedure;
- ~~2.[,]~~ Name of the patient;
- ~~3.[,]~~ Description of the procedures ordered and performed;
- ~~4.[,]~~ The referring physician;
- ~~5.[,]~~ The name of the person performing the procedure; and
- ~~6.[,]~~ The date and the name of the physician to whom the results were sent.

(c) Diagnostic imaging services.

1. Diagnostic imaging services ~~are~~these services which produce an image~~[, either]~~ through film or computer generated video~~[,]~~ of the internal structures of a patient. These services may include:

- a. X-ray;
- b. MRI;
- c. CT scanning;
- d. PET scanning;
- e. Ultrasound;
- ~~f.[e-]~~ Mammography;
- ~~g.[f-]~~ Fluoroscopy; and
- ~~h.[g-]~~ Other modalities using directed energy to gain statistical, physiological, or biological diagnostic imaging information.

2. A[any] mobile health service that[which] provides diagnostic imaging services shall comply with the following requirements:

a. Equipment used for direct patient care shall be fully approved by the Federal Food and Drug Administration (FDA) for clinical use;

b. There shall be a written preventive maintenance program, which the licensee~~[service]~~ follows to ensure that imaging equipment is:

- i. Operative;
- ii.~~[,]~~ Properly calibrated;[, and]
- iii. Shielded to protect the operator, patient, environment, and the integrity of the images produced;

~~c.[,]~~ Recalibration of radiation producing and nonradiation producing instrumentation shall occur at least every six (6) months by biomedical service personnel; and

~~d.[and]~~ Radiation producing instrumentation shall be recalibrated annually by a consulting health physicist.

~~3.[e-]~~ Diagnostic imaging services shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of the specific imaging technique for diagnostic purposes.

~~4.[, d-]~~ Imaging services shall have a current license or registration pursuant to applicable Kentucky statutes and any administrative regulations promulgated thereunder.

~~5.[, e- All]~~ Personnel engaged in the operation of imaging equipment shall be currently licensed or certified in accordance with applicable Kentucky statutes and administrative regulations.

~~6.[, f-]~~ There shall be a written training plan for personnel in the safe and proper usage of the mobile imaging equipment and system.

~~7.[, g-]~~ There shall be a physician's signed order that:

- ~~a.[which]~~ Specifies the reason the procedure is required;
- ~~b. Identifies[,]~~ the area of the body to be examined;[, and]
- ~~c. Documents[a statement concerning]~~ the condition of the patient.

~~8.[which indicates why mobile imaging services are necessary; and h-]~~ There shall be sufficiently trained on-duty personnel with adequate equipment to provide emergency resuscitation services if there is[in the event of] a patient emergency.

(d) Other diagnostic services.

1. Other diagnostic services ~~are~~these services which are provided through the use of diagnostic equipment~~[,]~~ and physical examination. These services may include:

- a. Electrocardiogram services;
- b. Electroencephalogram services;
- c. Holter monitor services;
- d. Disability determination services;
- e. Pulmonary function services;
- f. Aphresis services;
- g. Blood gas analysis services;
- h. Echosonography services; and
- i. Doppler services.

2. Equipment used for direct patient care shall comply with the following:

a. The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative and properly calibrated;

b. All personnel engaged in the operation of diagnostic equipment shall have adequate training and be currently licensed or certified in accordance with applicable Kentucky statutes and administrative regulations; and

c. There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

3. Physical examination services shall be nonabusive and provided in a manner that[which] ensures the greatest amount of safety and security for the patient.

a. Protocols for diagnostic examinations shall be developed by the medical director.

b. Personnel performing physical examinations shall:

- (i) Have adequate training; and
- (ii) Be currently licensed or certified in accordance with applicable Kentucky statutes and administrative regulations.

c. Personnel performing physical examinations shall be limited by the relevant scope of practice pursuant to his or her professional license to practice[of Kentucky licensure].

~~(3)[(2)]~~ Treatment services. Treatment services ~~are~~these services provided to a patient[an individual] who, because of a physical health condition, is in need of medical assistance for the attainment of his or her[their] maximum level of physical function.

(a) Mobile health clinic.

1. A mobile health clinic is a health service providing both diagnostic and treatment services through the use of a mobile vehicle that meets the requirements of Section 4 of this administrative regulation.

2. A mobile health clinic may provide a wide range of diagnostic and treatment services on an outpatient basis for a variety of physical health conditions.

3.[4.] Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes:

- a. One (1) or more physicians; and
- b. One (1) or more advanced practice registered nurses.

4. At least one (1) member of the group responsible for developing patient care policies shall not be a member of the mobile health clinic staff.

5. The policies shall include:

- a. A description of the services the mobile health clinic provides directly and those provided through agreement;
- b. Guidelines for the medical management of health problems, which include the conditions requiring medical consultation or[and/or] patient referral, and the maintenance of health records; and
- c. Procedures for review and evaluation of the services provided by the clinic at least annually.

6.[2.] Personnel. The mobile health clinic shall have a staff that includes:

- a. At least one (1) physician;
- b.[and] At least one (1) advanced practice registered nurse; and
- c.~~[- The clinic shall employ such]~~ Other staff or ancillary personnel that are necessary to provide the services essential to the clinic's operation.

7.[a.] The physician shall:

- a.~~[(i)]~~ Be responsible for all medical aspects of the clinic;
- b.~~[and shall]~~ Provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311;
- c.~~[- In addition, the physician shall]~~ Provide medical direction, supervision, and consultation to the staff;
- d.~~[(ii)]~~ In conjunction with the advanced practice registered nurse~~[- nurse(s)]~~, participate in developing, executing, and periodically reviewing the mobile health clinic's written policies and services;
- e. ~~[(iii)]~~ Periodically review the mobile health clinic's patient records, provide medical orders, and provide medical care services to patients of the mobile health clinic; and

f.~~[(iv)]~~ Be present for consultation weekly, and be available within one (1) hour, through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

8.[b.] The advanced practice registered nurse shall:

- a.~~[(i)]~~ Participate in the development, execution and periodic review of the written policies governing the services the mobile health clinic provides;
- b.~~[(ii)]~~ Participate with the physician in periodic review of patient health records;
- c.~~[(iii)]~~ Provide services in accordance with mobile health clinic policies, established protocols, the Nurse Practice Act (KRS Chapter 314), and with administrative regulations promulgated thereunder;
- d.~~[(iv)]~~ Arrange for, or refer patients to needed services not provided at the mobile health clinic; and
- e.~~[(v)]~~ Assure that adequate patient health records are maintained and transferred when patients are referred.

9.[3.] The mobile health clinic shall have linkage agreements or arrangements with each of the following:

- a. Inpatient hospital care;
- b. Physician services in a hospital, patient's home, or long-term care facility;
- c. Additional and specialized diagnostic and laboratory services that are not available at the mobile health clinic;
- d. Home health agency;
- e. Emergency medical services;
- f. Pharmacy services; and
- g. Local health department.

10.[4.] The mobile health clinic shall:

- a. Carry out[, or arrange for an annual evaluation of its total program; and
- b.~~[- shall]~~ Consider the findings of the evaluation[,] and take

corrective action, if necessary. The evaluation shall include:

(i)~~[-]~~ The utilization of clinic services including at least the number of patients served and the volume of services;

(ii)~~[-]~~ A representative sample of both active and closed clinical records; and

(iii)~~[-]~~ The mobile health clinic's health care policies.

11.[5.] The mobile health clinic shall develop and maintain written protocols that include~~[-, i.e.,]~~ standing orders, rules of practice, and medical directives that:

- a.~~[- which]~~ Apply to services provided by the clinic; and
- b.~~[- which]~~ Explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall:
 - (i)~~[- further]~~ Direct data analysis;
 - (ii)~~[-]~~ Direct explicit medical action depending upon the data collected;
 - (iii)~~[- and]~~ Include rationale for each decision made; and
 - (iv)~~[- The protocols shall]~~ Be signed by the staff physician.

12.[6.] The mobile health clinic staff shall furnish~~[these]~~ diagnostic and therapeutic services and supplies that are commonly furnished in a physician's office or at the entry point into the health care delivery system, including:

- a.~~[- These include]~~ Medical history;
- b.~~[-]~~ Physical examination;
- c.~~[-]~~ Assessment of health status;[, and
- d. Treatment for a variety of medical conditions.

13.[7.] The mobile health clinic shall provide basic laboratory services essential to the immediate diagnosis and treatment of the patient, including:

- a. Chemical examinations of urine by stick or tablet methods or both (including urine ketones);
- b. Microscopic examinations of urine sediment;
- c. Hemoglobin or hematocrit;
- d. Blood sugar;
- e. Gram stain;
- f. Examination of stool specimens for occult blood;
- g. Pregnancy tests;
- h. Primary culturing for transmittal to a hospital laboratory or licensed laboratory; and
- i. Test for pinworms.

14.[8.] The mobile health clinic shall:

- a. Provide medical emergency procedures as a first response to common life-threatening injuries and acute illness;[, and
- b. Have available the drugs and biologicals commonly used in lifesaving procedures, including:

- (i)~~[- such as]~~ Analgesics;
- (ii)~~[-]~~ Anesthetics (local);
- (iii)~~[-]~~ Antibiotics;
- (iv)~~[-]~~ Anticonvulsants;
- (v)~~[-]~~ Antidotes;
- (vi)~~[- and]~~ Emetics;
- (vii)~~[-]~~ Serums; and
- (viii) Toxoids.

15.[9.] The mobile health clinic shall post the following in a conspicuous area at the entrance, visible from the outside of the clinic:

- a.~~[-]~~ The hours that emergency medical services will be available in the clinic;
- b.~~[-]~~ The clinic's next scheduled visit; and
- c.~~[- and]~~ Where emergency medical services not provided by the clinic can be obtained during and after the clinic's regular scheduled visits and hours of operation.

(b) Mobile dental clinic.

1. A mobile dental clinic is a health service providing both diagnostic and dental treatment services at different locations through the use of a mobile vehicle or equipment.

2.[4.] Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes at least one (1) licensed dentist.

3. ~~The~~~~[These]~~ policies shall include:

- a. Guidelines that~~[- which]~~ identify~~[- the]~~ dental problems beyond the scope of services provided by the licensee;
- b.~~[- which may not be performed in the mobile unit, and]~~ Provisions for patient referral;

c.[b.-] Guidelines for the review and evaluation of the services provided by the clinic at least annually;

d.[and e.- Guidelines for] Procedures to be followed in the event a patient has a medical emergency; and

e. Guidelines for infection control.

4.[2.-] Personnel. The mobile dental clinic shall have a staff that includes at least:

a. One (1) licensed dentist; and

b.[at least] One (1) dental assistant.

5.[a.-] The dentist shall:

a.[(i)] Be responsible for all aspects of patient care in accordance with KRS Chapter 313 and any administrative regulations promulgated thereunder;

b.[(iii)] Be present in the clinic at all times that a patient is receiving dental care; and

c.[(iii)] Provide direct supervision to all staff involved in the delivery of services.

6.[b.-] The dental assistant shall:

a.[(i)] Provide services in accordance with;

(i) The mobile dental clinic policies and established protocols; and

(ii)[.-] KRS Chapter 313[.-] and any administrative regulations promulgated thereunder; and

b.[(iii)] Provide services only under the direct supervision of a licensed dentist.

7.[3.-] Equipment. The mobile dental clinics shall have the following equipment:

a. X-ray units;

b. Sterilizer;

c. High-speed suction;

d. Dental lights; and

e. Emergency kit with the following drug types:

(i) Antiallergenic;

(ii) Vasodilators;

(iii) Anticonvulsives; and

(iv) Vasopressors.

(c) Mobile lithotripter service.

1. A mobile lithotripter service is a health service which provides for a noninvasive technique for removing kidney or ureteral stones through the use of a lithotripter at various hospital locations.

2.[4.-] Mobile lithotripter services may only be delivered on the grounds of the hospital utilizing the mobile lithotripter service.

3.[2.-] Lithotripsy services shall be:

a. Performed only on the order of a physician; and

b.[.- 3.- Lithotripsy services shall be] Provided under the supervision of a physician who is qualified by advanced training and experience in the use of lithotripsy treatment.

4. The mobile lithotripter service shall prepare a record for each patient that includes the:

a.[to include the] Date of the procedure;

b.[.-] Name of the patient;

c.[.-] Description of the procedures ordered and performed;

d.[.- the] Referring physician[.-] and

e.[the] Name of the person performing the procedure.

5. There shall be a physician's signed order that[which] specifies the:

a. Reason the procedure is required;

b.[.- the] Area of the body to be exposed[.-] and

c.[the] Anticipated outcome of treatment.

6. Policies. A mobile lithotripter service shall develop patient care policies with the advice of a group of professional personnel that includes at least:

a. One (1) qualified urologist; and

b. One (1) qualified anesthetist.

7. At least one (1) member of the group responsible for developing patient care policies shall not be a member of the mobile lithotripter service staff.

8. The policies shall include:

a. A description of how a patient will be transported between the hospital and the mobile lithotripter service;

b. Procedures to be followed in the event a patient has a medical emergency;

c. Guidelines for the review and evaluation of the service on an annual basis; and

d. Policies and protocols governing the utilization and responsibilities of hospital staff in the delivery of lithotripter services.

9.[7.-] Personnel. The mobile lithotripter service shall:

a. Employ at least one (1) lithotripter technician[.-] and

b.[shall] Employ or make arrangements with the hospital utilizing the service for at least:

(i) One (1) registered nurse and[.-] one (1) qualified urologist to be present in the unit during the delivery of lithotripsy services[.-] and

(ii) One (1) qualified anesthetist to be available for procedures requiring anesthesia.

10.[8.-] Lithotripsy equipment used for direct patient care shall comply with the following:

a. Lithotripsy equipment shall be fully approved by the Federal Food and Drug Administration (FDA) for clinical use;

b. The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be:

(i) Operative;

(ii)[.-] Properly calibrated;

(iii)[.-] Properly shielded[.-] and

(iv) Safe for the patient, operator, and environment[.-]

11.[c.-] All personnel engaged in the operation of diagnostic equipment shall have adequate training and be currently licensed, certified, or registered in accordance with applicable Kentucky statutes and administrative regulations.

12.[.- and d.-] There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

13.[.- and e.-] There shall be sufficiently trained on-duty personnel with adequate equipment to provide emergency resuscitation in the event of a patient emergency.

(d) Therapy practices. A therapy practice licensed pursuant to this administrative regulation shall:

1. Develop patient care policies that:

a. Include a description of services provided directly or through an agreement;

b. Include guidelines for the medical management of health problems that include the conditions requiring medical consultation or patient referral;

d. Address clinical records;

e. Include procedures for review and evaluation of the services provided at least annually; and

f. Ensure that physical therapy, occupational therapy, and speech pathology services shall be provided within the professional scope of practice established in KRS Chapter 327, KRS Chapter 319A, and KRS Chapter 334A respectively;

2. Employ a sufficient number of qualified personnel pursuant to Section 3(5) of this administrative regulation;

3. Maintain a written plan of care for each patient that:

a. Indicates anticipated goals;

b. Specifies the type, amount, frequency, and duration of:

(i) Physical therapy;

(ii) Occupational therapy; or

(iii) Speech pathology;

c. Is established by the:

(i) Physical therapist who will provide physical therapy services;

(ii) Occupational therapist who will provide occupational therapy; or

(iii) Speech-language pathologist who will provide speech pathology services; and

4. Except for Section 3(4)(a) and if applicable, Section 3(9), demonstrate compliance with Section 2 and Section 3 of this administrative regulation in addition to the requirements of this paragraph. Section 4 and Section 6 of this administrative regulation, and subsection (2) through subsection (3)(a), (b), (c), and (e) of this section shall not apply to a therapy practice licensed pursuant to this administrative regulation.

(e)1. Other treatment services shall:

a. Be performed only on the order of a physician;

b. Demonstrate compliance with the policy, personnel, in-service training, and program evaluation requirements established in subparagraphs 4. through 11. of this paragraph; and

c. May include[—including] IV therapy services. If provided, [shall be performed only on the order of a physician. 4.] IV therapy shall:

(i) Only be performed by a registered nurse; and
(ii) [shall] Be limited to nursing services that[which] are required for the initial start-up of an IV therapy program.

2. If nursing services are required that[which] exceed the initial start-up of IV therapy, the services[they] shall be provided by an appropriately licensed agency to provide care under a physician's plan of care.

3. All services provided shall be under the supervision of a licensed physician.

4. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes at least:

a. One (1) physician; and
b. One registered nurse[or more physician(s) and one (1) or more registered nurse(s)].

5. At least one (1) member of the group responsible for developing patient care policies shall not be a member of the service's staff.

6. The policies shall include:

a. A description of the services provided;
 b. A requirement to inform patients of other in-home services which can be provided only by other appropriately licensed agencies;

c. A requirement for a written common plan for treatment and coordination of treatment with other licensed health care providers delivering services to[servicing] the patient[,—and] Immediate verbal communication between providers regarding[of] revisions to[ia] the common plan shall be documented in the plan of treatment;

d. Guidelines for the medical management of health problems, including:

(i)[which include] The conditions requiring medical consultation or patient referral;[, and

(ii)[The] Maintenance of health records;

e. Procedures for review and evaluation of the services provided at least annually; and

f. Guidelines for patient and environment assessment.

7.[5.] Personnel. The service shall have a staff that includes at least one (1) registered nurse.

8. The service shall employ[such] other staff or ancillary personnel that are necessary and essential to the service's operation.

9. The registered nurse shall:

a. Participate in the development, execution, and period review of the written policies governing the services provided;

b. Participate with the physician in periodic review of patient health records;

c. Provide services in accordance with established policies, protocols, the Nurse Practice Act (KRS Chapter 314), and with administrative regulations promulgated thereunder;

d. [(i)] Arrange for or refer patients to needed services that cannot be provided by the service; and

e. [(ii)] Assure that adequate patient health records are maintained and transferred when patients are referred.

10.[6.] In-service training programs shall include instruction in:

a. Use of equipment;
 b. Side effects and precautions of drugs and biologicals; and
 c. Infection control measures.

11.[7.] The service shall:

a. Carry out, or arrange for an annual evaluation of its total program;

b. [,—shall] Consider the findings of the evaluation;[, and

c. Take corrective action, if necessary. The evaluation shall include:

(i)[a.] The utilization of the service including[at least] the number of patients served and the volume of services;

(ii)[b.] A representative sample of both active and closed

records; and

(iii)[c.] The service's health care policies.

Section 6. Waste Processing. (1) Sharp wastes, including[such as] broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and placed in puncture-resistant[aggregated in rigid disposable] containers immediately after use.

(2) A needle or other contaminated sharp waste[Needles and syringes] shall not be recapped, purposefully bent, broken, or otherwise manipulated by hand as a means of disposal except as permitted by the Centers for Disease Control and the Occupational Safety and Health Administration guidelines at 29 C.F.R. 1910.1030(d)(2)(vii).

(3) A sharp waste container shall be incinerated on or off-site or rendered nonhazardous.

(4) Any nondisposable sharp waste shall be placed in a hard walled container for transport to a processing area for decontamination.

(5)(a) Disposable waste shall be:

1. Placed in a suitable bag or closed container so as to prevent leakage or spillage; and

2. Handled, stored, and disposed of in a way that minimizes direct exposure of personnel or patients to waste materials.

(b) The licensee shall establish specific written policies regarding handling and disposal of waste material.

(6) All unpreserved tissue specimens shall be incinerated off site[cut, dismantled, or destroyed after use, but shall be placed intact into a rigid container. The rigid containers of sharp wastes shall either be incinerated or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:080.

(2) The mobile health service shall establish a written policy for the handling and disposal of all pathological and microbiologic laboratory waste. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 or 401 KAR 61:010.

(a) Pathological and microbiologic laboratory waste shall be placed in double impervious plastic bags and each bag shall be two (2) mils in thickness. A bag, when full, shall not exceed twenty-five (25) pounds. All bags shall be securely closed and a tag, which reads "INFECTIOUS WASTE" and identifies the mobile health service from which the waste is being removed, shall be attached to the bag in a conspicuous manner. These wastes shall be sterilized before disposal or be disposed of by incineration if they are combustible.

(b) All unpreserved tissue specimens shall be incinerated off site.

(3) The following liquids shall be disposed of by incineration or by sanitary sewer:

(a) Blood;

(b) Vaginal or cervical secretions or exudates;

(c) Semen;

(d) Cerebrospinal, synovial, pleural, pericardial, peritoneal or amniotic fluids;

(e) Saliva in dental procedures;

(f) Fluids visibly contaminated with blood; and

(g) Mixed fluids where any of the above may be involved].

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 23, 2015

FILED WITH LRC: November 24, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 21, 2016, at 9:00 a.m. in Conference Suite A, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 13, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is

made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business, February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirements for licensure to operate a mobile health service.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 216B.020 and KRS 216B.105, which requires the Cabinet for Health and Family Services to regulate all health facilities that are not the private offices or clinics of physicians or other practitioners of the healing arts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.020 and KRS 216B.105 by establishing the minimum requirements for operation a health facility licensed as a mobile health service.

(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 setting forth the minimum requirements for licensure as a mobile health service.

(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 consideration of comments, concerns, and recommendations from representatives of the Kentucky Occupational Therapy Association, the Kentucky Physical Therapy Association and the Kentucky Speech-Language-Hearing Association, the Cabinet's amendment of 902 KAR 20:275 is intended to accommodate small therapy service practices that provide at least one (1) or any combination of occupational therapy, physical therapy, or speech therapy to patients in their home or other community-based settings. In addition, this amendment requires a mobile health service to participate in the Kentucky Health Information Exchange, and makes technical changes necessary to ensure consistency with the drafting requirements of KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to accommodate small therapy service practices that provide any combination of occupational therapy, physical therapy, or speech therapy to patients in their home or other community-based settings, thereby eliminating barriers to licensure and enhancing access to needed therapy services.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing the minimum requirements for operation a health facility licensed as a mobile health service.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing the minimum requirements for licensure as a mobile health service.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are 136 currently licensed mobile health services.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity licensed as a mobile health service will be required to participate in KHIE and otherwise demonstrate compliance with the requirements for operation of a mobile health service.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): If a mobile health service has not implemented a certified electronic health record, mobile health service may meet the KHIE participation requirement by participating in KHIE's Direct Secure Messaging service provided at no cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment benefits small therapy service practices that provide any combination of occupational therapy, physical therapy, or speech therapy to patients in their home or other community-based settings, thereby eliminating barriers to licensure and enhancing access to needed therapy services.

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

(a) Initially: No additional costs are necessary to implement the changes made by this amendment.

(b) On a continuing basis: No additional costs are necessary to implement the changes made by this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation is from agency funds and state general funds.

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

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

(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 impacts entities licensed a mobile 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 and KRS 216B.105

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no additional revenue generated for state or local government for the first year that this administrative regulation is in effect.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There will be no additional revenue generated for state or local government during subsequent years after this administrative regulation becomes effective.

(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
Office of Inspector General
(Amendment)

906 KAR 1:190. Kentucky National Background Check[Applicant Registry and Employment Screening] Program.

RELATES TO: 42 U.S.C. 1320 a-7I, 42 U.S.C. 5119a(a)(1), 42 U.S.C. 5119c

STATUTORY AUTHORITY: KRS 194A.050(1), 216.712, 216.787, 216.789, 42 U.S.C. 1320a-7I, 42 U.S.C. 5119a(a)(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 42 U.S.C. 1320a-7I directs the secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. 42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. KRS 216.789, KRS 216.787 and KRS 216.712 authorize the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities that provide direct services to the elderly or individuals with disabilities. This administrative regulation establishes requirements for implementation of the Kentucky National Background Check Program (NBCP). A key component of the Kentucky NBCP is a secure, web-based system, called the KARES system, used to facilitate registry and fingerprint-supported state and national criminal background checks[On May 20, 2011, the Commonwealth of Kentucky was the twelfth state to receive a National Background Check Program (NBCP) grant awarded by the Centers for Medicare and Medicaid Services under 42 U.S.C. 1320a-7I. On the date this amended after comments administrative regulation was filed with the Legislative Research Commission, twenty-four states and territories had received an NBCP grant. The Cabinet for Health and Family Services, Office of Inspector General is charged with responsibility to oversee and coordinate Kentucky's fingerprint-supported NBCP grant initiative, called the KARES "Kentucky Applicant Registry and Employment Screening" Program. This administrative regulation establishes procedures for the implementation of KARES as a voluntary program. The Cabinet for Health and Family Services encourages long-term care facilities and providers to participate in KARES as the grant program provides employers with an enhanced pre-employment screening mechanism intended to help protect elderly and vulnerable adults from potential abuse, neglect, and exploitation. The conditions set forth in this administrative regulation for voluntary KARES program participants are in addition to the name-based, state only background check requirements of KRS 216.533, 216.712(2), 216.787, and 216.789].

Section 1. Definitions. (1) "Applicant" means an individual who:

(a) Applies for employment with a care provider[an employer] identified in subsection (3)[(6)] of this section; or

(b) Is subject to background screening by a professional licensing board enrolled in the Kentucky NBCP.

(2) "Cabinet" means the Cabinet for Health and Family Services.

(3) "Care provider" means:

(a) A long-term-care facility as defined in KRS 216.510, excluding:

1. Family care homes; and

2. Acute-care facilities performing long-term-care services or hospice services at the same location as the acute-care facilities;

(b) A nursing pool, as defined in KRS 216.785(4), providing staff to a long-term-care facility or other care provider as defined in this subsection;

(c) An adult day health care program as defined in KRS 216B.0441;

(d) An assisted-living community as defined in KRS 194A.700;

(e) A home health agency as defined in KRS 216.935;

(f) A provider of hospice care as defined in 42 U.S.C. 1395x(dd)(1) and licensed pursuant to KRS Chapter 216B;

(g) A personal services agency as defined in KRS 216.710;

(h) A provider of home and community-based services authorized under KRS Chapter 205;

(i) A staffing agency with a contracted relationship to provide one (1) or more employers as listed in this subsection with staff whose duties are equivalent to duties performed by an employee defined by subsection (6) of this section; or

(j) Any other provider licensed by the cabinet in which a state and national background check is required as a condition of employment.

(4) "Criminal background check" means a state and national fingerprint-supported criminal history background check performed by the Department of Kentucky State Police and the Federal Bureau of Investigation.

(5)[(4)] "Disqualifying offense" means:

(a) An arrest, a conviction of, [or] a plea of guilty, an Alford plea, or a plea of nolo contendere to:

1. A misdemeanor offense related to:

a. Abuse, neglect, or exploitation of an adult as defined by KRS 209.020(4);

b. Abuse, neglect, or exploitation of a [or] child [or];

c. A sexual offense;

d. Assault occurring less than seven (7) years from the date of the criminal background check;

e. Domestic violence occurring less than seven (7) years from the date of the criminal background check;

f. Theft occurring less than seven (7) years from the date of the criminal background check;

g. Fraud occurring less than seven (7) years from the date of the criminal background check; or

h. Possessing or trafficking in a controlled substance occurring less than seven (7) years from the date of the criminal background check;

2. A criminal offense against a victim who is a minor, as defined in KRS 17.500;

3. A felony offense involving a child victim;

4. A felony offense under:

a. KRS Chapter 209, protection of adults;

b. KRS Chapter 218A, controlled substances;

c. KRS Chapter 507, criminal homicide[507.020];

d. KRS Chapter 507A, fetal homicide[507.030];

e.[KRS 507.040; f.] KRS Chapter 508, assault and related offenses;

f.[g.] KRS Chapter 509, kidnapping and related offenses;

g.[h.] KRS Chapter 510, sexual offenses;

h.[i.] KRS Chapter 511, burglary and related offenses;

i.[j.] KRS Chapter 512, criminal damage to property;

j. KRS Chapter 513, arson and related offenses;

k. KRS Chapter 514, theft and related offenses[514.030];

l. KRS Chapter 515, robbery;

m. KRS Chapter 516, forgery and related offenses;

n. KRS Chapter 517, business and commercial frauds;

o. KRS Chapter 525, riot, disorderly conduct, and related offenses;
p. KRS Chapter 527, offenses relating to firearms and weapons;
q. KRS Chapter 529, prostitution offenses;
r. KRS Chapter 530, family offenses;
s. KRS Chapter 531, pornography; or
t. Any other felony offense relating to abuse, neglect, exploitation, drugs, theft, or fraud not listed in this subsection[529.100;
n. KRS 529.110;
o. KRS Chapter 530; and
p. KRS Chapter 531];
 5. An offense under a criminal statute of the United States or of another state similar to an offense specified in this paragraph; or
 6. A crime described in 42 U.S.C. 1320a-7;
 (b) A substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency pursuant to an investigation conducted in accordance with 42 U.S.C. 1395i-3 or 1396r;
 (c) Registration as a sex offender under federal law or under the law of any state; or
 (d) Being listed on a registry as defined in subsection (8)(9) of this section.
(6)(5) "Employee" means an individual who:
(a) 1. Is hired directly or through contract by a care provider[an employer] defined in subsection (3)(6) of this section, and has duties that involve[or may involve] one-on-one contact with a patient, resident, or client; or
2. Unless excluded pursuant to Section 2(3)(c) through (d) of this administrative regulation, is a volunteer who has duties that are equivalent to the duties of an employee providing direct services and the duties involve, or may involve, one-on-one contact with a patient, resident, or client; and
(b) Has access to the personal belongings or funds of a patient, resident, or client.
(7) "Kentucky National Background Check Program" or "NBCP" means a background screening program administered by the cabinet to facilitate registry and fingerprint-supported state and national criminal history background checks conducted by the Department of Kentucky State Police and the Federal Bureau of Investigation for:
(a) Prospective employees of any care provider as identified in subsection (3) of this section; and
(b) Any other individuals required by state law or administrative regulation to submit to a state and national background check as a condition of:
1. Employment; or
2. Licensure, certification, or registration by a professional licensing board[(6) "Employer" means:
(a) A long-term care facility as defined in KRS 216.510;
(b) A nursing pool as defined in subsection (7) of this section providing staff to a long-term care facility or provider;
(c) An adult day health care program as defined in KRS 216B.0441;
(d) An assisted living community as defined in KRS 194A.700;
(e) A home health agency as defined in KRS 216.935;
(f) A provider of hospice care as defined in 42 U.S.C. 1395x(dd)(1) and licensed pursuant to KRS Chapter 216B;
(g) A personal services agency as defined in KRS 216.710;
(h) A long-term care hospital as defined in 42 U.S.C. 1395ww(d)(1)(B)(iv);
(i) A provider of home and community-based services authorized under KRS Chapter 205;
(j) A staffing agency with a contracted relationship to provide one (1) or more employers as listed in this subsection with staff whose duties are equivalent to duties performed by an employee pursuant to subsection (5) of this section; or
(k) Any other health facility or service licensed pursuant to KRS Chapter 216B that applies to participate voluntarily in the KARES program.
(7) "Nursing pool" means a person, firm, corporation, partnership, or association engaged for hire in the business of

providing or procuring temporary employment in or with a long-term care facility or provider for medical personnel, including nurses, nursing assistants, nursing aides, and orderlies].

(8) "Registry" means the:

(a) Nurse aide abuse registry maintained pursuant to 906 KAR 1:100 and 42 C.F.R. 483.156;

(b) Child abuse and neglect registry maintained pursuant to 922 KAR 1:470 and required by 42 U.S.C. 671(a)(20);

(c) List of Excluded Individuals and Entities maintained by the United States Department of Health and Human Services, Office of Inspector General pursuant to 42 U.S.C. 1320a-7; [and]

(d) Caregiver misconduct registry required by KRS 209.032; and

(e) Any available abuse registry, including the abuse and neglect registries of another state if an applicant resided or worked in that state.

(9) "State" is defined by KRS 446.010(40).

(10) "Violent crime" means a conviction of, or a plea of guilty, an Alford plea, or a plea of nolo contendere to a capital offense, Class A felony, or Class B felony involving the death of the victim, rape in the first degree or sodomy in the first degree of the victim, sexual abuse in the first degree, or serious physical injury to a victim.

Section 2. Applicability and Exceptions. (1) As a condition of employment, the following individuals shall submit to a check of the registries identified in Section 1(8) of this administrative regulation and a fingerprint-supported state and national criminal background check[This administrative regulation shall apply to]:

(a) Prospective cabinet staff[hired on or after the effective date of this administrative regulation] whose duties include conducting inspections of care providers:

1. Health facilities and services licensed pursuant to KRS Chapter 216B; or

2. Services regulated pursuant to KRS 194A.700 through 194A.729, or KRS 216.710 through 216.744];

(b) Prospective employees[hired on or after the effective date of this administrative regulation] of state-owned or operated health facilities licensed pursuant to KRS Chapter 216B;

(c) Prospective cabinet staff[hired on or after the effective date of this administrative regulation] who have or may have one-on-one contact with a patient or resident of a care provider[an employer defined by Section 1(6) of this administrative regulation]; and

(d) Prospective employees seeking employment with a care provider[private employer that participates voluntarily in the KARES Program hired on or after the effective date of this administrative regulation].

(2) Nothing in this administrative regulation shall be construed to limit a care provider from requiring a fingerprint-supported state and national criminal background check on the provider's current employees if the provider elects to screen existing employees[not apply to current cabinet staff or current employees of any employer that participates voluntarily in the KARES program that are employed before the effective date of this administrative regulation].

(3) A prospective employee shall not include:

(a) An individual who independently contracts with a care provider[KARES-participating employer] to provide utility, construction, communications, or other services if the contracted services are not directly related to the provision of services to a resident, patient, or client of the provider[employer];[or]

(b) A board certified physician, surgeon, or dentist under contract with a care provider;

(c) A member of a community-based or faith-based organization that provides volunteer services that do not involve unsupervised interaction with a patient or resident;

(d) A student participating in an internship program; or

(e) A family member or friend visiting a patient or resident.

(4) Effective January 1, 2016, a care provider not currently participating in Kentucky's NBCP:

(a) Shall enroll in the Kentucky NBCP:

1. As a condition of the provider's initial licensure, certification,

or registration renewal; or

2. Prior to the effective date of renewal of the provider's licensure, certification, or registration; and

(b) May contract with one (1) or more vendors approved by the cabinet and Department of Kentucky State Police in accordance with subsection (6) of this section to perform all or part of the electronic fingerprinting. The care provider's contract shall ensure that the owners and personnel of the vendor performing the electronic fingerprinting are qualified and will ensure the integrity and security of all personal information pursuant to subsection (6) of this section.

(5) Nothing in this administrative regulation shall be construed to limit a care provider from enrolling in the Kentucky NBCP at any time prior to annual licensure, certification, or registration renewal.

(6) To be approved as a vendor that submits fingerprints on behalf of care providers, the vendor shall comply with the following minimum requirements:

(a) Enter into an agreement with the cabinet and the Department of Kentucky State Police that obligates the vendor to comply with specified standards established by the Department of Kentucky State Police and the Federal Bureau of Investigation (FBI) to ensure that all individuals having direct or indirect responsibility for verifying identification, taking fingerprints, and electronically submitting fingerprints are qualified to do so and the integrity and security of all personal information gathered from the individuals whose fingerprints are submitted;

(b) Meet the Department of Kentucky State Police and the FBI's technical standards for the electronic submission of fingerprints; and

(c) Have the ability to communicate electronically with the cabinet[KARES-participating employer].

Section 3. Continuous Assessment. (1) To ensure that the information remains current in the KARES system, the Department of Kentucky State Police shall:

(a) Retain the fingerprints of an individual screened under the Kentucky NBCP:

1. For a minimum period of five (5) years from the date of fingerprint submission; and

2. On a five (5) year renewal basis thereafter; and

(b) Facilitate the retention of the fingerprints by the FBI upon approval to participate in the FBI's Next Generation Identification (NGI) rap back service.

(2) The Department of Kentucky State Police and the FBI shall provide notification to the cabinet of triggering events for individuals after the initial processing of the criminal background checks when the service becomes available and subject to any applicable regulations of the Department of Kentucky State Police and the FBI.

Section 4. Enrolling in the Kentucky NBCP. To enroll in the Kentucky NBCP, a care provider, other employer required by law to conduct background screening of employees, or a professional licensing board required by law to conduct background screening of licensees shall:

(1) Log on to the KARES portal; and

(2) Confirm acceptance of the terms and conditions for using the KARES system[Agreement to Participate. An employer that elects to participate in KARES voluntarily shall complete and submit an Agreement to Participate in the KARES Program].

Section 5. Required Notice to Applicant. (1) Prior to initiating a background check facilitated by the KARES system, a care provider shall provide the applicant with an application form that conspicuously states the following: "FOR THIS TYPE OF EMPLOYMENT STATE AND FEDERAL LAW REQUIRE A STATE AND NATIONAL CRIMINAL BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(2) An entity participating in the Kentucky NBCP shall provide notice to the applicant that the applicant's responsibilities include the following:

(a) The applicant shall provide a set of fingerprints; and

(b) The applicant shall provide his or her name, social security

number, address, and date of birth as they appear on a document commonly accepted for the purpose of identification.

Section 6.[4.] Registry and Criminal Background Checks: Procedures and Payment. (1) To initiate the process for obtaining a background check on a prospective employee or licensee, the care provider, other employer enrolled in the Kentucky NBCP, or professional licensing board shall:

(a) Request that the applicant provide a copy of his or her driver's license or government-issued photo identification and verify that the photograph clearly matches the applicant;

(b) Request that the applicant sign a form entitled Disclosures to be Provided to and Signed by Applicant for Employment or Licensure;

(c) Request that the applicant complete a Waiver Agreement and Statement[- 1. Disclosure Form; and 2. Consent and Release Form]; and

(d)[(e)] Log on to the KARES portal, which shall be a secure web-based system maintained by the cabinet, and enter the applicant's demographic information for a check of:

1. Each registry as defined by Section 1(8) of this administrative regulation; and

2. Databases maintained separately by the Kentucky Board of Medical Licensure, Kentucky Board of Nursing,[and] Kentucky Board of Physical Therapy, and any other available professional licensing board with oversight of a health care profession, including behavioral health profession, to validate the applicant's professional licensure status, if applicable.

(2)[An applicant who is found on the child abuse and neglect central registry maintained pursuant to 922 KAR 1:470 may request a rehabilitation review pursuant to Section 9 of this administrative regulation.

(3)(a)[(b)] If an applicant is cleared for hire after a check of the registries and databases identified in subsection (1)(c) of this section, the participating entity[employer] shall submit payment via credit or debit card for the criminal background check.

(3)(a)[(b)]1. Effective until May 19, 2014, or] Until NBCP grant funds are depleted, care providers identified in Section 1(3)(a) through (i) of this administrative regulation shall pay a fee of twenty (20) dollars for a fingerprint-supported state and national criminal background check, which includes the cost of the Kentucky NBCP and the fees of the Department of Kentucky State Police and the FBI.

(b) A participating entity enrolled in the Kentucky NBCP and not identified in Section 1(3)(a) through (i) of this administrative regulation shall pay a fee of twenty (20) dollars in addition to any fees charged by the Department of Kentucky State Police and the FBI for the actual cost of processing a fingerprint-supported state and national criminal background check.

(c) If an applicant's continuous assessment period identified under Section 3 of this administrative regulation has not expired, a fee of twenty (20) dollars shall be charged to view the applicant's current fitness determination and process a new application, in which case a new fingerprint check is not needed.

(d)1. After NBCP grant funds are depleted, the total cost of a fingerprint-supported state and national criminal background check charged to a care provider shall not exceed actual costs of the Kentucky NBCP and the fees charged by the Department of Kentucky State Police and the FBI.

2. If an applicant has not been previously fingerprinted under the Kentucky NBCP or if the applicant's continuous assessment period has expired, a fee not to exceed twenty (20) dollars in addition to any fees charged by the Department of Kentucky State Police and the FBI for a fingerprint-supported state and national criminal background check shall be charged to the care provider for the cost of a criminal background check[whichever date is later, employers shall pay the twenty (20) dollar fee charged by the Justice and Public Safety Cabinet pursuant to paragraph (d)1. of this subsection.

2. Effective until May 19, 2014, or until NBCP grant funds are depleted, whichever date is later, grant monies shall be used to subsidize:

a. The cost of the national criminal background check charged

by the Federal Bureau of Investigation pursuant to paragraph (d)2. of this subsection; and

b. The administrative cost charged by the cabinet pursuant to paragraph (d)3. of this subsection.

(c) Effective until May 19, 2014, or until NBCP grant funds are depleted, whichever date is later, the cabinet shall pay all costs identified in paragraph (d) of this subsection if a criminal background check is conducted on behalf of a prospective provider of home and community-based services authorized under KRS Chapter 205. This exemption for providers of home and community-based services is a condition of the NBCP grant.

(d) After May 19, 2014, or after NBCP grant funds are depleted, whichever date is later, the total cost of a criminal background check charged to employers shall be sixty-three (63) dollars, divided into the following components:

1. A fee of twenty (20) dollars charged by the Justice and Public Safety Cabinet;

2. A fee of sixteen (16) dollars and fifty (50) cents charged by the Federal Bureau of Investigation; and

3. A fee of twenty-six (26) dollars and fifty (50) cents charged by the cabinet to cover the cost of facilitating the criminal background check].

(4)(a) Upon submission of payment pursuant to subsection (3) of this section, the care provider or other participating entity[employer] shall print a copy of the Live Scan Fingerprinting Form from the KARES portal and provide the form to the applicant.

(b) The applicant shall:

1. Have thirty (30) calendar days from the date of payment pursuant to subsection (3) of this section to submit his or her fingerprints at an authorized collection site; and

2. Present the Live Scan Fingerprinting Form and driver's license or government-issued photo identification to the designated agent at an[the] authorized collection site prior to fingerprint submission.

(5) Upon completion of a criminal background check, the cabinet shall[-(a)] provide notice to the care provider or other employer enrolled in the Kentucky NBCP that the applicant is:

(a) Clear to hire[.]; or

(b) Not clear to hire if the applicant is found by the cabinet to have a disqualifying offense as identified in Section 1(5) of this administrative regulation; and (b) Not disclose the applicant's criminal history to the employer].

(6) A care provider is not obligated to employ or offer employment to an individual who has been found by the cabinet to be clear for hire pursuant to subsection (5)(a) of this section.

Section 7.[5-] Provisional Employment. (1) If an applicant is not found on a registry and the individual's license has been validated, if applicable, a care provider[an employer] may hire the applicant for a period of provisional employment pending completion of the criminal background check.

(2) The period of provisional employment shall:

(a) Not commence prior to the date the applicant submitted his or her fingerprints; and

(b) Not exceed sixty (60) days from the date of fingerprint collection.

(3) During the period of provisional employment, the individual shall not have supervisory or disciplinary power or routine contact with patients, residents, or clients without supervision on-site and immediately available to the individual.

Section 8.[6-] Individuals Ineligible to be Hired. A care provider[An employer participating in the KARES program], an agency within the cabinet responsible for conducting inspections of any care provider[employer], or a state-owned or operated health facility shall not employ, contract with, or permit to work as an employee any applicant that submits to a background check if one (1) or more of the following are met:

(1) The applicant refuses to provide photo identification or complete the Disclosures[Disclosure] Form or Waiver Agreement and Statement[Consent and Release Form] required by Section 6[4](1)(a) and (b) of this administrative regulation;

(2) The applicant is found on a registry as defined by Section

1(8) of this administrative regulation;

(3) The applicant's professional license is not in good standing, if applicable;

(4) The applicant fails to submit his or her fingerprints at an authorized collection site within thirty (30) calendar days of payment submitted pursuant to Section 5[4](3) of this administrative regulation; or

(5) Upon completion of the initial criminal background check for an applicant or subsequent to the initial fingerprint check on a current employee, the care provider[employer], cabinet agency, or state-owned or operated health facility receives notice from the cabinet that the applicant is ineligible[not clear] for hire based on a cabinet determination that the individual has been found to have a disqualifying offense[-or

(6) Final disposition of a criminal charge related to a disqualifying offense is not provided to the cabinet within sixty (60) days of fingerprint submission].

Section 9.[7-] Notice of a Disqualifying Offense and Appeals.

(1) The cabinet shall notify each applicant or, if applicable, current employee determined to have a disqualifying offense.

(2) In addition to the cabinet's notification required by subsection (1) of this section, a care provider[an employer] that receives notice from the cabinet that an individual has been determined to have a disqualifying offense shall notify the individual of the cabinet's determination within three (3) business days of receipt of the notice.

(3) An applicant who receives notice of a disqualifying offense may:

(a) Request a rehabilitation review pursuant to Section 10[9] of this administrative regulation; or

(b) Challenge the accuracy of the cabinet's determination regarding a disqualifying offense by submitting a written request to the cabinet for an informal review of the cabinet's determination, or file an appeal under KRS Chapter 13B within ten (10) days of the date of the notice of the disqualifying offense. An applicant or if applicable, current employee may appeal the results of an informal review by submitting a written request to the cabinet for appeal under KRS Chapter 13B within five (5) days of notice of the decision from an informal review.

(4) A current employee who has submitted to a criminal background check under the Kentucky NBCP and whose fingerprints are retained pursuant to Section 3 of this administrative regulation may challenge the accuracy of the cabinet's determination of a disqualifying offense pursuant to subsection (3)(b) of this section.

(5) If an applicant or, if applicable, current employee wishes to obtain information concerning the disqualifying offense or challenge the accuracy of a criminal background check, the cabinet shall refer the individual to the appropriate state or federal law enforcement agency.

(6)[(5)] If an applicant or, if applicable, current employee challenges the finding that he or she is the true subject of the results from a registry check, the cabinet shall refer the individual to the agency responsible for maintaining the registry.

Section 10.[8-] Termination of an[a-Provisional] Employee Upon Receipt of Notice of a Disqualifying Offense. (1) If a provisional employee or, if applicable, current employee has not requested an informal review or an appeal pursuant to Section 8[7](3)(b) of this administrative regulation, the care provider[employer] shall:

(a) Terminate the employee no later than fourteen (14)[six-(6)] business days after receipt of notice of the disqualifying offense; and

(b) Use the KARES system to provide electronic notification[Submit a written attestation statement] to the cabinet affirming the employee's dismissal within three (3) business days of termination.

(2) If a provisional employee or, if applicable, current employee requests an informal review or an appeal pursuant to Section 8[7](3)(b) of this administrative regulation, the care provider[employer] may retain the employee pending resolution of

the employee's informal review or appeal under the following conditions:

(a) The employee shall be subject to direct, on-site supervision, or reassigned to duties that do not involve one-on-one contact with a resident, patient, or client of the employer;

(b) The care provider[~~employer~~] shall inform the employee that termination shall be immediate if the informal review upholds the cabinet's determination regarding a disqualifying offense, or the employee does not prevail in an appeal requested pursuant to Section 8[7](3)(b) of this administrative regulation;

(c) The care provider[~~employer~~] shall immediately terminate an employee if the informal review upholds the accuracy of the cabinet's determination regarding a disqualifying offense or the employee does not prevail in an appeal requested pursuant to Section 8[7](3)(b) of this administrative regulation upon completion of the appeal; and

(d) Using the KARES system, the care provider[~~employer~~] shall provide electronic notification[~~submit a written attestation statement~~] to the cabinet affirming the individual's dismissal within three (3) business days of termination.

Section 11.[9-] Rehabilitation Review. (1)(a) An applicant found[~~on the child abuse and neglect central registry maintained pursuant to 922 KAR 1:470, or found~~] to have a disqualifying offense upon completion of the criminal background check shall be eligible for consideration of rehabilitation under an independent review process.

(b) Consideration of a disqualifying offense under the rehabilitation review process described in this section shall not apply to:

1. A disqualifying felony offense that occurred less than ten (10)[~~seven (7)~~] years prior to the date of the criminal background check;

2. A disqualifying misdemeanor offense related to assault, domestic violence, theft, fraud, or possessing or trafficking in a controlled substance that occurred less than seven (7) years prior to the date of the criminal background check;

3. Any disqualifying felony or misdemeanor offense[~~A criminal conviction~~] related to abuse, neglect, or exploitation of an adult or child, or a sexual offense;

4.[3-] Registration as a sex offender under federal law or under the law of any state; or

5.[4-] A conviction for a violent crime.

(2) An applicant may submit a written request for a rehabilitation review to the cabinet no later than fourteen (14) calendar days from the date of the notice of the cabinet's determination issued pursuant to Section 8[7](1) of this administrative regulation regarding a[~~finding on the child abuse and neglect central registry or~~] determination of a disqualifying offense.

(3) The request for a rehabilitation review shall include the following information:

(a) A written explanation of each[~~finding on the child abuse and neglect central registry or each~~] disqualifying offense, including:

1. A description of the events related to the[~~registry finding or~~] disqualifying offense;

2. The number of years since the occurrence of the[~~registry finding or~~] disqualifying offense;

3.[~~The identification of any other individuals involved in the offense;~~

4-] The age of the offender at the time of the[~~registry finding or~~] disqualifying offense; and

4.[5-] Any other circumstances surrounding the[~~registry finding or~~] offense;

(b) Official documentation showing that all fines, including court-imposed fines or restitution, have been paid or documentation showing adherence to a payment schedule, if applicable;

(c) The date probation or parole was satisfactorily completed, if applicable; and

(d) Employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently.

(4) A rehabilitation review shall be conducted by a committee

of three (3) employees of the cabinet, none of whom:

(a) Is an employee of the Office of Inspector General; or

(b) Was responsible for determining[~~each of whom was not responsible for determining:~~

(a) The finding of child abuse or neglect that placed the individual on the central registry; or

(b) that the individual has a disqualifying offense.

(5) The committee shall consider the information required under subsection (3) of this section, and shall also consider mitigating circumstances including:

(a) The amount of time that has elapsed since the[~~child abuse and neglect central registry finding or~~] disqualifying offense[, which shall not be less than seven (7) years in the case of a disqualifying offense];

(b) The lack of a relationship between the[~~registry finding or~~] disqualifying offense and the position for which the individual has applied; and

(c) Evidence that the applicant has pursued or achieved rehabilitation with regard to the[~~registry finding or~~] disqualifying offense. The committee shall make a recommendation to the secretary or designee, who shall be responsible for making the final decision.

(6) The secretary or designee may grant a waiver from the prohibition against employment of an applicant with a[~~child abuse and neglect finding or a~~] disqualifying offense upon consideration of the information required under subsection (3) of this section and the committee's recommendation of subsection (5) of this section.

(7) No later than thirty (30) calendar days from receipt of the written request for the rehabilitation review, the secretary or designee shall send a written determination on the rehabilitation waiver to the applicant.

(8) The decision of the secretary or designee pursuant to subsection (7) of this section shall be subject to appeal under KRS Chapter 13B.

(9) An individual with a[~~finding on the child abuse and neglect central registry or a~~] disqualifying offense shall not be employed by an employer until the employer receives notification from the cabinet that the individual has been granted a waiver.

(10) A care provider[~~An employer~~] is not obligated to employ or offer employment to an individual who is granted a waiver pursuant to this section.

Section 12.[40-] Pardons and Expungement. An applicant who has received a pardon for a disqualifying offense or has had the record expunged may be employed.

Section 13.[44-] Status of Employment. Each care provider[~~An employer participating in KARES~~] shall maintain the employment status of each employee who has submitted to a fingerprint-supported criminal background check by reporting the status using the KARES web-based system.

Section 14.[42-] Kentucky National Background Check[~~Applicant Registry and Employment Screening~~] Fund. (1)(a) The Cabinet shall establish a trust and agency fund called the Kentucky National Background Check[~~Applicant Registry and Employment Screening~~] fund to be administered by the Finance and Administration Cabinet.

(b) The fund shall be funded with moneys collected under Section 5[2](4[3]) of this administrative regulation.

(2) Moneys in the fund shall be used solely to operate the Kentucky National Background Check[~~KARES~~] program.

Section 15. Adverse Action. In accordance with KRS 216B.105 or KRS 194A.707(1), the cabinet shall take action to deny or revoke a care provider's license, certification, or registration for failure to demonstrate compliance with Sections 2 through 12 of this administrative regulation.

Section 16.[43-] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) OIG 1:190-1, "Disclosures to be Provided to and Signed by Applicant for Employment or Licensure", November 2015;

(b) OIG 1:190-2, "Waiver Agreement and Statement", November 2015;
OIG 1:190-A, "Agreement to Participate in the KARES Program", May 2013;

(b) OIG 1:190-B, "Disclosure Form", May 2013;

(c) OIG 1:190-C, "Consent and Release Form", May 2013;
 and

(c)(d) OIG 1:190-D, "Live Scan Fingerprinting Form", May 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

MARYELLEN B. MYNEAR, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 17, 2015

FILED WITH LRC: November 20, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 21, 2016, 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 January 13, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business, February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures and requirements for implementation of the Kentucky National Background Check Program (NBCP). Under the Kentucky NBCP, a secure, web-based application called the KARES system is used to facilitate registry and fingerprint-supported state and FBI criminal background checks for prospective employees in long-term care and other settings required by law to conduct background screening of employees, as well as professional licensing boards required by law to conduct background check screening on licensees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures and requirements for implementation of the Kentucky NBCP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: As stated in the Necessity, Function, and Conformity paragraph of this administrative regulation, 42 U.S.C. 1320a-7l directs the secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. 42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether an individual has been convicted of a crime that bears upon that individual's fitness to have responsibility for the safety and well-being of children, the

elderly, or individuals with disabilities. KRS 216.789, KRS 216.787 and KRS 216.712 authorizes the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities. Therefore, this administrative regulation conforms to the content of the authorizing statutes by establishing procedures and requirements for implementation of a comprehensive, Cabinet-administered state and national background check program called the Kentucky NBCP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing procedures and requirements for implementation of the Kentucky NBCP.

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

(a) How the amendment will change this existing administrative regulation: In accordance with the initially adopted version of this administrative regulation, the Kentucky NBCP was rolled out as a voluntary program in May 2014. Under this amendment, fingerprint-supported state and national background checks will be required as a condition of employment for new hires in long-term care facilities and other settings as defined by Section 1(3) of this administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to require more comprehensive background checks in order to reduce a current gap in state law and enhance efforts to help protect elderly and vulnerable adults from potential abuse, neglect, and exploitation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing procedures and requirements for implementation of the Kentucky NBCP.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing procedures and requirements for implementation of the Kentucky NBCP to provide fingerprint-supported state and national background checks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Employers required by this administrative regulation to secure a fingerprint-supported state and national criminal record check on new hires include the following: long-term care facilities (491) (except for family care homes and acute-care facilities performing long-term-care services or hospice services at the same location as the acute care facility); nursing pools and staffing agencies which provide staff to long-term care facilities (68); adult day health programs (107); assisted living facilities (110); home health agencies (114); hospice providers (24), including residential hospice (9); personal services agencies (158); providers of home and community based services (over 250); or any other licensed health facility that applies to participate in the Kentucky NBCP. Additionally, new Cabinet staff whose duties include inspecting long-term care employers or who have one-on-one contact with patients or residents, and new Cabinet staff who work in state-run health facilities are subject to a background check under 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: Upon data entry of an applicant's information, the NBCP performs an automated database search of all available abuse registries and verifies the applicant's professional licensure status, if applicable. "Hits" on an abuse registry or confirmation that an individual's professional license is not in good standing results in disqualification of the individual from employment, thereby eliminating the need for a criminal background check and the costs associated with such checks. If

cleared as a result of the registry check and professional licensure verification, applicants are subject to a fingerprint-supported state and national background check.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred initially as employers will continue to pay the \$20 fee they are currently accustomed to paying for name based, state-only criminal background checks. However, upon depletion of NBCP grant monies, the fee for a fingerprint-supported state and national background check will not exceed actual costs, estimated to be no more than \$20 imposed by the Kentucky NBCP plus actual fees charged by the Department of Kentucky State Police and the FBI. Additionally, if an applicant has been previously fingerprinted and his or her "continuous assessment period" as identified under Section 3 of this administrative regulation has not expired, a fee of \$20 will be charged to the employer to view the applicant's current fitness determination and process a new application, in which case a new fingerprint check and the associated cost is not needed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Employers identified under Section 1(3) of this administrative regulation, professional licensing boards, and other entities authorized to use the system will benefit from a comprehensive screening mechanism intended to limit the ability of "bad actors" to hide any criminal or abusive actions committed in other states, and a reduction in costs as applicants previously fingerprinted move from one employer to another.

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

(a) Initially: This administrative regulation is funded by NBCP grant monies until May 2016 and subject to a one-year extension upon approval by the Centers for Medicare and Medicaid Services (CMS).

(b) On a continuing basis: Upon depletion of grant monies, the Kentucky NBCP will supported by fees collected. The fee for a fingerprint-supported state and national background check will not exceed actual costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: As stated previously, federal NBCP grant funds are currently used to implement this administrative regulation. Upon depletion of grant monies, continued funding to support the Kentucky NBCP will be from 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: Upon depletion of grant monies, the cost of fingerprint-supported state and FBI checks will not exceed actual costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes fees necessary to sustain operation of the Kentucky NBCP.

(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? Employers required by this administrative regulation to secure a fingerprint-supported state and FBI criminal record check on new hires include the following: long-term care facilities (except for family care homes and acute-care facilities performing long-term-care services or hospice services at the same location as the acute care facility), nursing pools and staffing agencies which provide staff to long-term care facilities, adult day health programs, assisted living facilities, home health agencies, hospice providers, including residential hospice, personal services agencies, providers of home and community based services, or any other licensed health facility that applies to participate in the Kentucky NBCP. Additionally, new Cabinet staff whose duties include inspecting long-term care

employers or who have one-on-one contact with patients or residents, and new Cabinet staff who work in state-run health facilities are subject to a background check under this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 42 U.S.C. 1320 a-7l, 42 U.S.C. 5119a(a)(1), KRS 216.712, KRS 216.787, KRS 216.789

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 current charge for a name-based, state only criminal record check is \$20. Under this administrative regulation, the charge for a fingerprint-supported state and FBI criminal background check will remain \$20 initially. However, upon depletion of NBCP grant funds, the revenue generated in fees will not exceed the actual costs.

(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? During subsequent years, revenue will be based upon fees charged to use the KARES system, not to exceed actual costs.

(c) How much will it cost to administer this program for the first year? This administrative regulation is funded by NBCP grant monies until May 2016 and subject to a one-year extension upon approval by CMS.

(d) How much will it cost to administer this program for subsequent years? Federal NBCP grant funds are currently used to implement this administrative regulation. Upon depletion of grant monies, continued funding to support the Kentucky NBCP will be from fees collected to process fingerprint-supported state and FBI checks, not to exceed actual 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. 42 U.S.C. 1320 a-7l and 42 U.S.C. 5119a(a)(1)

2. State compliance standards. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 216.789, KRS 216.787, and KRS 216.712 authorizes the secretary of the Cabinet for Health and Family Services to establish procedures for criminal background checks for employees of certain entities which provide direct services to the elderly or individuals with disabilities.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1320 a-7l directs the Secretary of the United States Department of Health and Human Services to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees on a nationwide basis. As of this date, Kentucky is one of 26 states to receive a National Background Check Program (NBCP) grant awarded by the Centers for Medicare and Medicaid Services under 42 U.S.C. 1320 a-7l. 42 U.S.C. 5119a(a)(1) authorizes states to have in effect procedures, established by state statute or regulation, that require qualified entities designated by the state to contact an authorized agency of the state to request a nationwide background check for the purpose of determining whether an individual has been convicted of a crime that bears upon the individual's fitness to have responsibility for the safety and well-

being of children, the elderly, or individuals with disabilities.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements than those required by 42 U.S.C. 1320 a-7l or 42 U.S.C. 5119a(a)(1).

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(Amendment)

907 KAR 8:005. Definitions for 907 KAR Chapter 8.

RELATES TO: KRS 194A.025(3)

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the definitions for 907 KAR Chapter 8.

Section 1. Definitions. (1) "Adult" means an individual who is at least twenty-one (21) years of age.

(2) "Adult day health care program" or "ADHC program" means a program that is:

(a) Licensed pursuant to 902 KAR 20:066; and

(b) An adult day health program pursuant to KRS 216B.0441.

(3) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(4) ~~[(3)]~~ "Child" means an individual who is under twenty-one (21) years of age.

(5) "Comprehensive outpatient rehabilitation facility" or "CORF" means an entity that is:

(a) Defined as a CORF in accordance with 42 U.S.C. 1395x(cc)(2); and

(b) Licensed as a rehabilitation agency pursuant to 902 KAR 20:190.

(6) ~~[(4)]~~ "Department" means the Department for Medicaid Services or its designee.

(7) ~~[(5)]~~ "Electronic signature" is defined by KRS 369.102(8).

(8) ~~[(6)]~~ "Enrollee" means a recipient who is enrolled with a managed care organization.

(9) ~~[(7)]~~ "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(10) ~~[(8)]~~ "Medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(11) "Mobile health service" means an entity that is licensed pursuant to 902 KAR 20:275.

(12) "Multi-therapy agency" or "MTA" means a provider group:

(a) Comprised of any combination of the following:

1. One (1) or more occupational therapists;

2. One (1) or more physical therapists; or

3. One (1) or more speech-language pathologists; and

(b) Unless exempt from licensure in statute, licensed:

1. In the state in which they practice; and

2. To provide occupational therapy, physical therapy, or speech-language pathology services.

(13) ~~[(9)]~~ "Occupational therapist" is defined by KRS 319A.010(3).

(14) ~~[(10)]~~ "Occupational therapy assistant" is defined by KRS 319A.010(4).

~~(15) [(11)]~~ "Physical therapist" is defined by KRS 327.010(2).

~~(16) [(12)]~~ "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.

~~(17) [(13)]~~ "Physician" is defined by KRS 311.550(12).

~~(18) [(14)]~~ "Physician assistant" is defined by KRS 311.840(3).

~~(19) [(15)]~~ "Prior authorized" means authorized by:

(a) The department, if the service is for a recipient who is not an enrollee; or

(b) A managed care organization, if the service is for an enrollee.

~~(20) [(16)]~~ "Provider" is defined by KRS 205.8451(7).

~~(21) [(17)]~~ "Recipient" is defined by KRS 205.8451(9).

(22) "Rehabilitation agency" means an entity that is licensed as a rehabilitation agency pursuant to 902 KAR 20:190.

(23) "Special health clinic" means an entity that is licensed as a special health clinic pursuant to 902 KAR 20:260.

~~(24) [(18)]~~ "Speech-language pathologist" is defined by KRS 334A.020(3).

(25) "Speech-language pathology clinical fellow" means an individual who is recognized by the American Speech-Language-Hearing Association as a speech-language pathology clinical fellow.

(26) "State plan" is defined by 42 C.F.R. 400.203.

LISA LEE, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 23, 2015

FILED WITH LRC: December 2, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 21, 2016 at 9:00 a.m. in Suite A 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 January 13, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, email 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 definitions for administrative regulations promulgated under 907 KAR Chapter 8, Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions related to administrative regulations promulgated under 907 KAR Chapter 8.

(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 definitions related to administrative regulations promulgated under 907 KAR Chapter 8.

(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 definitions related to administrative regulations promulgated under 907 KAR Chapter 8.

(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 are necessary to establish definitions for the following new administrative regulations: 907 KAR 8:040, Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities; and 907 KAR 8:045, Reimbursement for occupational therapy, physical therapy, and speech-language pathology services provided by various entities.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to establish definitions for 907 KAR 8:040 and 907 KAR 8:045.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing definitions 907 KAR 8:040 and 907 KAR 8:045.

(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 establishing definitions for 907 KAR 8:040 and 907 KAR 8:045.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Adult day health care (ADHC) programs, occupational therapists, physical therapists, speech-language pathologists, multi-therapy groups (combination of occupational therapists, physical therapists, and speech-language pathologists), comprehensive outpatient rehabilitation facilities (CORFs), special health clinics, rehabilitation agencies, mobile health services, and recipients of the services will be affected by the administrative regulation in that it defines terms related to those services.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. No action is necessary as this is an administrative regulation that establishes definitions.

(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 as this is an administrative regulation that establishes definitions.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). No compliance is necessary as this is an administrative regulation that establishes definitions.

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

(a) Initially: No cost is necessary to implement the amendment.

(b) On a continuing basis: No continuing cost is necessary to implement the amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and state matching funds comprised of general fund and restricted 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 are necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor directly nor indirectly increases any fees.

(9) Tiering: Is tiering applied? Tiering is neither applied nor necessary as the administrative regulation establishes definitions for 907 KAR Chapter 8.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate to define Medicaid terms in an administrative regulation.

2. State compliance standards. KRS 194A.030(2) states, "The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act."

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate to define Medicaid terms in an administrative regulation. There is; however, a mandate to ensure recipient access to services covered by the state's Medicaid program. As the Department for Medicaid Services (DMS) covers occupational therapy, physical therapy, and speech-language pathology services it must ensure that an adequate provider base exists to ensure recipient access to care. A relevant federal law – 42 U.S.C. 1396a(a)(30) requires a state's Medicaid program to "provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Creating a new base of authorized providers comports with the intent of the aforementioned federal law.

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. 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? The Department for Medicaid Services will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.

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

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

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

(c) How much will it cost to administer this program for the first year? No cost is necessary to implement this administrative regulation in the first year.

(d) How much will it cost to administer this program for subsequent years? No cost is necessary in subsequent years to implement this administrative regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS

FINANCE AND ADMINISTRATION CABINET
Executive Branch Ethics Commission
(New Administrative Regulation)

9 KAR 1:025. Guidance on prohibited conduct and conflicts of interest.

RELATES TO: KRS 11A.010, 11A.020(1), 11A.030, 11A.080(1)

STATUTORY AUTHORITY: KRS 11A.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.020 provides prohibited conduct for public servants. KRS 11A.030 establishes how to determine whether a conflict of interest exists and provides procedures a public servant must follow to abstain when a conflict of interest does exist. KRS 11A.110(3) requires the Executive Branch Ethics Commission to promulgate administrative regulations to implement KRS Chapter 11A. This administrative regulation provides guidance to public servants concerning prohibited conduct and avoiding conflicts of interest.

Section 1. Definitions. (1) "Appointing authority" is defined by KRS 11A.010(16).

(2) "Commission" means the Executive Branch Ethics Commission.

(3) "Family" is defined by KRS 11A.010(4).

(4) "Matter" means any measurable case, litigation, decision, grant, proceeding, application, determination, contract, claim, investigation, charge, or legislative bill.

(5) "Public servant" is defined by KRS 11A.010(9).

Section 2. If a public servant engages in any of the following conduct, the commission may conduct an investigation in accordance with KRS 11A.080 of the conduct as a possible violation of KRS 11A.020 or KRS 11A.030:

(1) A public servant seeks employment or contracting services for himself or herself by the use or attempted use of the public servant's office or position other than merely stating the fact that he or she holds a particular position or office in an application for employment, a resume, or curriculum vitae other than as is provided for by KRS Chapter 11A;

(2) A public servant participates directly or uses his or her position to influence or attempt to influence a decision within the state agency for which the public servant works concerning any matter involving the public servant's family member or a person with which the public servant has a personal relationship;

(3) A public servant uses state time, equipment, personnel, facilities, or other state resources for private business purposes;

(4) A public servant uses state time, equipment, personnel, facilities, or other state resources for political campaign purposes;

(5) A public servant uses state time, equipment, personnel, facilities, or other state resources for personal, prurient interests;

(6) A public servant solicits, sells to, or otherwise engages in a financial transaction with an immediate subordinate or a person the employee directly supervises, or with a person or business that is doing business with or is regulated by the state agency by which the employee is employed, if the economic benefit to the public servant is greater than \$100 in a single calendar year; or

(7) A public servant negotiates for future employment with a person or business that does business with or is regulated by the agency for which he or she works if the public servant is directly involved in matters regarding the prospective employer, unless the public servant abstains from direct involvement in matters regarding the prospective employer and the public servant discloses the abstention in writing to his or her appointing authority before entering into any form of negotiations for future employment subject to the provisions of KRS Chapter 11A.

WILLIAM DAVID DENTON, Chair

APPROVED BY AGENCY: November 16, 2015

FILED WITH LRC: December 7, 2015 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall be held on January 21, 2016, at 10:00 a.m., at Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. 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: Kathryn H. Gabhart, Executive Director, Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-7954, fax (502) 564-2686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kathryn H. Gabhart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance to public servants as to conduct that will be investigated by the Executive Branch Ethics Commission as a possible violation of KRS 11A.020 and KRS 11A.030.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to guide the conduct of public servants as to the conduct that could violate KRS 11A.020 and KRS 11A.030.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 11A.110(3) provides that the Commission shall promulgate administrative regulations to implement KRS Chapter 11A. This administrative regulation will assist the Commission in guiding public servants on the types of conduct that could violate KRS Chapter 11A.

(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 KRS 11A.020 to clear up any confusion amongst public servants as to the types of conduct that could violate these provisions.

(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: All public servants as defined by KRS Chapter 11A in the Executive Branch of state government.

(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: All public servants will have guidance and notice as to the types of conduct that could violate KRS 11A.020 and KRS 11A.030.

(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: They will have to abide by the guidance.

(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 known cost associated with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All public servants will have guidance and notice as to the types of conduct that could violate KRS 11A.020 and KRS 11A.030 and may be sure to avoid engaging in such conduct.

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

(a) Initially: Minimal costs to the Executive Branch Ethics Commission associated with the publication of training materials and conducting education already provided by the Commission's budget.

(b) On a continuing basis: Minimal costs to the Executive Branch Ethics Commission associated with the ongoing publication of training materials and conducting education already provided by the Commission's budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission's existing budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation will not require an increase in any fees or funding.

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

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation applies equally to all affected 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? The Executive Branch of state government.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 11A.110(3).

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will 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? \$300 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

(d) How much will it cost to administer this program for subsequent years? \$150 for publication and training; funds already included in the Executive Branch Ethics Commission's budget.

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:

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems (New Administrative Regulation)

105 KAR 1:145. Voluntary cessation of participation by employers.

RELATES TO: KRS 61.510, 61.522, 61.546, 61.552, 61.565, 61.598, 61.675, 78.510 – 78.852

STATUTORY AUTHORITY: 61.522, 61.645(9)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) authorizes the Board of Trustees of Kentucky Retirement Systems to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, and 78.510 to 78.852. KRS 61.522 authorizes certain participating employers in the Kentucky Employees Retirement System and the County Employees Retirement System to voluntarily cease participation if they pay the full actuarial cost. This administrative regulation establishes the procedures and requirements for voluntary cessation of participation in the Kentucky Employees Retirement System and the County Employees Retirement System by qualifying employers.

Section 1. Definitions. (1) "Ceased employer" means an employer whose Form 7730, Application for Voluntary Cessation from CERS or KERS, has been approved by the systems and the employer has paid the full actuarial cost by lump sum or is paying the full actuarial cost by installments for a period of time determined by the board pursuant to KRS 61.552(3)(a).

(2) "Cessation date" means the last day of the Kentucky Employees Retirement Systems' or the County Employees Retirement Systems' plan year.

(3) "Plan year" means the period beginning July 1 and ending June 30.

Section 2. (1) An employer may request an estimate of the actuarial cost of ceasing participation from Kentucky Employees Retirement System or County Employees Retirement System. The request shall be made by completing the Form 7725, Request for Estimated Actuarial Cost of Voluntary Cessation.

(2) Kentucky Retirement Systems shall provide the estimate of the cost as of the next available cessation date.

(3) Kentucky Retirement Systems shall provide the estimate of the cost based on the information currently in its database and projecting the service and salary of all active employees as if they remain employed and continue to earn the same creditable compensation through the next available cessation date.

(4) The estimated actuarial cost of ceasing participation shall not be binding on Kentucky Retirement Systems.

(5) The employer shall not rely on the estimated actuarial cost of ceasing participation.

(6) The employer shall pay the administrative cost of \$5,000 with submission of the Form 7725, Request for Estimated Actuarial Cost of Voluntary Cessation.

Section 3. (1) The governing body of an employer seeking to cease participation in Kentucky Employees Retirement System or County Employees Retirement System shall pass a resolution to voluntarily cease participation in Kentucky Employees Retirement System or County Employees Retirement System.

(2) The resolution shall contain the following statements:

(a) That the employer has decided to voluntarily cease participation in Kentucky Employees Retirement System or County Employees Retirement System;

(b) That the employer acknowledges that the employer is subject to the requirements and restrictions of KRS 61.522 and this administrative regulation;

(c) That the employer acknowledges that in order to voluntarily cease participation in Kentucky Employees Retirement System or County Employees Retirement System the employer shall pay the full actuarial cost of withdrawal and all administrative costs;

(d) That the employer acknowledges that the employer's employees will no longer earn service credit in Kentucky

Employees Retirement System or County Employees Retirement System for employment with the employer after the employer's approved cessation date from Kentucky Employees Retirement System or County Employees Retirement System under KRS 61.522 and this administrative regulation;

(e) That the employer agrees to cooperate with Kentucky Retirement Systems to educate the employer's employees about the effect of the employer's cessation on their retirement accounts and their options regarding their retirement accounts; and

(f) That the employer shall not mandate, force, or require its employees to take a refund of their accumulated account balance as defined by KRS 61.510(41) or 78.510(38) or retaliate against its employees who chose not to take refunds of their accumulated account balance as defined in KRS 61.510(41) or 78.510(38).

Section 4. (1) An employer seeking to cease participation in Kentucky Employees Retirement System or County Employees Retirement System shall file a completed Form 7730, Application for Voluntary Cessation from CERS or KERS, with the executive director of Kentucky Retirement Systems by December 31 during the plan year containing the employer's selected cessation date.

(2) The employer shall submit the following documents with its Form 7730, Application for Voluntary Cessation from CERS or KERS:

(a) The Resolution of the Board of the employer resolving to voluntarily cease its participation in Kentucky Employees Retirement System or County Employees Retirement System;

(b) A notarized copy of the official minutes of the meeting in which the Resolution was adopted, if applicable;

(c) The employer's Articles of Incorporation, if applicable;

(d) The employer's current by-laws, if applicable;

(e) The employer's Certificate of Existence/Authorization from the Kentucky Secretary of State, if applicable;

(f) Documentation of the alternative retirement program created by or being created by the employer for its employees, such as a written description of the alternative retirement program;

(g) The employer's most recent five (5) audited financial statements and independent auditor's reports;

(h) The employer's most recent five (5) Consolidated Annual Financial Reports, if applicable;

(i) For employers intending to pay the full actuarial cost by lump sum, documentation of the source of the funds the employer intends to use to pay the full actuarial cost; and

(k) For employers intending to pay the full actuarial costs by installment payment plan, documentation of:

1. Source of funds to pay the installment payments;

2. List of real property owned by the employer, including deeds of conveyance, title, all liens or encumbrances on the real property, and any current written contractual lease or rental agreement of the real property identified;

3. List of liabilities of the employer;

4. Inventory of all other chattel and personal property owned by the employer or in which the employer has an interest that may be used as collateral by the employer, including a description of the property, the location of the property, and an estimated value; and

5. A Proposed Detailed Financing Statement.

(3) The employer shall submit with its Form 7730, Application for Voluntary Cessation from CERS or KERS, a list of each current and former full time employee as defined by KRS 61.510(21) and 78.510(21) who were employed during any time period the employer participated in Kentucky Employees Retirement System or County Employees Retirement System, containing:

(a) Full name;

(b) Last known address;

(c) Date of birth;

(d) Social security number or Kentucky Retirement Systems member id;

(e) Beginning date of employment;

(f) Date employment ended, if applicable; and

(g) Sick leave balance.

(4) The employer shall submit with its Form 7730, Application for Voluntary Cessation from CERS or KERS, a list of pending lawsuits, legal actions, arbitrations, mediations, and other litigation,

except for cases in which the employer is seeking to collect a debt owed to it by one (1) of its members, to which the employer is a party including:

(a) Name of the case;

(b) The case number;

(c) The name and address of the court, arbitrator, mediator, or administrative agency in which the case is pending; and

(d) A copy of the complaint or a description of the allegations made in the complaint as well as the type and amount of relief sought by the plaintiff or plaintiffs.

(5) Kentucky Retirement Systems shall not accept or continue processing an employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, that:

(a) Has not paid or otherwise resolved all its outstanding invoices with Kentucky Retirement Systems;

(b) Has reporting that is not correct in accordance with KRS 61.675, 78.625, and 105 KAR 1:140; or

(c) That is a party to pending legal action in which Kentucky Retirement Systems is an adverse party the result of which may affect the accounts of the employer's employees or the amount of employer contributions owed by the employer.

(6) The Board of Trustees of Kentucky Retirement Systems shall accept or reject the Form 7730, Application for Voluntary Cessation from CERS or KERS, for processing.

Section 5. (1) The employer shall pay the administrative costs incurred by Kentucky Retirement Systems for processing the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

(2) The employer shall pay \$10,000 as a deposit with the Form 7730, Application for Voluntary Cessation from CERS or KERS,

(3) Kentucky Retirement Systems shall place the deposit in a designated account and shall utilize the funds to pay the administrative costs of processing the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

(4) Kentucky Retirement Systems shall maintain records of all costs associated with the processing of employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, including:

(a) The cost of compensation and benefits of Kentucky Retirement Systems' employees computed on an hourly basis;

(b) Fees incurred by Kentucky Retirement Systems for use of external professional services; and

(c) The costs of postage, printing, and other expenses incurred by Kentucky Retirement Systems.

(5) Kentucky Retirement Systems shall calculate its total administrative costs and send an invoice to the employer either after the employer gives notice to Kentucky Retirement Systems pursuant to Section 10(3) of this administrative regulation or following withdrawal of the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

(a) Kentucky Retirement Systems shall apply the deposit received pursuant to subsection (2) of this section to any administrative costs incurred by Kentucky Retirement Systems as a result of the employer seeking to utilize the provisions of KRS 61.522.

(b) Following the application of the deposit to the outstanding administrative costs, Kentucky Retirement Systems shall submit an invoice to the employer for the additional administrative costs and the employer shall pay the invoice for the remaining administrative costs within thirty (30) days of the date of the invoice.

(6)(a) If the total administrative costs is less than the deposit paid by the employer, Kentucky Retirement Systems shall apply the remaining balance of the deposit to the:

1. Full actuarial cost if the employer gives notice of its intention to proceed with the voluntary withdrawal pursuant to Section 9(3) of this administrative regulation; or

2. Amount owed by the employer to Kentucky Retirement Systems for continued participation if the employer gives notice of its intention not to proceed with the voluntary withdrawal pursuant to Section 9(3) of this administrative regulation.

(b) Kentucky Retirement Systems shall refund any remaining balance to the employer after the amounts due pursuant to

paragraph (a) of this subsection have been satisfied.

(7) The Board of Trustees of Kentucky Retirement Systems shall not consider the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, until the employer has paid all the administrative costs incurred by Kentucky Retirement Systems.

(8) The costs paid pursuant to this section shall not be refunded to the employer if the employer withdraws its application.

Section 6. (1) Kentucky Retirement Systems shall take reasonable efforts to notify each employee identified on the list provided by the employer that the employer has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, to voluntarily cease participating in County Employees Retirement System or Kentucky Employees Retirement System.

(2) Kentucky Retirement Systems shall provide a notice informing the employee of the employee's right to request a refund of their accumulated account balance as defined in KRS 61.510(41) or 78.510(38) within sixty (60) days of the employer's cessation date. The notice shall be sent at least ten (10) days prior to the employer's cessation date.

(3) The employer shall not mandate, force, or require its employees to take a refund of their accumulated account balance as defined in KRS 61.510(41) or 78.510(38) or retaliate against any employee who does not take refund of their accumulated account balance as defined by KRS 61.510(41) or 78.510(38).

(4) Former employees of the employer who are currently participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System, due to employment with a participating agency, shall not be eligible to take a refund of their accumulated account balance.

(5) Current employees of the employer who are also employed by another employer participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System shall not be eligible to take a refund of their accumulated account balance.

(6) Current or former employees of the employer who began participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System, on or after January 1, 2014, shall not be eligible to take a refund of their accumulated account balance.

Section 7. (1) The employer shall continue to file reports in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 after the employer's cessation date until the Form 7730, Application for Voluntary Cessation from CERS or KERS, is approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer.

(2) The employer shall continue to remit employer contributions in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 after the cessation date until the Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer.

(a) 1. Kentucky Retirement Systems shall hold the employer contributions until the Form 7730, Application for Voluntary Cessation from CERS or KERS, is finally approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer.

2. Kentucky Retirement Systems shall credit the entire sum of the employer contributions remitted pursuant to this section to the employer's full actuarial cost if the employer is paying by lump sum as established in Section 10(1)(a) of this administrative regulation or to the employer's initial payment under the installment payment plan established pursuant to Section 10(1)(b) of this administrative regulation.

(b) If the employer does not become a ceased employer because it withdraws its Form 7730, Application for Voluntary Cessation from CERS or KERS, or if its Form 7730, Application for Voluntary Cessation from CERS or KERS, is rejected by the Board of Trustees of Kentucky Retirement Systems, the employer contributions remitted pursuant to this subsection shall be credited

towards any outstanding contributions owed for its continued participation in Kentucky Employees Retirement System or County Employees Retirement System while the Form 7730, Application for Voluntary Cessation from CERS or KERS, was pending.

(c) Kentucky Retirement Systems shall refund any remaining balance to the employer after the amounts due pursuant to paragraphs (a) and (b) of this subsection have been satisfied.

(3)(a) If the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of Kentucky Retirement Systems, the employer shall resume withholding employee contributions effective the month after the month in which the Form 7730, Application for Voluntary Cessation from CERS or KERS, was withdrawn or rejected.

(b) Pursuant to KRS 61.552(23), if the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of Kentucky Retirement Systems, Kentucky Retirement Systems shall send each employee the amount of employee contributions due for the time period between the employer's proposed cessation date and the date the Form 7730 was withdrawn or rejected.

(c) The employee shall not receive service credit for the period between the employer's proposed cessation date and the date the Form 7730, Application for Voluntary Cessation from CERS or KERS, was withdrawn or rejected if the employee does not pay the employee contributions.

(4)(a) If a member who is an employee of the employer that has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, files for disability retirement benefits while the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is pending, Kentucky Retirement Systems shall use the employer's proposed cessation date as the member's last day of paid employment if the member has not established a last day of paid employment prior to the employer's cessation date.

(b) If the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or rejected by the Board of Trustees of Kentucky Retirement Systems, Kentucky Retirement Systems shall determine the member's last day of paid employment pursuant to KRS 61.510(32) if the member has paid the employee contributions due.

(c) If an employee does not pay the employee contributions due, the first day of the month the employer resumes withholding employee contributions shall be a reemployment date for purposes of determining eligibility for disability retirement benefits.

(5) The employer shall continue to pick-up payments for installment purchase of service for any employee who is purchasing service pursuant to KRS 61.552(16) and 105 KAR 1:150.

(a) The employee shall have sixty (60) days from the date the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is approved by the Board of Trustees of Kentucky Retirement Systems and the employer becomes a ceased employer to pay in full any outstanding balance on the installment purchase agreement pursuant to KRS 61.552(16) and 105 KAR 1:150.

(b) If the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, is withdrawn by the employer or is rejected by the Board of Trustees of Kentucky Retirement Systems, the employee's installment purchase of service agreement shall remain in effect.

(6) Employees of the ceased employer who began participating on or after January 1, 2014 shall be vested in the four (4) percent employer pay credit that had been accrued as of the ceased employer's cessation date.

(7) If an employee seeks a refund of his or her account balance and wants to rollover or transfer the contributions, 105 KAR 1:345 shall apply.

Section 8. The employee shall receive service credit for sick leave accrued pursuant to KRS 61.546 or 78.616 as of the employer's cessation date.

(1) The employer shall report the number of hours of each

employee's accumulated sick leave as of the cessation date if the employer is under one (1) of the sick leave programs established in KRS 61.546 or 78.616(1) through (4).

(2) The employer shall report the number of days of each employee's accumulated sick leave as of the cessation date if the employer elected the sick leave program established in KRS 78.616(5).

(3) Kentucky Retirement Systems shall calculate the liability created by the reported sick leave balances and incorporate that liability into the employer's full actuarial cost.

Section 9. (1) The employer shall pay or otherwise resolve all its invoices and correct all reporting in accordance with KRS 61.675, 78.625, and 105 KAR 1:140 by August 31 after the cessation date.

(2) Kentucky Retirement Systems shall provide the employer with the amount of the full actuarial cost by sending a notice of actuarial cost and the report of the actuary to the employer.

(3) The employer shall notify Kentucky Retirement Systems in writing of its decision to cease participation or withdraw the Form 7730, Application for Voluntary Cessation from CERS or KERS, within sixty (60) days of the date of the notice of actuarial cost. If the employer intends to cease participation, it shall also provide notice of how it intends to pay the full actuarial cost.

(a) If an employer intends to pay the full actuarial cost by installment payment plan, the employer shall provide Kentucky Retirement Systems a list of collateral to use as security for the installment payment plan.

(b) The employer shall take all actions necessary to perfect the security interest in the collateral for Kentucky Retirement Systems.

(4) The employer shall submit the final plan documents for its alternative retirement program with its notification if it intends to cease participation.

(5) The Board of Trustees of Kentucky Retirement Systems shall not consider the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, until the employer has paid all the administrative costs incurred by Kentucky Retirement Systems, pursuant to Section 5 of this administrative regulation.

(6) After the employer has paid all the administrative costs, the Board of Trustees of Kentucky Retirement Systems shall approve or reject the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS.

Section 10. (1) The ceased employer shall pay the full actuarial cost by:

(a) Lump sum payment paid within thirty (30) days of the date the Board of Trustees of Kentucky Retirement Systems approves its application; or

(b) Installment payment plan pursuant to KRS 61.522(3).

(2) Kentucky Retirement Systems shall use the assumed rate of return adopted by the Board of Trustees of Kentucky Retirement Systems as of the employer's cessation date as the interest rate for the ceased employer's installment payment plan.

(3)(a) A ceased employer whose full actuarial cost is greater than \$10,000,000.00 and less than \$40,000,000.00 shall have up to sixty (60) months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(b) A ceased employer whose full actuarial cost is greater than or equal to \$40,000,000.00 and less than \$70,000,000.00 shall have up to 120 months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(c) A ceased employer whose full actuarial cost is greater than or equal to \$70,000,000.00 and less than \$100,000,000.00 shall have up to 180 months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(d) A ceased employer whose full actuarial cost is greater than or equal to \$100,000,000.00 shall have up to 240 months to pay the full actuarial cost plus interest at the actuarially assumed rate of return by monthly installment payments.

(4) The ceased employer shall pay the initial installment

payment for the fiscal year after the employer's cessation date within thirty (30) days of the final decision of the Board of Trustees approving the ceased employer's application for voluntary withdrawal.

(5) The ceased employer shall pay installment payments annually for the ensuing fiscal year on July 1 of each year.

(6) If the ceased employer defaults on the installment payment plan agreement, the employer shall be responsible for all administrative and legal fees incurred by Kentucky Retirement Systems to enforce the agreement.

Section 11. A person shall not purchase service pursuant to KRS 61.552(23) if the service was with a ceased employer.

Section 12. If the ceased employer was the last participating employer for the employee prior to the employee's retirement, the additional actuarial costs resulting from annual increases over ten (10) percent as established in KRS 61.598 shall not be invoiced to the ceased employer, but shall be collected pursuant to KRS 61.565.

Section 13. (1) If an employer files legal action against Kentucky Retirement Systems regarding the provisions of KRS 61.522 or this administrative regulation, the employer shall pay all administrative costs and legal fees incurred by Kentucky Retirement Systems if the employer's legal action against Kentucky Retirement Systems is unsuccessful or is dismissed for any reason other than by the agreement of the parties.

(2) The Board of Trustees of Kentucky Retirement Systems shall not approve or deny the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, until the legal action is resolved.

Section 14. If the employer's Form 7730 has not received final approval by Kentucky Retirement Systems' Board of Trustees or the withdrawing employer has not paid either the full actuarial cost by lump sum or the initial payment pursuant to the installment plan on or before June 30 of the year following the requested withdrawal date, the employer's Form 7730 shall be void.

Section 15. If any due date or time period deadline provided in KRS 61.522 or this administrative regulation falls on a Saturday, Sunday, or day that Kentucky Retirement Systems is closed due to state holiday, the due date or time period deadline shall extend to the close of business of the next business day.

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

(a) Form 7725, "Request for Estimated Actuarial Cost of Voluntary Cessation", October 2015; and

(b) Form 7730, "Application for Voluntary Cessation from CERS or KERS", October 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM A. THIELEN, Executive Director

APPROVED BY AGENCY: November 25, 2015

FILED WITH LRC: December 3, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 29, 2016, at 9:00 a.m. Eastern Time at the Kentucky Retirement Systems, Perimeter Park West, 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least 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. 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 close of business,

February 1, 2016. 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: Jennifer A. Jones, Assistant General Counsel, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 5501, fax (502) 696-8801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer A. Jones

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statute by establishing the processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(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 processes and procedures for an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System to voluntarily cease participation in accordance with KRS 61.522.

(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:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky Retirement Systems and employers wishing to cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System of which three (3) are known by Kentucky Retirement Systems but an unknown number are eligible.

(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 employer must complete the application and provide the requested documents and information. Kentucky Retirement Systems must audit the member accounts and employer file, counsel and provide notice to the current and former employees of the employer about their option to take a refund of their account, calculate the cost of the employer's unfunded liability, and administer the installment payment plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The employer would have its internal cost of voluntary ceasing participating, which would vary by employer. As required by the statute, KRS 61.522, the employer must also pay all the

administrative costs incurred by Kentucky Retirement Systems. This cost will also vary by employer.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The employer will be allowed to voluntarily cease participating in the Kentucky Employees Retirement System and the County Employees Retirement System.

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

(a) Initially: The cost of filing the application and completing the process of voluntary withdrawal.

(b) On a continuing basis: There will be no continuing cost to the employer.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The retirement allowance accounts of the trust funds administered by Kentucky Retirement Systems.

(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:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees. The employer must pay the administrative costs incurred by Kentucky Retirement Systems pursuant to KRS 61.522.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers seeking to voluntarily cease participation are subject to the same processes and procedures.

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 Retirement Systems and employers eligible to seek to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.522.

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 employer will have to pay its internal administrative costs and Kentucky Retirement Systems' administrative costs. The administrative regulation generates no revenue, but will allow employers to cease participation, which will eliminate the requirement for them to pay continuing employer contributions after cessation. The employer is required by statute to pay the full actuarial cost of withdrawal.

(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? Ultimately, the cost to Kentucky Retirement Systems should be negligible as KRS 61.522 requires the employer seeking to cease its participation to pay its internal administrative costs and Kentucky Retirement Systems' administrative costs. For each employer that seeks to cease participation, Kentucky Retirement Systems projects the cost to slightly exceed the respective application deposit. The application deposit for the estimated withdrawal liability is \$5,000 and \$10,000.00 for the calculation of the actual withdrawal liability.

(d) How much will it cost to administer this program for subsequent years? KRS 61.522 requires the employer seeking to cease its participation to pay its internal administrative costs and

Kentucky Retirement Systems' administrative costs so the cost to Kentucky Retirement Systems should be negligible. For each employer that seeks to cease participation, Kentucky Retirement Systems projects the cost to slightly exceed the respective costs of filing the application. Kentucky Retirement Systems cannot predict how many participating entities may seek to utilize the withdrawal process.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission
(New Administrative Regulation)

739 KAR 2:100. Volunteer firefighter requirements.

RELATES TO: KRS 95A.040

STATUTORY AUTHORITY: KRS 95A.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.040 requires the commission to promulgate administrative regulations establishing the minimum requirements for a volunteer firefighter in the Commonwealth of Kentucky. This administrative regulation establishes the minimum requirements for a volunteer firefighter in the Commonwealth of Kentucky.

Section 1. Definitions. (1) "Volunteer fire department" means a fire department with a minimum of twelve (12) members and a chief, at least one (1) operational fire apparatus or one (1) on order, with fewer than fifty (50) percent of its firefighters being full-time paid firefighters.

(2) "Volunteer firefighter" means an individual who receives either no salary or a salary of less than \$8,000 annually for the provision of firefighting services to a volunteer fire department.

Section 2. Volunteer Firefighter Requirements. (1) Each volunteer fire department recognized and certified by the Kentucky Fire Commission that operates in a city of any class as a fire protection district organized pursuant to KRS Chapter 75, as a county district established under authority of KRS 67.083, or as a nonprofit corporation created pursuant to KRS Chapter 273 shall require and ensure that each volunteer firefighter providing services on its behalf is:

(a) Able to read, write, and understand the English language;

(b) A person of sobriety and integrity;

(c) An orderly, law-abiding citizen, both prior to and during the time of service;

(d) A citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States; and

(e) Eighteen (18) years of age or older.

(2) The Kentucky Fire Commission may impose any penalty authorized by law on any volunteer fire department found to be in violation of any provision of this administrative regulation, including but not limited to withholding volunteer fire department aid.

ANNE-TYLER MORGAN, Legal Counsel

APPROVED BY AGENCY: December 14, 2015

FILED WITH LRC: December 15, 2015 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2016 at 10:00 a.m. Eastern Standard Time at the Kentucky Fire Commission, 118 James Court, Lexington, Kentucky 40505. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative

regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. 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: Anne-Tyler Morgan; Legal Counsel, Kentucky Fire Commission; McBrayer, McGinnis, Leslie & Kirkland, PLLC, 201 East Main Street Suite 900, Lexington, Kentucky 40507, phone (859) 231-8780, fax (859) 281-6480.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Anne-Tyler Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum requirements that a volunteer firefighter must meet in order to provide firefighting services to a volunteer fire department.

(b) The necessity of this administrative regulation: This administrative regulation is mandated by KRS 95A.040, which requires the Kentucky Fire Commission to promulgate administrative regulations to require that each volunteer firefighter be able to read, write and understand the English language, is a person of sobriety and integrity, is and has been an orderly, law-abiding citizen, is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, and has reached the age of eighteen (18).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 95A.040 by requiring that each volunteer firefighter be able to read, write and understand the English language, is a person of sobriety and integrity, is and has been an orderly, law-abiding citizen, is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, and has reached the age of eighteen (18).

(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 requiring each volunteer fire department to require and ensure that each volunteer firefighter providing firefighting services on its behalf be able to read, write and understand the English language, is a person of sobriety and integrity, is and has been an orderly, law-abiding citizen, is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, and has reached the age of eighteen (18).

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

(a) How the amendment will change this existing administrative regulation: not applicable

(b) The necessity of the amendment to this administrative regulation: not applicable

(c) How the amendment conforms to the content of the authorizing statutes: not applicable

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation and is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

(a) All volunteer firefighters;

(b) All candidates for volunteer firefighter positions; and

(c) All volunteer fire departments recognized and certified by the Kentucky Fire Commission.

(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: Volunteer firefighters and candidates for volunteer firefighter positions will be required to be able to read, write and understand the English language, be a person of sobriety and integrity, be and have been an orderly, law-abiding citizen, be a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, and have reached the age of eighteen (18). Volunteer fire departments will be required to mandate and ensure that each volunteer firefighter providing firefighting services on its behalf meets the requirements of KRS 95A.040(1)(d).

(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 any entity identified in question (3), other than the potential cost to volunteer fire departments of criminal background checks in the event that a volunteer firefighter's history as an orderly, law-abiding system is in question.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will benefit from the greater competency of Kentucky's volunteer firefighters and volunteer fire departments, which will be ensured through compliance with the requirements mandated by this administrative regulation.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation initially or in the future.

(a) Initially: The above paragraph is accurate for initial costs.

(b) On a continuing basis: The above paragraph is accurate for continuing costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Fire Commission is a state agency that receives its annual budget from the state government. The implementation and enforcement of this administrative regulation will be funded through the Kentucky Fire Commission's 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: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because all volunteer firefighters in the Commonwealth are required to meet the standards mandated by this administrative regulation, regardless of certification level.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact any volunteer fire department recognized and certified by the Kentucky Fire Commission.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 95A.040. No federal statutes necessitate 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? This administrative regulation will generate no revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent

years? This administrative regulation will generate no revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not impose any costs on state or local government, other than the potential cost to government-maintained volunteer fire departments of criminal background checks in the event that a volunteer firefighter's history as an orderly, law-abiding system is in question.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not impose any costs on state or local government, other than the potential cost to government-maintained volunteer fire departments of criminal background checks in the event that a volunteer firefighter's history as an orderly, law-abiding system is in question.

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

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs on state or local government, other than the potential cost to government-maintained volunteer fire departments of criminal background checks in the event that a volunteer firefighter's history as an orderly, law-abiding system is in question.

Other Explanation:

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM Kentucky Fire Commission (New Administrative Regulation)

739 KAR 2:110. Acceptance of out of state and military training and service.

RELATES TO: KRS 95A.050, 95A.090

STATUTORY AUTHORITY: KRS 95A.050, 95A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.090 requires the commission to promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to implement a policy for reviewing and accepting the training and service of any member of the United States military who served as a firefighter towards certification as a firefighter in the Commonwealth of Kentucky. This administrative regulation establishes a policy for reviewing and accepting the training and service of any member of the United States military who served as a firefighter; or the training and service of a firefighter certified in another state, territory, province, or nation; towards certification as a firefighter in the Commonwealth of Kentucky, in accordance with its authority pursuant to KRS 95A.050 to promulgate reasonable administrative regulations relating to fire protection personnel.

Section 1. Definitions. (1) "Certified professional firefighter" means a firefighter who meets the requirements of KRS 95A.210 and 95A.230.

(2) "Certified volunteer firefighter" means an individual who has received at least 150 hours of certified training as recognized by the commission and who receives at least twenty (20) hours of certified training annually to maintain certification.

(3) "IFSAC" means the International Fire Service Accreditation Congress.

(4) "ProBoard" means the National Board on Fire Service Professional Qualifications.

Section 2. Review and Acceptance Procedure. (1) Each certified professional firefighter shall be required to produce documentation of completion of a basic training course of a minimum of 400 hours duration as mandated by the commission as to subject matter and subject matter and number of hours for each subject, within one (1) year of the date of employment at a school or method certified by the commission. In addition, unless serving on active duty in the United States Armed Forces, each certified professional firefighter shall be required to produce documentation each calendar year of completion of an in-service training program

appropriate to the firefighter's rank and responsibility, of at least 100 hours' duration at a school certified or recognized by the commission.

(2) Each certified volunteer firefighter shall produce documentation of completion of at least 150 hours of certified training as recognized by the commission to receive certification and at least twenty (20) hours of certified training annually to maintain certification.

(3) The commission may consider the IFSAC or ProBoard accreditation of a firefighter certified out of state as the fulfillment of subsections (1) and (2) of this section and may certify a firefighter certified out of state through IFSAC or ProBoard by reciprocity.

(4) The requirements of subsections (1) and (2) of this section may be met either through comparable firefighter training or service in the United States Armed Forces or in another state, territory, province, or nation.

(5) A candidate for certification as a firefighter in the Commonwealth of Kentucky who is certified in another state, territory, province, or nation or who has served as a firefighter in the United States Armed Forces shall submit all documentation required in subsections (1) through (4) of this section, as applicable, to the division director of the commission. The candidate may submit required documentation to the commission through the fire department or agency by which the candidate is hired or employed.

(6) The division director of the commission or its designee shall review the submitted documentation to ensure that the candidate has fulfilled the requirements of either subsection (1) or (2) of this section as applicable.

(7) For candidates certified in another state, territory, province, or nation, the commission shall send to the hiring agency, and the hiring agency shall complete, the Out-of-State Training Hour Transfer Letter, the Out-of-State Transfer Worksheet, and the Kentucky Fire Commission Out-of-State Transfer Chart.

(8) The commission may impose any penalty authorized by law on any firefighter or hiring agency found to be in violation of any provision of this administrative regulation, including but not limited to withholding funds pursuant to KRS 95A.230.

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

- (a) "Out-of-State Training Hour Transfer Letter", 2015;
- (b) "Out-of-State Transfer Worksheet", 2015; and
- (c) "Kentucky Fire Commission Out-of-State Transfer Chart", 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Fire Commission, 118 James Ct., Suite 50, Lexington, Kentucky 40505, Monday through Friday, 8 a.m. to 4:30 p.m.

ANNE-TYLER MORGAN, Legal Counsel

APPROVED BY AGENCY: December 14, 2015

FILED WITH LRC: December 15, 2015 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2016 at 10:00 a.m. Eastern Standard Time at the Kentucky Fire Commission, 118 James Court, Lexington, Kentucky 40505. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. 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: Anne-Tyler Morgan; Legal Counsel, Kentucky Fire Commission; McBrayer, McGinnis, Leslie & Kirkland,

PLLC, 201 East Main Street Suite 900, Lexington, Kentucky 40507, phone (859) 231-8780, fax (859) 281-6480.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Anne-Tyler Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policy for reviewing and accepting the training and service of a firefighter certified in another state, territory, province, or nation; or of any member of the United States military who served as a firefighter; towards certification as a firefighter in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is mandated by KRS 95A.090, which requires the commission to promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to implement a policy for reviewing and accepting the training and service of any member of the United States military who served as a firefighter towards certification as a firefighter in the Commonwealth of Kentucky and by KRS 95A.050, which requires the commission to promulgate reasonable administrative regulations relating to fire protection personnel.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing a policy for reviewing and accepting the training and service of a firefighter certified in another state, territory, province, or nation; or of any member of the United States military who served as a firefighter; towards certification as a firefighter in the Commonwealth of Kentucky.

(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 a policy for reviewing and accepting the training and service of a firefighter certified in another state, territory, province, or nation; or of any member of the United States military who served as a firefighter; towards certification as a firefighter in the Commonwealth of Kentucky.

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

(a) How the amendment will change this existing administrative regulation: 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: This is a new administrative regulation and is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

(a) All candidates for positions as certified professional firefighters and certified volunteer firefighters; and

(b) All agencies hiring candidates for positions as certified professional firefighters and certified volunteer firefighters.

(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: Candidates for positions as certified professional firefighters and certified volunteer firefighters will be required to submit documentation of mandated training and service. Hiring agencies will be required to complete and submit to the commission the "Out-of-State Training Hour Transfer Letter", the "Out-of-State Transfer Worksheet", and the "Kentucky Fire Commission Out-of-State Transfer Chart" for certified firefighters hired from another state, territory, province, or nation.

(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 any entity identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will benefit from the greater competency of Kentucky's certified firefighters, which will be ensured through compliance with applicable training and service requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation initially or in the future.

(a) Initially: The above paragraph is accurate for initial costs.

(b) On a continuing basis: The above paragraph is accurate for continuing costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Fire Commission is a state agency that receives its annual budget from the state government. The implementation and enforcement of this administrative regulation will be funded through the Kentucky Fire Commission's 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: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because the policies established in this administrative regulation apply to all firefighters eligible for certification in the Commonwealth, regardless of certification level.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact any fire departments hiring firefighters certified out-of-state or who have served as firefighters in the United States Armed Forces.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 95A.050; KRS 95A.090. No federal statutes necessitate 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? This administrative regulation will generate no revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not impose any costs on state or local government.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not impose any costs on state or local government.

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

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs on state or local government.

Other Explanation:

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM Kentucky Fire Commission (New Administrative Regulation)

739 KAR 2:120. Notification of merger or splitting of volunteer fire districts.

RELATES TO: KRS 95A.530

STATUTORY AUTHORITY: KRS 95A.530

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.530 requires the commission to promulgate an administrative regulation describing the manner in which volunteer fire districts shall notify the commission of a merger or splitting of a volunteer fire district. This administrative regulation establishes the manner in which volunteer fire districts shall notify the commission of a merger or splitting of a volunteer fire district.

Section 1. Definition. "Volunteer fire district" means a fire protection district or a volunteer fire department district created in accordance with the procedures of KRS 65.182.

Section 2. Notification Procedure. (1) Prior to the merger or split of two (2) or more volunteer fire departments, each volunteer fire district involved in the merger or split shall submit the following documents to the division director of the commission:

(a) A letter of agreement between the two (2) or more volunteer fire districts involved in the merger or split to either merge or split, as applicable;

(b) A detailed description and map of the new volunteer fire district boundaries created as a result of the merger or split;

(c) An agreement between the two (2) or more county judge/executives within whose jurisdiction the two (2) or more volunteer fire districts are located to the merger or split; and

(d) A completed Application for Fire Department Merger and Separation.

(2) The merger or split shall not be effective until approved in writing by the commission.

Section 3. Incorporation by Reference. (1) "Application for Fire Department Merger and Separation", 2015, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Fire Commission, 118 James Ct., Suite 50, Lexington, Kentucky 40505, Monday through Friday, 8 a.m. to 4:30 p.m.

ANNE-TYLER MORGAN, Legal Counsel

APPROVED BY AGENCY: December 14, 2015

FILED WITH LRC: December 15, 2015 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2016 at 10:00 a.m. Eastern Standard Time at the Kentucky Fire Commission, 118 James Court, Lexington, Kentucky 40505. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. 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: Anne-Tyler Morgan; Legal Counsel, Kentucky Fire Commission; McBrayer, McGinnis, Leslie & Kirkland, PLLC, 201 East Main Street Suite 900, Lexington, Kentucky 40507, phone (859) 231-8780, fax (859) 281-6480.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Anne-Tyler Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation describes the manner in which volunteer fire districts should notify the commission of a merger or splitting of a volunteer fire district.

(b) The necessity of this administrative regulation: This administrative regulation is mandated by KRS 95A.530, which requires the commission to promulgate an administrative regulation describing the manner in which volunteer fire districts should notify the commission of a merger or splitting of a volunteer fire district.

(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 describing the manner in which volunteer fire districts should notify the commission of a merger or splitting of a volunteer fire district.

(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 detailing the manner in which volunteer fire districts should notify the commission of a merger or splitting of a volunteer fire district.

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

(a) How the amendment will change this existing administrative regulation: not applicable

(b) The necessity of the amendment to this administrative regulation: not applicable

(c) How the amendment conforms to the content of the authorizing statutes: not applicable

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation and is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

(a) All volunteer fire districts involved in a merger or split.

(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: Volunteer fire districts involved in a merger or split will be required to submit the documentation mandated by this administrative regulation to the commission prior to the merger or split.

(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 any entity identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with this administrative regulation, the commission will be better able to regulate and ensure appropriate firefighter coverage of each volunteer fire district involved in a merger or split, which will ensure their efficacy.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation initially or in the future.

(a) Initially: The above paragraph is accurate for initial costs.

(b) On a continuing basis: The above paragraph is accurate for continuing costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Fire Commission is a state agency that receives its annual budget from the state government. The implementation and enforcement of this administrative regulation will be funded through the Kentucky Fire Commission's 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: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because the notification requirements established in this administrative regulation apply to all fire departments in the Commonwealth, regardless of certification type.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact any volunteer fire districts involved in a merger or split.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 95A.530. No federal statutes necessitate 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? This administrative regulation will generate no revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not impose any costs on state or local government.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not impose any costs on state or local government.

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

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs on state or local government.

Other Explanation:

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission
(New Administrative Regulation)**

739 KAR 2:130. Thermal vision grant application process.

RELATES TO: KRS 95A.400, 95A.410, 95A.430, 95A.440

STATUTORY AUTHORITY: KRS 95A.430

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.430 requires the commission to promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to create the necessary application forms, any necessary supporting documents, compliance documents, or reporting documents for the thermal vision grant program. This administrative regulation establishes the required applications for the thermal vision grant program.

Section 1. Definitions. (1) "Thermal vision device" means any portable electronic device that displays a visible image from the infrared portion of the electromagnetic spectrum.

(2) "Thermal vision grant program" means the program administered pursuant to KRS 95A.400 to 95A.440 and designed to upgrade the capabilities of local fire departments by providing financial assistance for the purchase of thermal vision devices.

Section 2. Grant Application Process. (1) The office of the commission shall create, and the commission shall approve, an updated Thermal Imaging Camera Grant Memorandum and Thermal Imaging Camera Grant Application annually.

(2) The commission shall send the Thermal Imaging Camera Grant Memorandum and Thermal Imaging Camera Grant Application to each fire department eligible for a thermal vision grant pursuant to KRS 95A.440 annually.

(3) Each fire department applying for a thermal vision grant shall complete and return the Thermal Imaging Camera Grant Application to the commission.

(4) The commission shall review the Thermal Imaging Camera Grant Application submitted by each fire department to ensure that the fire department meets the requirements of KRS 95A.440.

(5) The commission shall approve thermal vision grants for eligible fire departments through currently available funds and shall give priority to the approval of thermal vision grants to fire departments with the fewest thermal vision devices.

(6) The commission shall send to any fire department approved for a thermal vision grant the Approval Letter, which shall state the financial award granted.

(7) Upon receipt of the Approval Letter, the fire department shall purchase a thermal vision device and shall send to the commission the proof of purchase, proof of payment, and manufacturer serial number of the device.

(8) Upon receipt of the documents required by subsection (7) of this section, the commission shall issue payment to the purchasing fire department from the funds available through the thermal vision grant program.

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

- (a) "Out-of-State Training Hour Transfer Letter", 2015;
- (b) "Thermal Imaging Camera Grant Memorandum", 2015;
- (c) "Thermal Imaging Camera Grant Application", 2015; and
- (d) "Approval Letter", 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Fire Commission 118 James Ct., Suite 50, Lexington, Kentucky 40505, Monday through Friday, 8 a.m. to 4:30 p.m.

ANNE-TYLER MORGAN, Legal Counsel

APPROVED BY AGENCY: December 14, 2015

FILED WITH LRC: December 15, 2015 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 22, 2016 at 10:00 a.m. Eastern Standard Time at the Kentucky Fire Commission, 118 James Court, Lexington, Kentucky 40505. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 1, 2016. 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: Anne-Tyler Morgan; Legal Counsel, Kentucky Fire Commission; McBrayer, McGinnis, Leslie & Kirkland, PLLC, 201 East Main Street Suite 900, Lexington, Kentucky 40507, phone (859) 231-8780, fax (859) 281-6480.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: Anne-Tyler Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation creates the necessary application forms, any necessary supporting documents, compliance documents, or reporting documents for the thermal vision grant program.

(b) The necessity of this administrative regulation: This administrative regulation is mandated by KRS 95A.430, which requires the commission to promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to create the necessary application forms, any necessary supporting documents, compliance documents, or reporting documents for the thermal vision grant 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 creating the necessary application forms, any necessary supporting documents, compliance documents, or reporting documents for the thermal vision grant 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 statutes by creating the necessary application forms, any necessary supporting documents, compliance documents, or reporting documents for the thermal vision grant program administered pursuant to KRS 95A.400 to 95A.440.

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

(a) How the amendment will change this existing administrative regulation: not applicable

(b) The necessity of the amendment to this administrative regulation: not applicable

(c) How the amendment conforms to the content of the authorizing statutes: not applicable

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation and is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All fire departments applying for thermal vision grants.

(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: Candidates for positions as certified professional firefighters and certified volunteer firefighters will be required to submit the documentation required by this administrative regulation in order to receive funds from the thermal vision grant program.

(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 any entity identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Fire departments receiving thermal vision grants will benefit from financial assistance for the purchase of thermal vision devices, which will reduce and prevent the loss of life by creating better equipped firefighters.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation initially or in the future.

(a) Initially: The above paragraph is accurate for initial costs.

(b) On a continuing basis: The above paragraph is accurate for continuing costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative

regulation: The Kentucky Fire Commission is a state agency that receives its annual budget from the state government. The implementation and enforcement of this administrative regulation will be funded through the Kentucky Fire Commission's 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: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because the requirements established in this administrative regulation apply to all fire departments, regardless of certification type.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact any fire departments applying for thermal vision grants.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 95A.430. No federal statutes necessitate 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? This administrative regulation will generate no revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not impose any costs on state or local government.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not impose any costs on state or local government.

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

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs on state or local government.

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services
Division of Policy and Operations
(New Administrative Regulation)

907 KAR 8:040. Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.130, 42 U.S.C. 1396a(a)(30)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS

205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program coverage provisions and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services provided by adult day health care programs, rehabilitation agencies, special health clinics, mobile health service, multi-therapy agencies, and comprehensive outpatient rehabilitation facilities to Medicaid recipients.

Section 1. Provider Participation. To be eligible to provide and be reimbursed for services covered under this administrative regulation, a provider shall be:

(1) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

(2) Currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; and

- (3)(a) An adult day health care program;
- (b) A multi-therapy agency;
- (c) A comprehensive outpatient rehabilitation facility;
- (d) A mobile health service;
- (e) A special health clinic; or
- (f) A rehabilitation agency.

Section 2. Coverage of Services. (1) The services covered under this administrative regulation include:

- (a) Physical therapy;
- (b) Occupational therapy; or
- (c) Speech-language pathology services.

(2) To be covered under this administrative regulation, a service shall be:

- (a) Provided to a recipient;
- (b) By:

1. An occupational therapist who renders services on behalf of a provider listed in Section 1(3) of this administrative regulation;

2. A physical therapist who renders services on behalf of a provider listed in Section 1(3) of this administrative regulation;

3. A speech-language pathologist who renders services on behalf of a provider listed in Section 1(3) of this administrative regulation;

4. An occupational therapy assistant who renders services:

- a. Under supervision in accordance with 201 KAR 28:130; and
- b. On behalf of a provider listed in Section 1(3) of this administrative regulation;

5. A physical therapist assistant who renders services:

- a. Under supervision in accordance with 201 KAR 22:053; and
- b. On behalf of a provider listed in Section 1(3) of this administrative regulation;

6. A speech-language pathology clinical fellow who renders services:

a. Under the supervision of a speech-language pathologist; and

b. On behalf of a provider listed in Section 1(3) of this administrative regulation;

(c) Ordered:

1. By:

a. A physician currently participating in the Medicaid Program in accordance with 907 KAR 1:671;

b. An advanced practice registered nurse currently participating in the Medicaid Program in accordance with 907 KAR 1:671; or

c. A physician assistant currently participating in the Medicaid Program in accordance with 907 KAR 1:671; and

2. For:

a. A specific amount and duration; and

b.(i) Maximum reduction of the effects of a physical or intellectual disability; or

(ii) Restoration of a recipient to the recipient's best possible functioning level;

(d) Medically necessary; and

(e) Prior authorized by the department.

(2)(a) There shall be an annual limit of twenty (20):

1. Occupational therapy service visits per recipient per calendar year except as established in paragraph (b) of this subsection;

2. Physical therapy service visits per recipient per calendar year except as established in paragraph (b) of this subsection; and

3. Speech-language pathology service visits per recipient per calendar year except as established in paragraph (b) of this subsection.

(b) The limit established in paragraph (a) of this subsection may be exceeded if services in excess of the limits are determined to be medically necessary by the:

1. Department, if the recipient is not enrolled with a managed care organization; or

2. Managed care organization in which the enrollee is enrolled, if the recipient is an enrollee.

(c) Prior authorization by the department shall be required for each service visit that exceeds the limit established in paragraph (a) of this subsection for a recipient who is not enrolled with a managed care organization.

Section 3. Documentation, Records Maintenance, Protection, and Security. (1) A provider shall maintain a current health record for each recipient.

(2) A health record shall:

(a) Document the provider's initial assessment of the recipient and any subsequent assessments;

(b) Document each service provided to the recipient; and

(c) Include detailed staff notes that state:

1. Progress made toward outcomes identified according to the provider's assessment and in the physician's order, advanced practice registered nurse's order, or physician assistant's order;

2. The date of each service;

3. The beginning and ending time of each service; and

4. The signature and title of the individual providing each service.

(3) The individual who provides a service shall date and sign the health record on the date that the individual provides the service.

(4)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least six (6) years from the date of the service or until any audit dispute or issue is resolved beyond six (6) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(5) A provider shall comply with 45 C.F.R. Part 164.

Section 4. Medicaid Program Participation Compliance. (1) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department in accordance with 907 KAR 1:671.

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

1. Interpreted to be fraud or abuse; and

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

Section 5. No Duplication of Service. (1) The department shall not reimburse for an occupational therapy service, physical therapy service, or speech-language pathology service provided to a recipient by more than one (1) provider of any program in which the respective service is covered during the same time period.

(2) For example, if a recipient is receiving an occupational therapy service from a multi-therapy agency enrolled with the Medicaid Program, the department shall not reimburse for the same occupational therapy service provided to the same recipient

during the same time period via the home health program.

Section 6. Third Party Liability. A provider shall comply with KRS 205.622.

Section 7. Out-of-State Providers. The department shall cover a service under this administrative regulation that is provided by an out-of-state provider if the:

(1) Service meets the coverage requirements of this administrative regulation; and

(2) The provider:

(a) Complies with the requirements of this administrative regulation; and

(b) Is:

1.a. Licensed as an adult day health care program in the state in which it is located;

b. A comprehensive outpatient rehabilitation facility licensed in the state in which it is located;

c. Licensed as a mobile health service in the state in which it is located;

d. A special health clinic licensed in the state in which it is located;

e. A rehabilitation agency licensed in the state in which it is located;

f. An occupational therapist or occupational therapist group;

g. A physical therapist or physical therapist group;

h. A speech-language pathologist or speech-language pathologist group; or

i. A multi-therapy agency;

2. Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

3. Currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671.

Section 8. 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 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, or 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.

Section 9. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 10. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 11. Appeals. An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907

KAR 1:563.

LISA LEE, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 23, 2015

FILED WITH LRC: December 2, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 21, 2016 at 9:00 a.m. in Suite A 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 January 13, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, email 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 coverage provisions regarding occupational therapy, physical therapy, and speech language pathology services provided to Medicaid recipients by adult day health care programs, multi-therapy agencies (any combination of physical therapists, occupational therapists, speech-language pathologists), comprehensive outpatient rehabilitation facilities (CORFs), rehabilitation agencies, special health clinics, and mobile health services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to expand the physical therapy, occupational therapy, and speech-language pathology service provider base to ensure Medicaid recipient access to the associated services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by enhancing Medicaid recipient access to care as federally mandated.

(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 enhancing Medicaid recipient access to care as federally mandated.

(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 government affected by this administrative regulation: Adult day health care programs, occupational therapists, physical therapists, speech-language pathologists, multi-therapy agencies (combination of occupational therapists, physical therapists, and speech-language pathologists),

comprehensive outpatient rehabilitation facilities (CORFs), rehabilitation agencies, mobile health service providers, special health clinics, and recipients of the services will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Any entity that wishes to provide the services will need to enroll in the Medicaid Program as a provider and most likely join the provider network of managed care organizations as many recipients of the services will be enrolled with a managed care organization.

(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; however, entities may experience administrative costs associated with enrolling in the Medicaid Program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Entities will benefit by being eligible to receive Medicaid reimbursement for providing the services. Medicaid recipients will benefit from having an expanded array of providers from which to receive the services.

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

(a) Initially: The cost is indeterminable as the Department for Medicaid Services is unable to predict how many organizations authorized by this administrative regulation to enroll in the Medicaid program and provide occupational therapy, physical therapy, or speech-language pathology services will elect to do so. DMS is also unable to forecast how many Medicaid recipients will elect to receive these services from the aforementioned providers rather than from the existing pool of providers of these services.

(b) On a continuing basis: The answer in paragraph (a) above also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and state matching funds comprised of general fund and restricted 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 are necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor directly nor indirectly increases any fees.

(9) Tiering: Is tiering applied? Tiering is neither applied nor necessary as the provisions in this administrative regulation apply equally to the affected parties.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30).

2. State compliance standards. KRS 194A.030(2) states, "The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act."

3. Minimum or uniform standards contained in the federal mandate. There is a federal mandate to ensure recipient access to services covered by the state's Medicaid program. As the Department for Medicaid Services (DMS) covers occupational therapy, physical therapy, and speech-language pathology services it must ensure that an adequate provider base exists to ensure recipient access to care. A relevant federal law – 42 U.S.C. 1396a(a)(30) requires a state's Medicaid program to "provide such methods and procedures relating to the utilization of, and the

payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Expanding the base of authorized providers comports with the intent of the aforementioned federal law.

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. 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? The Department for Medicaid Services will be affected by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 U.S.C. 1396a(a)(30) and KRS 194A.030(2).

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

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

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

(c) How much will it cost to administer this program for the first year? The cost is indeterminable as the Department for Medicaid Services is unable to predict how many organizations authorized by this administrative regulation to enroll in the Medicaid program and provide occupational therapy, physical therapy, or speech-language pathology services will elect to do so. DMS is also unable to forecast how many Medicaid recipients will elect to receive these services from the aforementioned providers rather than from the existing pool of providers of these services.

(d) How much will it cost to administer this program for subsequent years? The response in paragraph (c) above also applies here.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 8:045. Reimbursement of occupational therapy, physical therapy, and speech-language pathology provided by various entities.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.130, 42 U.S.C. 1396a(a)(30)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS

205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program coverage provisions and requirements regarding occupational therapy services, physical therapy services, and speech-language pathology services provided to Medicaid recipients who are not enrolled with a managed care organization and by adult day health care programs, rehabilitation agencies, special health clinics, mobile health service, multi-therapy agencies, and comprehensive outpatient rehabilitation facilities.

Section 1. Provider Participation. To be eligible to provide and be reimbursed for services covered under this administrative regulation, a provider shall meet the requirements established in 907 KAR 8:040.

Section 2. Reimbursement. (1) To be reimbursable under this administrative regulation, a service shall meet the coverage requirements established in 907 KAR 8:040.

(2) The department shall reimburse:

(a) 63.75 percent of the rate listed on the current Kentucky-specific Medicare Physician Fee Schedule for a service provided by:

1. An occupational therapist;

2. A physical therapist; or

3. A speech-language pathologist; or

(b) 37.5 percent of the rate listed on the current Kentucky-specific Medicare Physician Fee Schedule for a service provided by:

1. An occupational therapy assistant;

2. A physical therapist assistant; or

3. A speech-language pathology clinical fellow.

(3)(a) The current Kentucky-specific Medicare Physician Fee Schedule shall be the Kentucky-specific Medicare Physician Fee Schedule used by the Centers for Medicare and Medicaid Services on the date that the service is provided.

(b) For example, if an occupational therapy service is provided on a date when the Centers for Medicare and Medicaid Services':

1. Interim Kentucky-specific Medicare Physician Fee Schedule for a given year is in effect, the reimbursement for the service shall be the amount established on the interim Kentucky-specific Medicare Physician Fee Schedule for the year; or

2. Final Kentucky-specific Medicare Physician Fee Schedule for a given year is in effect, the reimbursement for the service shall be the amount established on the final Kentucky-specific Medicare Physician Fee Schedule for the year.

Section 3. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

(1) 907 KAR 8:040; and

(2) This administrative regulation.

Section 4. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 5. Appeals. A provider may appeal an action by the department as established in accordance with 907 KAR 1:671.

LISA LEE, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 23, 2015

FILED WITH LRC: December 2, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 21, 2016 at 9:00 a.m. in Suite A 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 January 13, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business February 1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, email 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 reimbursement provisions regarding occupational therapy, physical therapy, and speech-language pathology services provided by adult day health care programs, multi-therapy agencies (any combination of physical therapists, occupational therapists, speech-language pathologists), comprehensive outpatient rehabilitation facilities (CORFs), rehabilitation agencies, special health clinics, and mobile health service providers to Medicaid recipients who are not enrolled in a managed care organization. DMS will reimburse 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for services provided by an occupational therapist, a physical therapist, or a speech-language pathologist. DMS will pay 37.5 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for services provided by an occupational therapy assistant, a physical therapist assistant, or a speech-language pathology clinical fellow.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to expand the physical therapy, occupational therapy, and speech-language pathology service provider base to ensure Medicaid recipient access to the associated services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by enhancing Medicaid recipient access to care as federally mandated.

(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 enhancing Medicaid recipient access to care as federally mandated.

(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 government affected by this administrative regulation: Adult day health care (ADHC) programs, occupational therapists, physical therapists, speech-language pathologists, multi-therapy agencies (combination of occupational therapists, physical therapists, and speech-language pathologists), comprehensive outpatient rehabilitation facilities (CORFs),

rehabilitation agencies, mobile health service providers, special health clinics, and recipients of the services will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Any entity that wishes to provide the services will need to enroll in the Medicaid Program as a provider and most likely join the provider network of managed care organizations as most recipients of the services will be enrolled with a managed care organization.

(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; however, entities may experience administrative costs associated with enrolling in the Medicaid Program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Entities will benefit by being eligible to receive Medicaid reimbursement for providing the services. Medicaid recipients will benefit from having an expanded array of providers from which to receive the services.

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

(a) Initially: The cost is indeterminable as the Department for Medicaid Services is unable to predict how many organizations authorized by this administrative regulation to enroll in the Medicaid program and provide occupational therapy, physical therapy, or speech-language pathology services will elect to do so. DMS is also unable to forecast how many Medicaid recipients will elect to receive these services from the aforementioned providers rather than from the existing pool of providers of these services.

(b) On a continuing basis: The answer in paragraph (a) above also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and state matching funds comprised of general fund and restricted 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 are necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor directly nor indirectly increases any fees.

(9) Tiering: Is tiering applied? Tiering is applied in that the rates are tiered based upon whether the rendering practitioner is an occupational therapist, physical therapist, or speech-language pathologist or an assistant. DMS will pay a lower rate for services rendered by assistants.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30).

2. State compliance standards. KRS 194A.030(2) states, "The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act."

3. Minimum or uniform standards contained in the federal mandate. There is a federal mandate to ensure recipient access to services covered by the state's Medicaid program. As the Department for Medicaid Services (DMS) covers occupational therapy, physical therapy, and speech-language pathology services it must ensure that an adequate provider base exists to ensure recipient access to care. A relevant federal law – 42 U.S.C. 1396a(a)(30) requires a state's Medicaid program to "provide such

methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." Expanding the base of authorized providers comports with the intent of the aforementioned federal law.

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. 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? The Department for Medicaid Services will be affected by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 U.S.C. 1396a(a)(30) and KRS 194A.030(2).

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

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

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

(c) How much will it cost to administer this program for the first year? The cost is indeterminable as the Department for Medicaid Services is unable to predict how many organizations authorized by this administrative regulation to enroll in the Medicaid program and provide occupational therapy, physical therapy, or speech-language pathology services will elect to do so. DMS is also unable to forecast how many Medicaid recipients will elect to receive these services from the aforementioned providers rather than from the existing pool of providers of these services.

(d) How much will it cost to administer this program for subsequent years? The response in paragraph (c) above also applies here.

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 Behavioral Health, Developmental and Intellectual Disabilities Division for Behavioral Health (New Administrative Regulation)

908 KAR 2:065. Community transition for individuals with serious mental illness.

RELATES TO: KRS 205.245, 216.765(2), 216B.303, 216B.305
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and

Family Services to promulgate administrative regulations necessary to protect the health of Kentucky citizens and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 210.450 requires the secretary to promulgate administrative regulations governing qualifications of personnel and standards for personnel management for community programs for behavioral health or individuals with an intellectual disability. This administrative regulation establishes housing assistance guidelines and the range of community transition services to be made available to qualified individuals diagnosed with serious mental illness residing in, or at risk of residing in, personal care homes.

Section 1. Definitions. (1) "Assertive community treatment" or "ACT" means an evidence-based practice model designed to provide treatment, rehabilitation and support services, using a multidisciplinary approach, to individuals who are diagnosed with a serious mental illness. These services shall be provided in accordance with 907 KAR 15:020, Section 3(2)(j).

(2) "Case management" means those services provided pursuant to 907 KAR Chapter 15 by a targeted case manager eligible and trained to provide those services pursuant to 908 KAR 2:260.

(3) "Community integration supplementation" means supplementation as set forth in 921 KAR 2:015, Section 6.

(4) "Crisis services" means services that are timely and accessible and provide supports to those individuals experiencing a behavioral health crisis as provided in 907 KAR Chapter 15. The services may include mobile crisis teams, residential crisis services, and twenty-four (24) hours per day/seven (7) days per week crisis telephone lines. The services shall be offered in the least restrictive setting possible.

(5) "Housing assistance" means assistance in gaining access to housing in the community as further defined in Section 3(1) of this administrative regulation. Housing in the community does not include a personal care home, group home, nursing facility, boarding home, assisted living residence, supervised living setting, or any setting required to be licensed.

(6) "Peer support services" means the social and emotional support that is provided by persons having a mental health, substance use, or co-occurring disorder to others with a similar disorder, in order to bring about a desired social or personal change as provided in 907 KAR Chapter 15.

(7) "Person centered recovery plan" means a treatment/recovery plan created for adults with SMI, which is developed with the individual, the designated clinician, and any other parties designated by the individual. This plan should build upon identified strengths, wants, and needs of each individual.

(8) "Personal care home" means a facility licensed as a personal care home and regulated by 902 KAR 20:031 and 902 KAR 20:036.

(9) "Provider" means a community mental health center (CMHC), its affiliate provider organizations, and any individual or organization qualified to provide behavioral health service, including behavioral health service organizations (BHSO). For the services provided under this administrative regulation, a CMHC is not limited to a geographic area.

(10) "Serious mental illness" or "SMI" means a mental illness or disorder (but not a primary diagnosis of Alzheimer's disease or dementia), that is described in the Diagnostic and Statistical Manual of Mental Disorders (DSM), 5th Edition, or the DSM currently in use, that impairs or impedes functioning in one (1) or more major areas of living and is unlikely to improve without treatment, services, or supports.

(11) "Supported employment services" means services that will assist individuals in preparing for, identifying, and maintaining integrated, paid, competitive employment. Services may include job coaching, transportation, assistive technology, specialized job training, person centered employment plans, job development, and individually-tailored supports.

(12) "Tenancy rights" means rights created by a landlord/tenant relationship whether through a direct lease or sublease in which the individual is identified as the tenant.

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Section 2. Eligibility. An adult with a serious mental illness shall be considered eligible for housing assistance and supported employment services in addition to other services found to be medically necessary under this administrative regulation if the individual:

- (1) Has expressed a desire to live in permanent housing with tenancy rights;
- (2) Is eligible for Medicaid services;
- (3) Is at least eighteen (18) years of age;
- (4) Is living in or at risk of living in a personal care home (PCH); and
- (5) Is categorically eligible for community integration supplementation (CIS) pursuant to 921 KAR 2:015, Section 6.

Section 3. Services. Services shall include:

- (1) Housing assistance under this administrative regulation shall:
 - (a) Allow choice in activities of daily living, social interaction, and access to the community; and
 - (b) Be offered to enable individuals to attain and maintain integrated, affordable housing that:
 1. Is scattered site housing, where no more than twenty-five (25) percent of the units in any development are occupied by individuals with a disability, as defined by the Americans with Disabilities Act, actually known to the cabinet; and
 2. Does not limit access to community activities;
- (2) Supportive services in accordance with a person centered recovery plan developed pursuant to Section 4 of this administrative regulation may include:
 - (a) ACT;
 - (b) Case Management;
 - (c) Covered services as set forth in 907 KAR 3:130;
 - (d) Crisis services;
 - (e) Peer support services; or
 - (f) Supported employment services.

Section 4. Transition Process. An individual shall:

- (1) Be evaluated by a qualified mental health provider to determine eligibility for and the clinical appropriateness of the transition;
- (2) Receive information about available services under this administrative regulation including CIS eligibility pursuant to 921 KAR 2:015, Section 6;
- (3) Work with a team to develop a person centered recovery plan that shall include all necessary services, objectives, plans, and interventions;
- (4) Be offered assistance in developing an advance directive for mental health treatment and wellness/crisis plans.

Section 5. Appeal Rights. An individual may appeal a department decision pursuant to this administrative regulation in accordance with 907 KAR 1:563.

MARY REINLE BEGLEY, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 2, 2015

FILED WITH LRC: December 2, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 21, 2016, at 9:00 a.m. in Conference Suite A, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 13, 2016, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business February

1, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Wendy Morris or Tanya Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes housing assistance guidelines and the range of community transition services to be made available to qualified individuals diagnosed with Serious Mental Illness residing in, or at risk of residing in, Personal Care Homes.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assure that qualified individuals diagnosed with Serious Mental Illness residing in, or at risk of residing in, Personal Care Homes, have access to appropriate transition services to support their success in community living environments. This administrative regulation is also necessary to ensure that the strides made under the Interim Settlement Agreement and the Amended Settlement Agreement between the Cabinet for Health and Family Services and Kentucky Protection and Advocacy to protect the interests of Kentuckians with Serious Mental Illness who resided in or were at risk of residing in free-standing Personal Care Homes (PCH) and were given the option of community placement be continued.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 210.450 in that it establishes qualifications and standards for personnel who participate in meeting behavioral health needs of the citizens of the Commonwealth.

(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 criteria whereby providers of community transition services to Seriously Mentally Ill individuals residing in, or at risk of residing in Personal Care Homes, meet the behavioral health needs of citizens of the Commonwealth.

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

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

An unknown number of individuals to be identified in the future as well as the 675 individuals who are the focus of the Amended Interim Settlement Agreement who will continue to receive services under this regulation;

Fourteen Community Mental Health Centers (serving all 120 counties of the Commonwealth) as well as other qualified mental health professionals;

An estimated 50 Personal Care Homes currently serving the affected individuals; and

An unknown number of community-based landlords, or other housing providers, who may provide housing to the eligible individuals.

(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 CMHCs and additional behavioral health providers will continue to provide outreach to residents/potential residents of PCHs.

Personal Care Homes will assist in the transition process.

The CMHCs and affected CHFS agencies will continue to provide outreach to community-based housing and other service providers.

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

No additional costs are anticipated, as CMHC and CHFS staff and supplements are already in place.

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

Individuals with SMI residing in/at risk of residing in PCHs will have the opportunity for self-direction and access to community services not generally available in a more restrictive environment.

(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 on an initial basis.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is Medicaid and state general funds.

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

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

(9) TIERING: Is tiering applied? Tiering will not be applied since every qualified individual has equal access to the proposed services.

Revenues: (+/-)

Expenditures: (+/-)

Other Explanation:

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? None.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following statutes authorize the actions taken by this administrative regulation: KRS 205.245, 216.765(2), 216B.303, 216B.305, Title II of the Americans with Disabilities Act (42 U.S.C. § 12131, et seq.), 527 U.S. 581 (1999), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794(a)).

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 new revenues for state or local government 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 administrative regulation will not generate new revenues for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to implement this program in the first year.

(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.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of December 9, 2015

Members: Senators, Julie Raque-Adams; Perry Clark, Ernie Harris, Alice Forgy Kerr and Representative Tommy Turner.

LRC Staff: Sarah Amburgey, Ange Bertholf, Emily Caudill, Betsy Cupp, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

Guests: Andy Crocker, Personnel Board; Marcus Jones, Perry Wornall, Board of Veterinary Examiners; Jack Ballard, Nicole Biddle, Rex Cecil, Timothy Murphy, Board of Architects; Brian Judy, Sandra Kelley, Board of Alcohol and Drug Counselors; Denise Logsdon, Board of Licensure for Massage Therapy; Dr. Karen Waldrop, David Wicker, Department of Fish and Wildlife; Harland Hatter, Clint Quarles, Steve Sims, Department of Agriculture; Peter Goodmann, R. Bruce Scott, Division of Water; Anthony Hatton, Division of Waste Management; Amy Barker, Department of Corrections; Patrick Shirley, Department of Workforce Investment; Sandy Gruzensky, Franklin Reed, Division of Mine Safety; Jack Coleman, Michael Davis, Mark Jordan, Department of Housing, Buildings and Construction; Noelle Baily, Scott Jones, Department of Charitable Gaming; Diona Mullins, Office of Health Policy; Stephanie Brammer-Barnes, Maryellen Myneer, Office of Inspector General; Laura Begin, Matt McKinley, Eric Perry, Division of Public Health Protection and Safety; Stuart Owen, Department of Medicaid Services; Nancy Galvagni, Sarah Nicholson, Kentucky Hospital Association.

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL BOARD: Board

101 KAR 1:325. Probationary periods. Andy Crocker, general counsel, represented the board.

In response to a question by Co-Chair Harris, Mr. Crocker stated that this administrative regulation was expected to improve retention rates for correctional officers by reducing the initial probationary period from eight (8) to six (6) months.

GENERAL GOVERNMENT CABINET: Board of Veterinary Examiners: Board

201 KAR 16:050. Continuing education. Marcus Jones, assistant attorney general, and Perry Wornall, chair, 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; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 6 to revise the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Board of Architects: Board

201 KAR 19:035. Qualifications for examination and licensure. Nicole Biddle, assistant attorney general; Rex Cecil, executive director; and Tim Murphy, president, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 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 19:087. Continuing education.

In response to questions by Co-Chair Harris, Mr. Cecil stated that the board experienced problems with licensees not meeting continuing education requirements in the past decade; however, those problems were minimized each year. Currently, the board did not experience many licensees failing to meet continuing education requirements, which were available online and sometimes free of cost.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 4 to establish that the change in the continuing education reporting year to January 1 through December 31 begins on calendar year 2017; (3) to amend Section 5 to add the board's Web site address; and (4) to amend Section 7 and the Architect License-Reinstatement-Restoration Application to: (a) make technical changes; and (b) add a requirement that the applicant pay the fee required by 201 KAR 19:085. Without objection, and with agreement of the agency, the amendments were approved.

Board of Alcohol and Drug Counselors: Board

201 KAR 35:010 & E. Definitions for 201 KAR Chapter 35. Brian Judy, assistant attorney general, and Sandra Kelley, board member, represented the board.

In response to questions by Co-Chair Harris, Mr. Judy stated that these administrative regulations were a response to House Bill 92 of the 2015 Regular Session of the General Assembly. The major change to these administrative regulations was the three (3) new credentialing levels. Criteria in these administrative regulations were based on standards from the national association, and many other states used these same standards.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1: (a) for clarity; 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 35:015 & E. Grandparenting of certification to licensure.

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 Section 1 to specify an application; and (4) to amend a form incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:020 & E. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4, and 9 to specify forms; (2) to amend Section 1 for clarity; (3) to amend Sections 4 and 5 to specify fees and penalties; (4) to amend forms incorporated by reference for consistency; and (5) to amend Sections 1, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:030 & E. Code of ethics.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 4 for clarity; and (2) to amend Sections 2 through 6, 8, and 11 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 35:040 & E. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY 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 Section 2 for clarity; (4) to amend Section 8 to add serious illness or injury to the conditions

that may qualify for a waiver or extension of time to meet continuing education requirements; (5) to amend forms incorporated by reference for consistency; and (6) to amend Sections 1 through 4, 6, 9, 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.

201 KAR 35:050 & E. Curriculum of study.

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 1 to specify forms; (3) to amend forms incorporated by reference for consistency; and (4) 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 35:055 & E. Temporary registration or certification.

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 Sections 1 and 2 to specify forms; (3) to amend Section 3 to specify that a written request shall be required for the board to consider approval for an extension of a temporary credential; (4) to amend Sections 1 through 3: (a) to comply with the drafting requirements of KRS Chapter 13A; and (b) for clarity; and (5) to amend forms incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:060 & E. Complaint procedure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph 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 for clarity; and (3) to amend Sections 4, 6, 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 35:070 & E. Supervision experience.

In response to a question by Co-Chair Harris, Mr. Judy stated that supervision experience hours were tiered based on educational degree obtained and experience.

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 1, 5, and 6 to specify forms; (4) to amend Section 3 to add examples of the types of circumstances to qualify for approval for the use of an alternate format of supervision; (5) to amend Sections 1, 2, 3, 5, 7, 8, 9, 10, and 12: (a) to comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) for clarity; and (6) to amend forms incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:075 & E. Substitution for work experience for an applicant for certification as an alcohol and drug counselor.

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 1 to: (a) specify a form; (b) add a citation; and (c) provide clarity; and (3) to amend forms incorporated by reference for consistency. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 35:080. Voluntary inactive status.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 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 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.

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 and 2: (a) to comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) for clarity. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Professional Counselors: Board

201 KAR 36:030. Continuing education requirement. Brian Judy, assistant attorney general, represented the board.

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 through 4, 6, 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.

Board of Licensure for Massage Therapy: Board

201 KAR 42:020. Fees. Marcus Jones, assistant attorney general, and Denise Logsdon, chair, represented the board.

201 KAR 42:035. Application process, exam, and curriculum requirements.

In response to a question by Senator Clark, Mr. Jones stated that some complaints against licensees were related to criminal sexual assault. On-going police investigations sometimes required witnesses to remain anonymous. This administrative regulation allowed a complainant's name to be redacted in order to not jeopardize a police investigation.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to add the board's Web site address; and (2) to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42:040. Renewal.

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; and (2) to amend Section 5 to add the board's Web site address. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42:050. Complaint procedure and disciplinary action.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 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 42:080. Programs of massage therapy instruction.

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.

201 KAR 42:110. Continuing education requirements.

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

301 KAR 2:030. Commercial guide license. Dr. Karen Waldrop, deputy commissioner, and David Wicker, general counsel, represented the department.

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 and Sections 1, 2, 3, and 5 and the Commercial Guide License Application Form to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 3 to clarify that a commercial guide license holder shall be responsible for a violation of this administrative regulation by a helper who is registered by the commercial guide. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:083. Holding and intrastate transportation of captive cervids.

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 and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:142. Spring wild turkey hunting.

In response to questions by Representative Turner, Dr. Waldrop stated that the Department of Parks determined if a state park would offer a spring wild turkey hunt. The Department of Fish and Wildlife Resources did not anticipate a state park offering a quota hunt. Dr. Waldrop stated that she would ensure that there was an equitable hunting process and follow up with Representative Turner regarding that process once it was established.

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 the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 5 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: 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. Harland Hatter, deputy executive director; Clint Quarles, staff attorney; and Steve Sims, structural branch manager, represented the division.

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.

302 KAR 29:020. General provisions for structural pest control.

302 KAR 29:040. Settlement proceedings.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 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.

302 KAR 29:050. Commercial structural pest control and fumigation.

A motion was made and seconded to approve the following amendments: to amend Section 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 29:060. Certification.

A motion was made and seconded to approve the following amendments: to amend Sections 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.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:026. Designation of uses of surface waters. Pete Goodmann, executive director, and Bruce Scott, commissioner, represented the division.

In response to questions by Co-Chair Harris, Mr. Scott stated that this administrative regulation related to 402 permits pursuant to the Clean Water Act, not water segments from the 301 list. These designations were based primarily on threatened and endangered species.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

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.

401 KAR 10:031. Surface water standards.

Division of Waste Management: Underground Storage Tanks

401 KAR 42:045. Delivery prohibition. Tony Hatton, executive director, and Bruce Scott, commissioner, represented the division.

In response to questions by Co-Chair Harris, Mr. Scott stated that the Underground Storage Tank Program was operating much better than it had in years past. Each tank owner paid a thirty (30) dollar insurance fee for \$1 million in coverage. Some owners did not pay, and this administrative regulation prohibited delivery until that payment. The gas tax that allocated 1.4¢ per gallon was currently adequate; however, it would not be adequate in the long term. The division expected the financial insufficiency of the gas tax to be a significant problem in the long term.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:060. Northpoint Training Center. Amy Barker, assistant general counsel, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that this administrative regulation was being amended as part of the annual policy update process.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) update citations; and (2) make minor clarifications. Without objection, and with agreement of the agency, the amendments were approved.

Education and Workforce Development Cabinet: Department of Workforce Investment: Office of Vocational Rehabilitation: Administration

781 KAR 1:030. Order of selection and economic need test for vocational rehabilitation services. Patrick Shirley, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add citations; 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.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Safety: Mining Safety Standards

805 KAR 3:100. Equipment use and operation. Sandy Gruzsky, deputy commissioner, and Frank Reed, division director, represented the division.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Division of Plumbing: Boilers and Pressure Vessels

815 KAR 15:010. Definitions for 815 KAR Chapter 15. Jack Coleman, deputy commissioner; Michael Davis, general counsel; and Mark Jordan, chief boiler inspector, represented the division.

In response to questions by Co-Chair Harris, Mr. Davis stated that these administrative regulations were developed in a two (2) year process by the Boiler and Pressure Vessel Board. Stakeholders did not raise concerns during the development process or during the public comment period. These standards had already been effective for approximately three (3) years, and stakeholders had not indicated any unintended consequences during that time. Mr. Jordan stated that these administrative regulations were being updated commensurate with the national code, but there were not any major changes. Mr. Coleman stated that these amendments were similar to recent updates pertaining to other boards under the Department of Housing, Buildings and Construction.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) clarify the definition for "repair" to establish that a repair complies with the National Board Inspection Code. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:025. New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:027. Certificates and fees for boiler and pressure vessel inspection.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) make a technical correction; and (2) add language to subsection (7) to clarify that the fee frequency is not changing from the previous version of this administrative regulation, in that the fee shall be required for a special trip to witness the application of a hydrostatic test. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 15:040. Power boiler and pressure vessel supplemental requirements.

A motion was made and seconded to approve the following amendments: 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.

815 KAR 15:051. Heating boiler supplemental requirements - steam heating, hot water heating, and hot water supply boilers.

A motion was made and seconded to approve the following amendment: to amend Section 1(3) (g) to correct a cross-reference

citation. Without objection, and with agreement of the agency, the amendment was approved.

815 KAR 15:060. Nuclear vessel requirements.

815 KAR 15:080. Licensing for boiler and pressure vessel contractors, owner facilities, owner's piping inspectors, and independent inspection agencies.

Department of Charitable Gaming: Charitable Gaming

820 KAR 1:044. Bingo equipment. Noelle Bailey, general counsel, and Scott Jones, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) comply with the drafting requirements of KRS Chapter 13A; (b) add the substantive requirements for card-minding devices moved out of the main definitions administrative regulation for the chapter; and (c) clarify that modifications to a card-minding device or its software that require testing and certification shall not include routine maintenance activities; (2) to amend Section 3 to establish that the department shall be notified of any change 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; and (3) to amend Section 6 to: (a) delete the device limitation on each player to use one (1) card-minding device at a time with a maximum of 1,000 card faces; and (b) restore the existing limitation of limiting each card-minding device to a maximum of seventy-two (72) card faces during any one (1) game of a session. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:100. Certificate of need standards for implementation and biennial review. Diona Mullins, executive advisor, represented the office.

Data Reporting and Public Use Data Sets

900 KAR 7:030. Data reporting by health care providers.

A motion was made and seconded to approve the following amendments: to amend Section 1 to delete an outdated definition. Without objection, and with agreement of the agency, the amendments were approved.

Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:180. Psychiatric hospitals; operation and services. Stephanie Brammer-Barnes, internal policy analyst, and Maryellen Mynear, inspector general, represented the division. Nancy Galvagni, senior vice president, Kentucky Hospital Association, appeared in support of Subcommittee Amendments 1 and 2 to 902 KAR 20:260.

Senator Clark stated that the Subcommittee Amendment authorized licensed clinical alcohol and drug counselors and licensed clinical alcohol and drug counselor associates to provide assistance in specific situations.

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 Sections 1, 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A; and (4) to amend Sections 1 and 6 to add "licensed clinical alcohol and drug counselor" and "licensed clinical alcohol and drug counselor associate". Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 20:260. Special health clinics.

Senator Clark stated that Subcommittee Amendment 1 authorized a hospital – acquired physician practice seeking licensure as a special health clinic to operate with at least one (1)

physician and other necessary staff or ancillary personnel, without requiring a nurse to be on staff. Subcommittee Amendment 2: (1) made clarifications; (2) added fully licensed APRNs to the list of professionals who may serve as clinical director in certain circumstances; (3) authorized at least one (1) APRN in lieu of at least one (1) physician or dentist in certain circumstances; and (4) deleted the supervision exception for a family planning clinic or wellness center.

Ms. Myneer stated that the division supported these Subcommittee Amendments. Ms. Galvagni stated that the Kentucky Hospital Association also supported these Subcommittee Amendments.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 4 to allow a hospital - acquired physician practice seeking licensure as a special health clinic to operate with at least one (1) physician and other necessary staff or ancillary personnel, without requiring a nurse to be on staff; (4) to amend Section 2 to clarify that an office or clinic exempt from CON requirements, pursuant to 900 KAR 6:130, shall not be required to obtain licensure as a special health clinic; (5) to amend Sections 3 and 4 to: (a) change "medical director" to "clinical director"; and (b) add a fully licensed APRN as a professional who may serve as clinical director, if the APRN is responsible for the clinic and only provides services within the scope authorized pursuant to KRS Chapter 314; (6) to amend Section 3 to: (a) clarify that a licensed special health clinic that provides only speech services shall not be required to have a physician or APRN serve as clinical director; (b) change "physician" to "practitioner"; and (c) allow for at least one (1) APRN, in lieu of at least one (1) physician or dentist, if the clinic provides only dental services, to staff the clinic in addition to the other staff listed in the personnel subsection of this administrative regulation; and (7) to amend Section 4 to delete the supervision exception for a family planning clinic or wellness center. Without objection, and with agreement of the agency, the amendments were approved.

Division of Public Health Protection and Safety: Radiology

902 KAR 100:037. Physical protection of category 1 and category 2 quantities of radioactive material. Laura Begin, regulation coordinator; Matt McKinley, radiation health branch manager; and Eric Perry, radiation health specialist, represented the division.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:026. Dental services' coverage provisions and requirements. Stuart Owen, regulation coordinator, represented the department.

In response to a question by Co-Chair Harris, Mr. Owen stated that bed slots were federally funded through the biennium budget process. There were currently 179 bed slots, with 260 on the waiting list. These administrative regulations assisted with allowing patients to receive in – home care, rather than care at a hospital or nursing facility.

Senator Kerr stated that it was important to bring awareness to the problem of armed forces members returning with traumatic brain injuries.

A motion was made and seconded to approve the following amendments: (1) to amend Section 7(4)(a) to clarify coverage limits for a restorative procedure performed in conjunction with a pin retention procedure to change amalgam to an appropriate medically necessary restorative material; (2) to amend Section 20 and the material incorporated by reference to: (a) change the edition date; and (b) update the current dental terminology codes to include two additional codes and delete an outdated code; (3) to amend Sections 1, 2, 3, 13, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend Section 12 to delete repetitive language that was already included in 907 KAR 1:626. Without objection, and with agreement of the

agency, the amendments were approved.

Division of Community Alternatives: Medicaid Services

907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 6, 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.

907 KAR 1:626. Reimbursement of dental services.

A motion was made and seconded to approve the following amendments: (1) to amend Section 9 and the material incorporated by reference to: (a) change the edition date; and (b) update the current dental terminology codes to include two (2) additional codes and delete an outdated code; and (2) to amend Sections 1 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Payment and Services

907 KAR 3:090. Acquired brain injury waiver services.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, 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.

907 KAR 3:210. Acquired brain injury long-term care waiver services and reimbursement.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 5, 6, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 11 to require compliance with a longer document retention timeframe if the Secretary of the United States Department of Health and Human Services requires a longer document retention period, pursuant to 42 C.F.R. 431.17. Without objection, and with agreement of the agency, the amendments were approved.

Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:020. Coverage provisions and requirement regarding outpatient psychiatric hospital services.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 4 to add certified prevention specialists and registered alcohol and drug peer support specialists as authorized practitioners to provide services under this administrative regulation; and (2) to amend Sections 1, 4, 7, and 8 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) correct cross-references within the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 3 through 11 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) establish payment provisions for psychiatric hospitals using a fee schedule (with a flat dollar amount paid for each service) rather than a cost-based method; and (2) to amend Sections 1, 3 through 6, and 9 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the January 11, 2016, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Licensed

VOLUME 42, NUMBER 7 – JANUARY 1, 2016

Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

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 20:200. Tuberculosis (TB) testing for residents in long-term care settings.

Department for Medicaid Services: 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 1:835. Michelle P. waiver services and reimbursements.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New Supports for Community Living Waiver Service and coverage policies.

907 KAR 12:020. Reimbursement for New Supports for Community Living Waiver Services.

The Subcommittee adjourned at 2:15 p.m. until January 11, 2016, 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.

None

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

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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

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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

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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 *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

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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.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
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 <i>Administrative Register of Kentucky</i> but had not yet gone into effect when the <i>2015 Kentucky Administrative Regulations Service</i> was published.					
SYMBOL KEY:			31 KAR 4:180	2689	See 42 Ky.R.
* Statement of Consideration not filed by deadline			101 KAR 2:102		
** Withdrawn before being printed in Register			Amended	2113	
**** Emergency expired after 180 days			As Amended	2538	7-6-15
‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))			101 KAR 2:105		
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.			Amended	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	
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.)					
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			
Replaced		See 42 Ky.R.			
921 KAR 3:070E	2533	4-30-15			
Replaced		See 42 Ky.R.			
ORDINARY ADMINISTRATIVE REGULATIONS:					
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.			

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Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
201 KAR 46:060	2452		AmComments	2236	See 42 Ky.R.
201 KAR 46:070			703 KAR 5:225		
Amended	2308		Amended	2037	
201 KAR 46:081			AmComments	2240	See 42 Ky.R.
Amended	2309		703 KAR 5:240		
202 KAR 7:701			Amended	2042	See 42 Ky.R.
Amended	2313	See 42 Ky.R.	704 KAR 3:370		
301 KAR 1:122		See 42 Ky.R.	Amended	2342	See 42 Ky.R.
Amended	2614	See 42 Ky.R.	704 KAR 5:070		
301 KAR 2:049		See 42 Ky.R.	Amended	2351	8-10-15
Amended	2615	See 42 Ky.R.	705 KAR 4:250		
301 KAR 2:132			Amended	1144	
Amended	1868	6-5-15	AmComments	1672	
301 KAR 2:172			As Amended	2223	6-5-15
Amended	1873		725 KAR 1:061		
AmComments	2092	6-5-15	Amended	2353	7-13-15
301 KAR 2:178			803 KAR 1:035		
Amended	1878		Amended	2045	
As Amended	2212	6-5-15	As Amended	2550	7-6-15
301 KAR 2:300			804 KAR 1:060		
Amended	2318	9-4-15	Repealed	2696	9-4-15
301 KAR 3:132			804 KAR 1:061(r)	2696	9-4-15
As Amended	2208		804 KAR 4:370		
302 KAR 20:110			Amended	2630	See 42 Ky.R.
Amended	2027		804 KAR 7:010		
As Amended	2217	6-5-15	Repealed	2180	7-6-15
302 KAR 20:120			804 KAR 7:011(r)	2180	7-6-15
Amended	2030		804 KAR 10:010		
As Amended	2219	6-5-15	Amended	2632	See 42 Ky.R.
402 KAR 3:010			804 KAR 10:020		
Amended	2619	See 42 Ky.R.	Amended	2633	See 42 Ky.R.
402 KAR 3:030			804 KAR 10:025	2697	See 42 Ky.R.
Amended	2621	9-3-15	805 KAR 1:100		
402 KAR 3:050	2694	See 42 Ky.R.	Amended	2355	See 42 Ky.R.
500 KAR 13:020			805 KAR 1:130		
Amended	2623	See 42 Ky.R.	Amended	2361	See 42 Ky.R.
501 KAR 1:080			805 KAR 1:140		
Amended	2032		Amended	2364	See 42 Ky.R.
501 KAR 6:020			805 KAR 1:170		
Amended	1887	See 42 Ky.R.	Amended	2366	See 42 Ky.R.
503 KAR 1:060			808 KAR 6:015	2462	See 42 Ky.R.
Amended	326		808 KAR 6:105		
As Amended	747	10-31-14	Amended	2369	See 42 Ky.R.
503 KAR 1:080			808 KAR 9:010		
Amended	591		Amended	2634	See 42 Ky.R.
As Amended	1056	12-5-15	808 KAR 12:020		
503 KAR 1:100			Amended	2636	See 42 Ky.R.
Amended	595		808 KAR 12:021		
As Amended	1057	12-5-15	Amended	2638	See 42 Ky.R.
503 KAR 1:110			808 KAR 12:110	2698	See 42 Ky.R.
Amended	2626	See 42 Ky.R.	810 KAR 1:027		
503 KAR 1:120			Amended	612	
Amended	327		As Amended	1066	12-5-15
As Amended	747	10-31-14	810 KAR 1:090		
601 KAR 1:112	1725		Amended	2371	See 42 Ky.R.
AmComments	2095		810 KAR 1:300	2699	See 42 Ky.R.
Withdrawn		7-8-2015	811 KAR 1:300	2701	See 42 Ky.R.
601 KAR 9:135			811 KAR 2:300	2702	See 42 Ky.R.
Amended	2321	See 42 Ky.R.	815 KAR 6:010		
601 KAR 14:020		See 42 Ky.R.	Amended	2641	See 42 Ky.R.
603 KAR 5:155	2453	See 42 Ky.R.	815 KAR 35:015		
603 KAR 10:002	2456	See 42 Ky.R.	Amended	2645	See 42 Ky.R.
603 KAR 10:010			900 KAR 2:050		
Amended	2325	See 42 Ky.R.	Amended	2133	
603 KAR 10:021	2458	See 42 Ky.R.	As Amended	2551	6-17-15
702 KAR 3:320	1728		900 KAR 5:020		
AmComments	2012		Amended	2649	See 42 Ky.R.
As Amended	2220	6-5-15	900 KAR 7:030		
703 KAR 5:200			Amended	1891	6-5-15
Amended	2034		900 KAR 10:010		

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Amended	2651	See 42 Ky.R.	As Amended	2556	7-6-15
900 KAR 10:020			907 KAR 1:350		
Amended	2658	See 42 Ky.R.	Amended	2136	
900 KAR 10:040	2464	See 42 Ky.R.	As Amended	2559	7-6-15
900 KAR 10:050			907 KAR 3:017	1943	
Amended	2664	See 42 Ky.R.	As Amended	2224	6-5-15
900 KAR 10:100			907 KAR 9:005		
Amended	2667	See 42 Ky.R.	Amended	2417	See 42 Ky.R.
900 KAR 10:110	2704	See 42 Ky.R.	907 KAR 9:010		
900 KAR 4:040			Amended	2425	See 42 Ky.R.
Repealed	2051	6-5-15	907 KAR 9:015	2475	See 42 Ky.R.
902 KAR 4:041(r)	2051	6-5-15	907 KAR 9:020	2487	See 42 Ky.R.
902 KAR 10:020			907 KAR 10:014		
Repealed	2468	9-4-15	Amended	2428	See 42 Ky.R.
902 KAR 10:021			907 KAR 10:016		
Repealed	2468	9-4-15	Amended	2442	See 42 Ky.R.
902 KAR 10:022(r)	2468	9-4-15	907 KAR 10:020	2491	See 42 Ky.R.
902 KAR 20:091			907 KAR 10:025	2503	See 42 Ky.R.
Amended	1896		907 KAR 10:825		
AmComments	2245		Repealed	2181	10-1-15
902 KAR 20:160			907 KAR 10:826(r)	2181	10-1-15
Amended	2374	See 42 Ky.R.	907 KAR 10:830	2182	See 42 Ky.R.
902 KAR 20:180			907 KAR 15:080	2507	See 42 Ky.R.
Amended	2383	See 42 Ky.R.	907 KAR 15:085	2515	10-2-15
902 KAR 20:320			908 KAR 2:220		
Amended	2393	See 42 Ky.R.	Amended	1925	
902 KAR 20:400			AmComments	2273	
Amended	1905		As Amended	2560	6-17-15
AmComments	2256	See 42 Ky.R.	908 KAR 2:230		
902 KAR 45:010			Amended	1929	
Repealed	2469	9-4-15	AmComments	2277	
902 KAR 45:011(r)	2469	9-4-15	As Amended	2562	6-17-15
902 KAR 45:030			908 KAR 2:260	1945	
Repealed	2469	9-4-15	AmComments	2280	
902 KAR 45:040			As Amended	2565	6-17-15
Repealed	2469	9-4-15	910 KAR 1:140		
902 KAR 45:050			Amended	2138	
Repealed	2469	9-4-15	As Amended	2568	6-17-15
902 KAR 45:060			910 KAR 1:170		
Repealed	2469	9-4-15	Amended	2143	
902 KAR 45:110			As Amended	2573	See 42 Ky.R.
Amended	2414	See 42 Ky.R.	910 KAR 1:210		
902 KAR 45:120			Amended	2150	
Amended	2672	See 42 Ky.R.	As Amended	2578	6-17-15
902 KAR 45:130			910 KAR 1:220		
Repealed	2469	9-4-15	Amended	2157	
902 KAR 45:160	2470	See 42 Ky.R.	As Amended	2583	6-17-15
907 KAR 1:044			921 KAR 2:015		
Amended	1910		Amended	1932	6-5-15
AmComments	2261		921 KAR 3:045		
As Amended	2553	7-6-15	Amended	2177	7-15-15
907 KAR 1:045			921 KAR 3:060		
Amended	1915		Amended	2682	See 42 Ky.R.
907 KAR 1:046	1940		921 KAR 3:070		
AmComments	2266		Amended	2685	See 42 Ky.R.
907 KAR 1:055					
Amended	2674	See 42 Ky.R.			
907 KAR 1:102					
Amended	1920				
AmComments	2268				

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Regulation Number	42 Ky.R. Page No.	Effective Date	Regulation Number	42 Ky.R. Page No.	Effective Date
VOLUME 42					
SYMBOL KEY:			ORDINARY ADMINISTRATIVE REGULATIONS:		
* Statement of Consideration not filed by deadline			9 KAR 1:025	2292	
** Withdrawn before being printed in Register			11 KAR 15:090		
**** Emergency expired after 180 days			Amended	44	
(r) Repealer regulation: KRS 13A.310-on the effective date of an			As Amended	1121	10-12-15
administrative regulation that repeals another, the regulations			11 KAR 15:100	627	See 41 Ky.R.
compiler shall delete the repealed administrative regulation and the			As Amended	1124	10-12-15
repealing administrative regulation.			11 KAR 16:060		
EMERGENCY ADMINISTRATIVE REGULATIONS:			Amended	449	
(Note: Emergency regulations expire 180 days from the date filed;			As Amended	1125	10-12-15
or 180 days from the date filed plus number of days of requested			13 KAR 2:045		See 41 Ky.R.
extension, or upon replacement or repeal, whichever occurs first.)			As Amended	9	7-13-15
13 KAR 2:045		See 41 Ky.R.	16 KAR 2:020		
Replaced	9	7-13-15	Amended	72	
31 KAR 4:180E		See 41 Ky.R.	As Amended	660	9-14-15
Replaced	658	9-4-15	16 KAR 2:100		
101 KAR 2:210E	1084	9-15-15	Amended	794	
103 KAR 3:030E	1996	12-7-15	As Amended	1446	
103 KAR 3:040E	2007	12-7-15	16 KAR 2:110		
105 KAR 1:145E	2017	12-3-15	Amended	796	
200 KAR 5:365E	231	6-16-15	As Amended	1447	
Replaced	1130	11-6-15	16 KAR 2:140		
201 KAR 2:360E		See 41 Ky.R.	Amended	797	
Replaced	273	9-4-15	As Amended	1447	
201 KAR 11:170E	233	6-29-15	16 KAR 2:150		
201 KAR 11:175E	236	6-29-15	Amended	799	
201 KAR 11:235E	238	6-29-15	As Amended	1448	
201 KAR 11:240E	240	6-29-15	16 KAR 2:160		
201 KAR 12:110E	244	6-17-15	Amended	801	
Replaced	1132	11-6-15	As Amended	1449	
201 KAR 35:010E	1086	8-25-15	16 KAR 2:170		
201 KAR 35:015E	1088	8-25-15	Amended	803	
201 KAR 35:020E	1089	8-25-15	As Amended	1450	
201 KAR 35:030E	1092	8-25-15	16 KAR 2:200		
201 KAR 35:040E	1095	8-25-15	Amended	805	
201 KAR 35:050E	1098	8-25-15	16 KAR 3:030		
201 KAR 35:055E	1100	8-25-15	Amended	807	
201 KAR 35:060E	1102	8-25-15	As Amended	1451	
201 KAR 35:070E	1104	8-25-15	16 KAR 3:040		
201 KAR 35:075E	1108	8-25-15	Amended	809	
201 KAR 35:090E	1110	8-25-15	As Amended	1452	
301 KAR 2:221E	1699	11-3-15	16 KAR 4:030		
301 KAR 2:222E	1701	11-3-15	Amended	74	
301 KAR 2:225E	1111	8-21-15	As Amended	661	9-14-15
505 KAR 1:100E	246	7-1-15	16 KAR 9:030		
505 KAR 1:110E	248	7-1-15	Amended	811	
505 KAR 1:130E	250	7-1-15	As Amended	1453	
601 KAR 1:113E	252	7-8-15	16 KAR 9:040		
601 KAR 2:030E	1114	9-1-15	Amended	812	
787 KAR 2:040E	6	5-21-15	As Amended	1454	
804 KAR 4:015E	256	6-23-15	30 KAR 7:010	628	See 41 Ky.R.
804 KAR 4:400E	258	6-23-15	As Amended	1126	11-6-15
Replaced	527	11-6-15	31 KAR 3:040		
804 KAR 4:410E	259	7-10-15	As Amended	270	9-4-15
Replaced	1177	11-6-15	31 KAR 4:120		See 41 Ky.R.
902 KAR 20:420E	261	6-25-15	As Amended	271	9-4-15
Replaced	1202	11-6-15	31 KAR 4:180		See 41 Ky.R.
902 KAR 55:020E	1706	11-4-15	As Amended	271	
906 KAR 1:190E	2022	11-20-15	Reprinted	658	9-4-15
921 KAR 3:060E		See 41 Ky.R.	101 KAR 1:325		
Replaced	1214	11-6-15	Amended	1582	
921 KAR 3:070E		See 41 Ky.R.	101 KAR 2:020		
Replaced	1216	11-6-15	Amended	76	
921 KAR 3:090E		7-2-15	101 KAR 2:034		
			Amended	78	
			As Amended	1126	11-6-15
			101 KAR 2:046		

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101 KAR 2:056			201 KAR 9:310		
Amended	85		Amended	461	
101 KAR 2:066			As Amended	1464	
Amended	86		201 KAR 9:470	1668	
As Amended	663		201 KAR 11:170		
101 KAR 2:120			Amended	463	
Amended	88		AmComments	1219	
101 KAR 2:210			As Amended	1466	
Amended	1278		201 KAR 11:175		
101 KAR 3:045			Amended	466	
Amended	91		As Amended	1468	
As Amended	664		201 KAR 11:195	631	
103 KAR 3:010		See 41 Ky.R. 7-31-15	As Amended	1469	
As Amended	12		201 KAR 11:210		
103 KAR 3:030			Amended	468	
Amended	2226		As Amended	1469	
103 KAR 3:040			201 KAR 11:230		
Amended	2237		Amended	469	
105 KAR 1:145	2293		As Amended	1469	
105 KAR 1:200			201 KAR 11:232	632	
Amended	452	11-6-15	AmComments	1221	
106 KAR 3:010			As Amended	1472	
Amended	814		201 KAR 11:235		
As Amended	1455		AmComments	1223	
200 KAR 5:021			As Amended	1473	
Amended	1906		201 KAR 11:240		
200 KAR 5:365			Amended	473	
Amended	456		As Amended	1475	
As Amended	1130	11-6-15	201 KAR 11:350		
201 KAR 1:050			Amended	2247	
Amended	817		201 KAR 11:460		
As Amended	1456		Amended	476	
201 KAR 1:063			As Amended	1477	
Amended	819		201 KAR 12:083		See 41 Ky.R. 9-4-15
As Amended	1457		As Amended	274	
201 KAR 1:071(r)	1068		201 KAR 12:110		
201 KAR 1:081			Amended	478	
Amended	820		As Amended	1132	11-6-15
As Amended	1458		201 KAR 16:050		
201 KAR 1:140			Amended	1279	
Amended	822		As Amended	2030	
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201 KAR 1:150			Amended	831	
Amended	823		As Amended	1478	
As Amended	1460		201 KAR 18:142		
201 KAR 2:015			Amended	833	
Amended			As Amended	1479	
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201 KAR 2:220			Amended	1584	
Amended	458		As Amended	2031	
AmComments	1548		201 KAR 19:087		
As Amended	1710		Amended	1586	
201 KAR 2:360		See 41 Ky.R. 9-4-15	As Amended	2032	
As Amended	273		201 KAR 20:056		
201 KAR 2:370	630		Amended	480	
As Amended	1131	11-6-15	As Amended	1133	11-6-15
201 KAR 5:030			201 KAR 20:057		
Amended	824		Amended	1910	
As Amended	1460		201 KAR 20:061		
201 KAR 5:110			Repealed	637	11-6-15
Amended	826		201 KAR 20:062		
As Amended	1461		Amended	483	
201 KAR 6:070			As Amended	1135	11-6-15
Amended	828		201 KAR 20:063		See 41 Ky.R. 9-4-15
As Amended	1462		As Amended	275	
201 KAR 9:270			201 KAR 20:064(r)	637	11-6-15
Amended	1907		201 KAR 20:070		
201 KAR 9:305			Amended	488	

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201 KAR 20:110			201 KAR 32:035		
Amended	490		Amended	837	
As Amended	1141	11-6-15	AmComments	1553	
201 KAR 20:162			As Amended	1720	
Amended	1914		201 KAR 32:045		
Withdrawn		12-23-15	Amended	840	
201 KAR 20:215			AmComments	1555	
Amended	492		As Amended	1722	
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201 KAR 20:225			Amended	509	
Amended	494		AmComments	1557	
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201 KAR 20:230			201 KAR 33:015		
Amended	496		Amended	1296	
As Amended	1145		201 KAR 33:020		
Withdrawn		10-15-15	Amended	1298	
201 KAR 20:370			201 KAR 33:030		
Amended	497	11-6-15	Amended	1299	
201 KAR 20:390			201 KAR 35:010	1411	
Amended	499		As Amended	2034	
As Amended	1145	11-6-15	201 KAR 35:015	1413	
201 KAR 21:015			As Amended	2035	
Amended	1282		201 KAR 35:020		
201 KAR 22:020			Amended	1303	
Amended	1283		As Amended	2035	
As Amended	1710		201 KAR 35:030		
201 KAR 22:040			Amended	1305	
Amended	1285		As Amended	2037	
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201 KAR 22:070			Amended	1308	
Amended	1287		As Amended	2039	
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201 KAR 23:070			Amended	1312	
Amended	2251		As Amended	2042	
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Amended	1289		As Amended	2043	
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201 KAR 25:021			Amended	1314	
Amended	1289		As Amended	2044	
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201 KAR 25:031			Amended	1316	
Amended	1292		AmComments	1792	
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201 KAR 26:121			Amended	1320	
Amended	503		As Amended	2049	
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Amended	505		201 KAR 36:030		
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201 KAR 26:200			As Amended	2050	
Amended	507		201 KAR 38:070		
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Amended	2254		Amended	844	
201 KAR 30:040			201 KAR 39:070		
Amended	2256		Amended	845	
201 KAR 30:050			201 KAR 42:020		
Amended	1294		Amended	1588	
201 KAR 30:070			201 KAR 42:035		
Amended	95		Amended	1590	
As Amended	668		As Amended	2053	
201 KAR 30:380	1410		201 KAR 42:040		
201 KAR 32:025			Amended	1592	
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201 KAR 42:080			301 KAR 2:122		
Amended	1596		Amended	1919	
As Amended	2056		301 KAR 2:142		
201 KAR 42:110			Amended	1608	
Amended	1599		As Amended	2062	
201 KAR 43:010			Withdrawn	**	12-11-15
Amended	847		301 KAR 2:221		
As Amended	1481		Amended	1921	
201 KAR 43:020			301 KAR 2:222		
Amended	848		Amended	1923	
As Amended	1481		301 KAR 2:225		
201 KAR 43:050			Amended	1325	
Amended	850		302 KAR 29:010		
As Amended	1482		Amended	1327	
201 KAR 43:080			As Amended	2063	
Amended	854		302 KAR 29:020		
As Amended	1485		Amended	1330	
201 KAR 45:110			302 KAR 29:040		
Amended	855		Amended	1332	
201 KAR 45:130			As Amended	2064	
Amended	1918		302 KAR 29:050		
201 KAR 45:170		See 41 Ky.R.	Amended	1333	
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AmComments	338		Amended	1338	
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*201 KAR 46:020			307 KAR 1:005		
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201 KAR 46:030		See 41 Ky.R.	As Amended	1729	
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*201 KAR 46:050			401 KAR 10:031		
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*201 KAR 46:060			AmComments	1798	
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Amended	511		As Amended	1153	
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Amended	97	9-3-15	As Amended	282	9-4-15
301 KAR 1:201			501 KAR 1:080		
Amended	514		As Amended	1501	
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301 KAR 1:410			Amended	1932	
Amended	1322		501 KAR 3:020		
301 KAR 2:030			Amended	1934	
Amended	1602		501 KAR 3:030		
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501 KAR 3:070			603 KAR 10:002		See 41 Ky.R.
Amended	1947		AmComments	351	
501 KAR 3:080			As Amended	1155	11-5-15
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501 KAR 3:090			AmComments	353	
Amended	1950		As Amended	1156	11-5-15
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Amended	1952		AmComments	371	
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501 KAR 13:010			As Amended	680	
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Amended	523		Amended	119	
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AmComments	1571		Amended	1370	
As Amended	1736		As Amended	1749	
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AmComments	375		Amended	1379	
As Amended	685		811 KAR 1:095		
804 KAR 4:390			Amended	1380	
Amended	126		As Amended	1756	
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Amended	527	11-6-15	Amended	1387	
804 KAR 4:410			811 KAR 2:096		
Amended	528		Amended	1389	
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Amended	530		Amended	1397	
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Amended	1353		Amended	2270	
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808 KAR 10:500			Amended	1636	
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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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The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2014 *Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the *Administrative Register of Kentucky*. NOTE: Finalized copies of the technically amended administrative regulations are available for viewing on the Legislative Research Commission Web site at <http://www.lrc.ky.gov/home.htm>.

‡ - Pursuant to KRS 13A.320(e), this indicates a technical change was made to this administrative regulation during the promulgation process.

Regulation Number	Amendment Date
13 KAR 2:025	7/15/2015
101 KAR 3:015	9/21/2015
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