ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

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The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, MARCH 15, 2016.

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MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet April 11, 2016, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **1-3** of this Administrative Register. ***Please note***: as announced at the March 7 ARRS meeting: if the regular session calendar is amended, the April ARRS meeting date will also change. The April ARRS meeting will be held on the first day that the General Assembly convenes after the veto period. Please contact the regulations compiler's office to confirm the meeting date and time.

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

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

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

**** Please note:** as announced at the March 7 ARRS meeting: if the regular session calendar is amended, the April ARRS meeting date will also change. The April ARRS meeting will be held on the first day that the General Assembly convenes after the veto period. Please contact the regulations compiler's office to confirm the meeting date and time.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue

Forms

103 KAR 3:010. General Administrative Forms Manual.

Kentucky Retirement Systems

General Rules

105 KAR 1:145 & E. Voluntary cessation of participation by employers. ("E" expires 6/29/2016) (Amended After Comments)

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. (Not Amended After Comments) (Deferred from February)

Board of Nursing

Board

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing. (Deferred from March)

201 KAR 20:271. Repeal of 201 KAR 20:270 and 201 KAR 20:290. (Deferred from March)

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs. (Deferred from March)

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs. (Not Amended After Comments)

201 KAR 20:320. Standards for curriculum of prelicensure nursing programs. (Amended After Comments)

201 KAR 20:340. Students in prelicensure registered nurse and practical nurse programs. (Amended After Comments)

201 KAR 20:350. Educational facilities and resources for prelicensure registered nurse and practical nurse programs. (Deferred from March)

201 KAR 20:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs. (Amended After Comments)

201 KAR 20:370. Applications for licensure.

201 KAR 20:470. Dialysis technician credentialing requirements and training program standards.

Board of Social Work

Board

201 KAR 23:070. Qualifying education and qualifying experience under supervision. (Amended After Comments)

Board of Licensed Diabetes Educators

Board

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

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

Licensing

301 KAR 3:005. Public use of newly acquired or newly managed lands.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections

Office of the Secretary

501 KAR 6:030. Kentucky State Reformatory. (Amended After Comments)

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) (Deferred from January)

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Home Inspectors

Board

815 KAR 6:010. Home inspector licensing requirements and maintenance of records. (Amended After Comments)

815 KAR 6:040. Home inspector prelicensing providers. (Not Amended After Comments)

815 KAR 6:080. Continuing education provider. (Not Amended After Comments)

815 KAR 6:090. Procedures for complaints and administrative hearings. (Amended After Comments)

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. (Amended After Comments) (Deferred from May)

902 KAR 20:275. Mobile health services. (Not Amended After Comments)

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)

Occupational, Physical, and Speech Therapy

907 KAR 8:005. Definitions for 907 KAR Chapter 8. (Deferred from February)

907 KAR 8:040. Coverage of occupational therapy, physical therapy, and speech-language pathology services provided by various entities. (Amended After Comments)

907 KAR 8:045. Reimbursement of occupational therapy, physical therapy, and speech-language pathology provided by various entities. (Amended After Comments)

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)

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

Mental Health

908 KAR 2:065. Community transition for individuals with serious mental illness. (Amended After Comments)

REMOVED FROM THE APRIL AGENDA

~~**GENERAL GOVERNMENT CABINET**~~
~~**Board of Medical Imaging and Radiation Therapy**~~

~~**Board**~~

~~201 KAR 46:020. Fees. (Withdrawn by Agency 3/10/2016)~~

~~201 KAR 46:070. Violations and enforcement. (Withdrawn by Agency 3/10/2016)~~

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

~~**Office of Inspector General**~~

~~906 KAR 1:190 & E. Kentucky national background check program. (Comments Received, 3/15/2016) (Withdrawn by Agency 3/15/2016)~~

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
922 KAR 1:320E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 and 2 to conform to new technology and business operations of the Child Care Assistance Program (CCAP). Without the amendment, the state would risk noncompliance with federal funding mandates potentially leading to corrective action or a loss of funding. In addition, the amendment ensures that parents, child care providers, and early care and education professionals have their service appeal and complaint rights clearly delineated to avoid potentially jeopardizing the welfare of children subject to their care or service provision. An ordinary administrative regulation would not allow the agency sufficient time to implement measures to conform to the new CCAP eligibility and enrollment system and business operations. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
VICKIE YATES BROWN GLISSON, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Emergency Amendment)

922 KAR 1:320E. Service appeals for Title 922 KAR Chapters 1, 3, and 5.

RELATES TO: KRS Chapter 13B, 23A.010, 194A.005, 194A.030(11), 199.555(2), 199.557, 209.020(4), (5), 209A.020(4), (5), 600.020(44), 605.090(1)(b), (6), 620.020(1), 620.180(2)(a)1, 620.230, 45 C.F.R.[~~Part 98,~~] 205.10, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397[~~, 9858-9858q~~]

STATUTORY AUTHORITY: KRS 13B.170, 194A.010(2), 194A.050(1)

EFFECTIVE: February 26, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010(2) designates the Cabinet for Health and Family Services as the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds, including 45 C.F.R. 205.10, made applicable to titles IV-B and IV-E programs by references in 45 C.F.R. 1355.21(b) and 1355.30(p). This administrative regulation establishes procedures related to appeals and complaints for benefits and services under 922 KAR Chapters 1, 3, and[~~through~~] 5 effective April 1, 2016.

Section 1. Definitions. (1) "Adoption assistance" means a payment under:

(a) KRS 199.555(2) and 922 KAR 1:050, State-funded adoption assistance; or

(b) KRS 199.557 and 922 KAR 1:060, Federal Title IV-E adoption assistance.

(2) "Adult" is defined by KRS 209.020(4) or 209A.020(4).

(3) "Caretaker relative" means a relative:

(a) With whom a child is, or will be, placed by the cabinet; and

(b) Who is seeking to qualify as a kinship caregiver in accordance with 922 KAR 1:130, Kinship Care Program.

(4) "Case permanency plan" is defined by KRS 620.020(1) and described in KRS 620.230 for a child placed outside the home.

(5) "Case plan" means a plan described in 922 KAR 1:430, Child Protective Services In-home Case Planning and Service Delivery, for a child who remains in the home.

(6) "Case planning conference" means a meeting in which a case plan or a case permanency plan is developed or modified in accordance with KRS 620.180(2)(a)1.

(7)[~~"Child care assistance" means subsidy benefits as described by 922 KAR 2:160, Child Care Assistance Program.~~

~~(8)~~] "Child welfare services" means benefits or services on behalf of a child meeting a purpose of 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, or 1397.

(8)[~~(9)~~] "Commissioner" means the Commissioner of the Department for Community Based Services or designee.

(9)[~~(10)~~] "Contract agency" means a business or organization that offers child welfare, adult, or domestic violence protective[~~, or child care~~] services to the public through a contract or agreement with the cabinet.

(10)[~~(11)~~] "General adult services" means a voluntary preventative service in accordance with 922 KAR 5:090, General adult services.

(11)[~~(12)~~] "Good cause" means justification for failure to carry forward with a legal obligation related to an appeal in accordance with Section 6(7) of this administrative regulation.

(12)[~~(13)~~] "Kinship caregiver" means a qualified caretaker relative of a child with whom the child is placed by the cabinet as an alternative to foster care in accordance with 922 KAR 1:130, Kinship Care Program.

(13)[~~(14)~~] "Parent" is defined by[~~:~~

~~(a)~~] KRS 600.020(44) and 42 U.S.C. 675(2) for child welfare benefits and services[~~; or~~

~~(b) 45 C.F.R. 98.2 for child care assistance~~].

(14)[~~(15)~~] "Protective services" is defined by KRS 209.020(5) or 209A.020(5).

[~~(16) "Registered child care provider" means a caregiver registered under 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program.~~

~~(17) "Resource home" means a home in which an individual has been approved by the cabinet in accordance with 922 KAR 1:350, Family preparation, to:~~

~~(a) Provide foster care services for a child placed by the cabinet;~~

~~(b) Adopt a child:~~

~~1. Whose parents' parental rights have been terminated; and~~

~~2. Who is under the custodial control of the cabinet; or~~

~~(c) Provide respite service for a family approved to care for a child under the custodial control of the cabinet.~~]

Section 2. Right to Appeal. (1) A parent may request review of the following through an administrative hearing:

(a) Denial, reduction, modification, suspension, or termination of child welfare services provided by the cabinet;

(b) Closure of a child protective services case in accordance with:

1. 922 KAR 1:330, Section 11[~~(3)~~]; or

2. 922 KAR 1:430, Section 4(4)[~~(b)~~]; or

(c) Failure by the cabinet to:

1. Respond with reasonable promptness to a request for child welfare services provided by the cabinet;

2. Complete a case plan, or case permanency plan;

3. Provide or refer for services as specified in the case plan or case permanency plan; or

4. Meet the mandated time frames for child protective services specified in 922 KAR 1:330.

(2) A foster[~~resource home~~] parent approved by the department in accordance with 922 KAR 1:350 or an adoptive parent may request review of the following through an administrative hearing:

(a) Failure by the cabinet to:

1. Process reimbursement to the[~~a resource~~] home with reasonable promptness;

2. Provide information required by KRS 605.090(1)(b) and (6);

3. Advise an adoptive parent of the availability of adoption assistance in accordance with 922 KAR 1:050, State funded adoption assistance, or 922 KAR 1:060, Federal Title IV-E adoption assistance; or

4. Provide an adoptive parent with known relevant facts regarding the:

a. Child;

b. Child's background prior to finalization of the adoption; and

c. Child's biological family;

(b) Determination of ineligibility for adoption assistance upon execution of an adoptive placement agreement under 922 KAR 1:050, State funded adoption assistance, or 922 KAR 1:060, Federal Title IV-E adoption assistance;

(c) Denial of a request for a change in payment level due to a change in circumstances of an adoptive parent or child when the adoption assistance agreement is renewed under 922 KAR 1:050, State funded adoption assistance, or 922 KAR 1:060, Federal Title IV-E adoption assistance; or

(d) Closure of a foster or adoptive[~~resource~~] home under 922 KAR 1:350, Family preparation, unless a provision of Section 3(1)(f), (g), (h), or (i) of this administrative regulation applies.

(3) An approved and available adoptive parent outside the jurisdiction with responsibility for handling the case of an adoptive child may request an administrative hearing for the cabinet's denial or delay in placement of the child for adoption pursuant to 42 U.S.C. 671(a)(23).

(4)(a) A kinship caregiver may request an administrative hearing pursuant to 922 KAR 1:130, Section 19.

(b) Pursuant to 922 KAR 1:130, Section 19(2), a kinship caregiver who is dissatisfied with an action or inaction on the part of the cabinet relating to financial assistance under the Kinship Care Program may request an administrative hearing under the provisions of 921 KAR 2:055, Hearings and appeals.

(5) An applicant determined by the cabinet to be ineligible for a tuition waiver may request an administrative hearing pursuant to 922 KAR 1:450, Section 3.

(6) An applicant determined by the cabinet to be ineligible for an educational and training voucher may request an administrative hearing pursuant to 922 KAR 1:500, Section 5.

(7) An adult may request review of the following through an administrative hearing:

(a) The cabinet's denial of general adult services or protective services to an adult identified as a victim of abuse, neglect, or exploitation; or

(b) Failure by the cabinet to respond with reasonable promptness to a request for:

1. General adult services; or

2. Protective services for an adult.

(8)[~~An applicant for child care assistance or the parent of a child receiving assistance may request an administrative hearing for the denial, reduction, suspension, or termination of benefits pursuant to 922 KAR 2:160, Section 18.~~

~~(9) An applicant for child care registration or a registered child care provider may request an administrative hearing in accordance with 922 KAR 2:180, Section 9.~~

~~(10)~~] An individual aggrieved by an action of the cabinet may request an administrative hearing for a matter by which a Kentucky Revised Statute or 922 KAR Chapters 1, 3, and[~~through~~] 5 expressly permits the appeal of a cabinet action or alleged act.

(9)[~~(11)~~] A parent or an adult aggrieved by an action of the cabinet may request review of the following through an administrative hearing:

(a) A cabinet denial, reduction, suspension, or termination of services or federally-funded benefits, payments, or financial assistance to which an individual may be entitled under 922 KAR Chapters 1, 3, and[~~through~~] 5; or

(b) A cabinet failure to act with reasonable promptness to a request for a federally-funded benefit, payment, or financial assistance to which an individual may be entitled under 922 KAR Chapters 1, 3, and[~~through~~] 5.

Section 3. Matters Not Appealable through an Administrative Hearing. (1) The following shall not be subject to review through an administrative hearing:

(a) A matter in which a court:

1. Has previously made a judicial determination or issued an order on the same issue being appealed; or

2. Is currently engaged in legal proceedings regarding the same issue being appealed;

(b) A final administrative decision made by the cabinet or cabinet's designee as a result of a previous appeal on the same issue;

(c) An appeal that has been abandoned by an appellant who failed to demonstrate good cause for failure to go forward;

(d) Failure to submit a written request for appeal within the time frame established by Section 6(4)(b) of this administrative regulation;

(e) A decision to deny:

1. Approval of an individual seeking to provide foster or adoptive services or respite care in accordance with 922 KAR 1:350 or 922 KAR 1:310; or

2. A caretaker relative approval as a kinship caregiver if the:

a. Caretaker relative fails to meet the provisions of 922 KAR 1:130, Section 5; or

b. Child is ineligible in accordance with 922 KAR 1:130, Section 9;

(f) Removal of a foster child from a foster or adoptive home or respite care provider[~~resource home~~] if the foster or adoptive[~~resource~~] home parent, respite care provider, or another individual residing in the home has been found by the cabinet to have abused, neglected, or exploited a child and the:

1. Foster or adoptive[~~Resource~~] home parent, respite care provider, or other individual waived the right to appeal the substantiated incident; or

2. Substantiated incident was upheld after:

a. An administrative hearing; or

b. Judicial review;

(g) Removal of a child from a foster[~~resource~~] home for the purpose of:

1. Achieving a permanency goal described by 922 KAR 1:140, Foster care and adoption permanency services; or

2. Uniting or reuniting the child with a sibling at the next placement;

(h) Closure of a foster or adoptive[~~resource~~] home if the cabinet has not placed a child in the home within the previous two (2) years;

(i) Closure of a foster or adoptive[~~resource~~] home according to the terms of the contract between the cabinet and the foster or adoptive[~~resource~~] home;

(j) A situation where state or federal law requires adjustment of a payment or grant, except if a payment or grant computation is incorrect;

(k) The per diem rate of reimbursement paid to a foster[~~resource~~] home parent[~~who provides foster care services~~]; or

(l) Decision to not recommend a foster[~~resource~~] home parent in accordance with 922 KAR 1:350, Section 6(9)[~~9(12)~~] for enrollment in specialized training as a medically complex foster parent[~~an emergency shelter, medically fragile, specialized medically fragile,~~] or care plus foster parent[~~resource home~~].

(2) A complaint of discrimination may be filed with the cabinet's Office of Human Resource Management in accordance with 920 KAR 1:090.

Section 4. Service Complaints. (1) If a matter is not subject to review through an administrative hearing, a parent, caretaker relative, kinship caregiver, foster or adoptive parent approved by the department in accordance with 922 KAR 1:350, or an adult may:

(a) Attempt to resolve the issue by submitting a written complaint to the service region administrator or designee within thirty (30) calendar days after the date of the cabinet action or alleged act; or

(b) Contact the cabinet's Office of the Ombudsman if the matter was not previously reviewed:

1. By that office; or

2. Pursuant to paragraph (a) of this subsection.

(2)(a) The service region administrator, administrator's designee, or the cabinet's Office of the Ombudsman shall provide a written response to the complainant within thirty (30) calendar days of receipt of a written complaint not subject to review through an

administrative hearing.

(b) The service region administrator[~~commissioner~~] or the ombudsman may grant an extension to the response timeframe given in paragraph (a) of this subsection if:

1. Extenuating circumstances prolong the review of the complaint; and

2. Notice of the extension is provided to the complainant.

(3)(a) A parent, caretaker relative, kinship caregiver, foster or adoptive parent approved by the department in accordance with 922 KAR 1:350, or an adult dissatisfied with a written response rendered by the service region administrator, administrator's designee, or the Office of the Ombudsman may request that the commissioner review the complaint and the written response.

(b) A request for review shall be submitted in writing to the commissioner within ten (10) days of receipt of the written response provided in accordance with subsection (2) of this section.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the complainant of the need for an extension to the timeframe specified in this paragraph.

(d) The department shall abide by the commissioner's written determination.

(4) The department shall compile data regarding service complaints to:

(a) Fulfill federal and state reporting requirements; and

(b) Use for program development and evaluation.

Section 5. Appeal of a Child Abuse or Neglect Investigative Finding. An individual who has been found by the cabinet to have abused or neglected a child may appeal the cabinet's finding through an administrative hearing in accordance with 922 KAR 1:480, Appeal of child abuse and neglect investigative findings.

Section 6. Request for Appeal. (1) The cabinet shall provide a copy of the[~~:~~

~~(a)~~] DPP-154, Protection and Permanency Service Appeal Request, to an individual:

(a)[~~1.~~] At each case planning conference;

(b)[~~2.~~] Upon denial, reduction, modification, suspension, or termination by the cabinet of:

1.[~~a.~~] Child welfare services provided by the cabinet;

2.[~~b.~~] General adult services or protective services, if notification does not present a risk of harm to the victim;

3.[~~c.~~] Adoption assistance; or

4.[~~d.~~] Other federally-funded program benefit described in 922 KAR Chapter 1, 3, or 5; or

(c)[~~3.~~] Upon determination that a student is not eligible for a tuition waiver or education and training voucher[~~; or~~

~~(b) DCC-88, Child Care Service Appeal Request, to an individual:~~

~~1. Upon the denial, reduction, or termination of child care assistance;~~

~~2. In accordance with 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program, for a:~~

~~a. Withdrawal or denial of child care registration application, not at the request of the applicant; or~~

~~b. Revocation or closure of a registered child care provider, not at the request of the provider;~~

~~3. Upon a reduction or revocation of a child care provider's STARS level in accordance with:~~

~~a. 922 KAR 2:170, STARS for KIDS NOW Program Type I licensed child-care centers; or~~

~~b. 922 KAR 2:210, STARS for KIDS NOW Program for Type II licensed and certified family child-care homes; or~~

~~4. Upon a revocation of a trainer's credential in accordance with 922 KAR 2:240, Kentucky Early Care and Education Trainer's Credential and training approval~~].

(2) At least ten (10) days prior to the denial, reduction, modification, suspension, or termination of a benefit or services specified in Title 922 KAR Chapter 1, 3, or 5, the cabinet shall hand-deliver or mail a[~~:~~

~~(a)~~] DPP-154A, Protection and Permanency Notice of Intended Action[~~;~~

~~(b) DCC-108, Notice of Adverse Action for Child Care Providers and Early Care and Education Professionals; or~~

~~(c) Notice in accordance with 922 KAR 2:160, Section 12(6)~~].

(3) The cabinet may take emergency action under KRS 13B.125.

(4) A request for appeal shall:

(a) Be written by the appellant, with the assistance of the cabinet or contract agency if the appellant is unable to comply without assistance;

(b) Be submitted to the cabinet no later than thirty (30) calendar days from the date:

1. That the notice provided in accordance with subsection (2) of this section was issued; or

2. Of the occurrence of the disputed action;

(c) Describe the:

1. Cabinet action in dispute; or

2. Alleged act;

(d) Specify:

1. The reason the appellant disputes the cabinet's action;

2. Name of each cabinet staff person involved with the disputed action, if known; and

3. Date of the cabinet action or alleged act in dispute; and

(e) Include the notice provided in accordance with subsection (2) of this section, if available.

(5)(a) Upon receipt of a written request for appeal, the cabinet shall determine whether the matter is subject to review through an administrative hearing.

(b) If the matter is not subject to review, the cabinet shall inform the individual in writing that the:

1. Matter is not appealable; and

2. Resolution of the matter may be pursued through the service complaint process described in Section 4 or 10 of this administrative regulation.

(6) If the cabinet receives a written request for appeal within ten (10) calendar days from the date the notice provided in accordance with subsection (2) of this section was issued or date of the disputed action and the matter is appealable, the cabinet shall continue to provide federally-funded assistance in accordance with 45 C.F.R. 205.10(a)(6) pending the outcome of the appeal.

(7) The cabinet shall not dismiss a request for appeal if an appellant demonstrates good cause. Justification may include:

(a) An appellant's inability to comprehend the cabinet's written statement describing appeal rights; or

(b) A cabinet-sanctioned determination that the appellant or the appellant's legal representative is not at fault for failure to:

1. Submit a written request for appeal; or

2. Participate in a proceeding related to an administrative hearing.

Section 7. Administrative Hearing. Each administrative hearing conducted by the cabinet or designee shall comply with KRS Chapter 13B.

Section 8. Recommended Order. (1) A copy of the recommended order shall be sent simultaneously to:

(a) Each party to the administrative hearing;

(b) The commissioner of the Department for Community Based Services; and

(c) The secretary of the Cabinet for Health and Family Services or designee.

(2) If a party to a hearing disagrees with the recommended order, the party may file a written exception as provided in KRS 13B.110(4) with the secretary, which shall:

(a) Be filed within fifteen (15) days of the date the recommended order was mailed;

(b) Be based on facts and evidence presented at the hearing;

(c) Not refer to evidence that was not introduced at the hearing; and

(d) Be sent to each other party involved in the hearing.

Section 9. Final Order. (1) The secretary of the Cabinet for Health and Family Services or designee shall issue a final order in accordance with KRS 13B.120.

(2)(a) Unless waived by an appellant, final administrative action shall be taken within ninety (90) days from the date of the request for an administrative hearing as required by 45 C.F.R. 205.10.

(b) If the appellant waives the ninety (90) day requirement specified in paragraph (a) of this subsection, the hearing officer shall notify all parties to the hearing when final administrative action will be taken.

(3) An aggrieved party may petition for judicial review in accordance with:

(a) KRS 13B.140 to 13B.160; or

(b) KRS 23A.010.

Section 10. Contract Agencies. (1) A contract agency shall offer a complaint process consistent with:

(a) Section 4 of this administrative regulation; or

(b) Provisions of the contract or agreement between the contract agency and the cabinet, if the provisions are different from Section 4 of this administrative regulation.

(2)(a) An individual dissatisfied with a final written response rendered by a contract agency regarding a complaint may request that the commissioner review the complaint and the contract agency's written response.

(b) A request for review shall be submitted to the commissioner within ten (10) days of the contract agency's written response.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the client of the need for an extension to the timeframe specified in this subparagraph.

(d) The contract agency shall abide by the commissioner's written determination.

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

(a)[~~"DCC-88, Child Care Service Appeal Request", 11/09;~~

~~(b) "DCC-108, Notice of Adverse Action for Child Care Providers and Early Care and Education Professionals", 11/09;~~

~~(c)~~] "DPP-154, Protection and Permanency Service Appeal Request", 11/09; and

(b)[~~(d)~~] "DPP-154A, Protection and Permanency Notice of Intended Action", 11/09.

(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, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures related to service appeals and complaints for benefits and services under Title 922 KAR Chapters 1, 3, and 5.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide service appeal and complaint procedures for benefits and services governed by Title 922 KAR Chapters 1, 3, and 5.

(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 service complaint and due process in accordance with KRS Chapter 13B and 45 C.F.R. 205.10.

(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 through its establishment of service appeal and complaint processes for benefits and services permitted by Title 922 KAR Chapters 1, 3, and 5.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this existing administrative regulation removes benefits and services permitted by Title 922 KAR Chapter 2, Day Care. In addition, other technical corrections and updates have been made to ensure alignment with administrative regulations in Title 922 KAR Chapters 1, 3, and 5 and compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: New service appeal and complaint processes for child care programs governed by Title 922 KAR Chapter 2 have been proposed in other administrative regulations. The change has been necessitated by new business processes and technological supports to be deployed by this department in effort to improve agency efficiencies and qualified customers' access to benefits and services.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by delineating service appeal and complaint processes for benefits and services outlined in Title 922 KAR Chapters 1, 3, and 5.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by distinguishing and clarifying service appeal and complaint processes for protection and permanency programs found in Title 922 KAR Chapters 1, 3, and 5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Individuals receiving child welfare or adult services are entities impacted by this administrative regulation, which governs service appeals and complaints for Title 922 KAR Chapters 1, 3, and 5. In State Fiscal Year (SFY) 2015, the Department for Community Based Services investigated nearly 59,078 reports of child maltreatment, 34,694 reports involving a vulnerable adult, and served approximately 7,700 children per month in foster care.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will not be required to take any new or additional action as a result of this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will not be subject to any new or additional costs as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will have service complaint and appeal processes for protection and permanency programs (Title 922 KAR Chapters 1, 3, and 5) clearly outlined and distinguished from child care benefits and services (Title 922 KAR Chapter 2).

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

(a) Initially: The administrative body will realize no new or additional costs to implement this administrative regulation. The regulatory amendment is organizational and technical in nature.

(b) On a continuing basis: The administrative body will realize no new or additional ongoing costs as a result of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Social Services Block Grant and Title IV-E (of the Social Security Act) funds are federal funds that support the implementation and enforcement of this administrative regulation. State General Funds are also utilized.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation does not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied, as this administrative regulation is applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 C.F.R. 205.100, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397

2. State compliance standards. KRS Chapter 13B, 194A.010(2), 194A.050(1)

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 205.100, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397

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 requirement, or additional, or different requirements or responsibilities, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, additional, or different responsibilities or requirements. This administrative regulation does not impose stricter requirement, or additional, or different requirements or responsibilities, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13B, 194A.010(2), 194A.050(1), 45 C.F.R. 205.100, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397

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 new revenues 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 new revenues for the subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will generate no new or additional costs in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will generate no new or additional costs in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
922 KAR 2:020E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)2 to prevent the loss of federal and state funds through the deterrence of, and appropriate response to, fraud and through conformity with new claims technology system for the Child Care Assistance Program (CCAP). In addition, the emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 to ensure the program's vulnerability to overpayment, fraud, and abuse does not put children's health, safety, and welfare at risk. An ordinary administrative regulation would not allow the agency sufficient time to implement measures to respond appropriately to fraud and conform to the new CCAP claims technology system. The new system will better meet the needs of families, providers that serve CCAP children, and will include provisions that will deter fraud and abuse. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
VICKIE YATES BROWN GLISSON, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Emergency Amendment)

922 KAR 2:020E. Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

RELATES TO: KRS Chapter 13B, 23A.010, 45.237-45.241, 194A.060, 45 C.F.R. 98,[~~45 C.F.R.~~] 205.50, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 45.237(4), 194A.050(1), 199.8994, 45 C.F.R. 98.60(i)

EFFECTIVE: February 26, 2016

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. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. 45 C.F.R. 98.60(i) and KRS 45.237(4) require the cabinet, as the lead agency for Kentucky, to recover child care payments that are the result of fraud or improper payment. This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

Section 1. Definitions. (1) "Agency error" means an error on the part of the cabinet or its designee.

(2) "Cabinet" means the Cabinet for Health and Family Services or its designee.

(3) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of 922 KAR 2:160, with the

financial resources to find and afford quality child care.

(4) "Child care provider" means the individual, business, or business proprietor who is receiving, or has received, payment for child care services under CCAP.

(5) "Claim" means an amount owed to the cabinet as a result of an overpayment of CCAP.

(6) "Claimant" means a current or former CCAP recipient or child care provider subject to a claim.

(7) "Compromise a claim" means accepting less than the full value of a claim.

(8) "Hearing officer" is defined by KRS 13B.010(7).

(9) "Improper payment" is defined by KRS 45.237(1)(d) or 45 C.F.R. 98.100(d).

(10) "Inadvertent error claim" means an overpayment resulting from a misunderstanding or unintended error on the part of a recipient or a child care provider.

(11) "Intentional program violation" or "IPV" means a CCAP recipient or child care provider having intentionally:

(a) Made a false or misleading statement; or

(b) Misrepresented, concealed, or withheld facts.

(12) "Overpayment" means a CCAP payment which exceeded the amount a CCAP recipient or a child care provider was eligible to receive.

(13) "Recipient" means a family who has been found eligible for CCAP.

(14) "Terminate a claim" means ceasing all collection actions on a claim.

(15) "Underpayment" means a payment which was less than the amount a recipient or a child care provider was eligible to receive.

Section 2. Responsibility for a Claim. (1) A parent of a recipient household or a child care provider shall be responsible for paying a claim which resulted from an:

(a) Overpayment due to an action or inaction on the part of the recipient or the child care provider, including failure to report a change in circumstance in accordance with 922 KAR 2:160, Section 11; or

(b) Agency error that provided the recipient or the child care provider with an overpayment.

(2) The cabinet shall make an exception to subsection 1(b) of this section if the recipient:

(a) Is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

(b) Complied with the requirements of the recipient's:

1. Case plan developed in accordance with 922 KAR 1:430; or

2. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

Section 3. Claim Category. (1) A claim shall be classified in one (1) of the following three (3) categories:

(a) A claim resulting from an IPV;

(b) Inadvertent error claim; or

(c) Agency error claim.

(2) The cabinet shall establish an IPV against a recipient or a child care provider if:

(a) A court of appropriate jurisdiction issues a conviction, or accepts an Alford or guilty plea, related to an IPV in CCAP against a parent of the recipient household or the child care provider;

(b) A parent of the recipient household or a child care provider completes, signs, and returns[~~the~~]:

1. a. Until February 29, 2016, the DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing, 11/09; or

b. Effective February 29, 2016, the DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing, 02/16; or

2. a. Until February 29, 2016, the DCC-83, Deferred Adjudication Disqualification Consent Agreement, 11/09; or

b. Effective February 29, 2016, the DCC-83, Deferred Adjudication Disqualification Consent Agreement, 02/16; or

(c) A hearing officer or an agency head makes a determination finding an IPV as a result of an administrative disqualification hearing.

Section 4. Action on an Improper Payment. (1) The cabinet shall investigate each:

(a) Instance of an improper payment; or

(b) Allegation of an IPV related to a:

1. Recipient; or

2. Child care provider.

(2) The cabinet shall initiate action to correct an improper payment in a CCAP case.

(3) If an overpayment has occurred, the cabinet shall:

(a) Determine the amount of overpayment in accordance with Section 5 of this administrative regulation; and

(b) Categorize and establish a claim to recover the amount of the overpayment.

(4) If the cabinet has sufficient documentary evidence to confirm that a recipient or child care provider has committed an IPV, the cabinet shall:

(a)1. Refer the case to the cabinet's Office of Inspector General (OIG) for investigation or referral for prosecution if warranted by the facts of the case;

2. Initiate an administrative disqualification hearing in accordance with Section 9 of this administrative regulation; or

3. Accept a parent of a recipient household or a child care provider's waiver of an administrative disqualification hearing through the parent or child care provider's completing, signing, and returning a DCC-84 Supplement A as specified in Section 3(2)(b) of this administrative regulation; and

(b) Take an action necessary to establish a claim to collect any overpayment resulting from the suspected IPV.

Section 5. Calculating a Claim. (1) The cabinet shall calculate the amount of an overpayment for an:

(a) Agency error back to the month that the error first occurred, but not more than twelve (12) months prior to the date that the cabinet became aware of the overpayment;

(b) Inadvertent error back to the month that the misunderstanding or error first occurred, but not more than three (3) years prior to date that the cabinet became aware of the overpayment; and

(c) IPV back to the month of the fraudulent act first occurred, but not more than five (5) years prior to the date that the cabinet became aware of the overpayment.

(2) If an overpayment occurred as a result of a change during the period of CCAP eligibility, the first day of the claim shall begin thirty-one (31) days from the date of the change.

(3) If the overpayment occurred due to the failure of a parent of a recipient household to report information at application or recertification[~~re-determination~~] for eligibility in accordance with 922 KAR 2:160, Section 2 or 8, the claim shall start the first day of the approval of the application or recertification[~~redetermination~~].

(4)(a) The cabinet shall:

1. Calculate the amount of CCAP for each month that a recipient or a child care provider received the improper payment; and

2. Subtract the correct amount of CCAP from the CCAP actually received.

(b) The difference shall be the amount of the overpayment.

(5) If the overpayment exists for the entire period of CCAP eligibility, the cabinet shall calculate the full amount of benefits overpaid:

(a) On behalf of the recipient; or

(b) To the child care provider.

(6) If an overpayment and an underpayment exist for a recipient or a child care provider, the amounts of the overpayment and the underpayment shall be offset to determine the total amount of the claim.

(7) The amount of a claim may differ from a calculation obtained through the methods outlined in this section if a different claim amount is ordered by:

(a) An administrative hearing officer or agency head in accordance with:

1. Until April 1, 2016, 922 KAR 1:320; or

2. Effective April 1, 2016, 922 KAR 2:260; or
(b) A court of appropriate jurisdiction.

Section 6. General Claim Notices. (1) Until February 29, 2016, a KCD-2, General Claims Notice, 11/09, shall serve many purposes in the administration of CCAP claims collections, including the use as:
(a) An appointment letter;
(b) A demand letter;
(c) A notification of benefit reduction;
(d) A past due notice;
(e) A repayment agreement;
(f) A claim adjustment notice;
(g) A claim termination notice;
(h) A payment receipt;
(i) Notice of a claim being paid in full; or
(j) Notice of a delinquent claim's referral for collection in accordance with Section 11(2) of this administrative regulation.
(2) Effective February 29, 2016, a KCD-2, General Claims Notice, 02/16, shall serve the purposes specified in subsection (1)(a) through (1)(j) of this section.
(3) The language on the KCD-2 shall differ according to the purpose of the notice as described in subsection (1) or (2) of this section.

Section 7. Notification of a Claim. (1) The cabinet shall:
(a) Provide initial notice in accordance with Section 6 of this administrative regulation to a recipient or a child care provider suspected of having a claim;
(b) Provide notice of a suspected IPV, if applicable, with a:
1. Until February 29, 2016,
a. DCC-84, Notice of Suspected Intentional Program Violation, 11/09; and
b.[~~2.~~] DCC-84 Supplement A, 11/09; or[~~and~~]
2. Effective February 29, 2016;
a. DCC-84, Notice of Suspected Intentional Program Violation, 02/16, and
b. DCC-84 Supplement A, 02/16; and
(c) Offer the recipient or the child care provider an opportunity to meet with the cabinet to:
1. Discuss the potential claim;
2. Determine the category of the claim as specified in Section 3 of this administrative regulation; and
3. Sign the DCC-84 Supplement A, if an IPV is suspected.
(2) If a recipient or a child care provider requests to reschedule the meeting within ten (10) days of the date of the notice provided in accordance with subsection (1) of this section, the cabinet shall reschedule the meeting.
(3) The cabinet shall determine the claim's category in accordance with Section 3 of this administrative regulation and the amount of the claim based on the information available to the cabinet if the recipient or the child care provider:
(a) Fails to attend the meeting to discuss the claim; and
(b) Does not contact the cabinet to reschedule the meeting in accordance with subsection (2) of this section.
(4) If the cabinet determines the category and amount of a claim in accordance with subsections (1) through (3) of this section:
(a) Collection shall be initiated in accordance with Section 10 of this administrative regulation; and
(b) Subsequent notice pursuant to Section 6 of this administrative regulation shall be mailed to the recipient or the child care provider to give the claim:
1. Amount;
2. Time period;
3. Reason; and
4. Classification in accordance with Section 3 of this administrative regulation.
(5) A recipient or a child care provider shall return the notice made pursuant to subsection (4)(b) of this section within ten (10) days of receipt if the recipient or child care provider chooses to request an administrative hearing on the establishment of the claim in accordance with[~~Section 18 of~~] this administrative regulation.

Section 8. Disqualification Period. (1) A recipient or a child care provider determined to have committed an IPV in accordance with Section 3(2) of this administration regulation shall have a period of disqualification from CCAP pursuant to subsection (2) of this section.
(2)(a) A disqualification period from CCAP shall adhere to the following guidelines:
1.a. Until February 29, 2016, three (3) months disqualification for a first occurrence of IPV; or
b. Effective February 29,2016, twelve (12) months disqualification for a first occurrence of IPV;
2.a. Until February 29, 2016, six (6) months disqualification for a second occurrence of IPV;
b. Effective February 29, 2016, twenty-four (24) months disqualification for a second occurrence of IPV; and
3. Permanent disqualification for a third occurrence of IPV.
(b) The cabinet shall make an exception to paragraph (a) of this subsection if:
1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and
2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:
a. Case plan developed in accordance with 922 KAR 1:430; or
b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.
(3) If a court of appropriate jurisdiction issues a disqualification period upon conviction of a charge, or acceptance of an Alford or guilty plea, related to the IPV, the cabinet:
(a) May make exception to a disqualification period specified in subsection (2) of this section; and
(b) Shall enforce the court-ordered disqualification period.
(4) Unless subsection (2)(b)[~~2(b)~~] of this section applies, the disqualification period shall continue uninterrupted until it is completed regardless of the eligibility of the recipient or the child care provider.
(5) Regardless of the disqualification period, the recipient or the child care provider shall continue to be responsible for the payment of a claim resulting from the IPV.
(6) Eligibility of a recipient or payment to a child care provider shall not be affected by a suspected IPV until a disqualification is established in accordance with subsection (1) of this section.
(7) If a court of appropriate jurisdiction fails to impose a disqualification period for an IPV, the cabinet shall impose a penalty in accordance with this section.
(8) The cabinet shall not separate the same act of IPV repeated over a period of time for the imposition of multiple, separate penalties.

Section 9. Administrative Disqualification Hearing. (1) The cabinet shall initiate an administrative disqualification hearing on the establishment of an IPV if the:
(a) Facts of the IPV do not warrant civil or criminal prosecution through a court of appropriate jurisdiction;
(b) Referral for prosecution is declined by prosecutorial authorities;
(c) Referral for prosecution is withdrawn by the cabinet; or
(d) Recipient or child care provider declines to sign the DCC-84 Supplement A.
(2) If the facts of the case arise out of the same or related circumstances, the cabinet shall not initiate an administrative disqualification hearing against a recipient or a child care provider:
(a) Whose case is currently referred for prosecution; or
(b) Subsequent to an action taken against the recipient or the child care provider by the prosecutor or a court of appropriate jurisdiction.
(3) Unless a different procedure is specified in this section, an administrative disqualification hearing shall:
(a) Be conducted in accordance with[~~922 KAR 1:320 and~~] KRS Chapter 13B and:
1. Until April 1, 2016, 922 KAR 1:320; or
2. Effective April 1, 2016, 922 KAR 2:160; and
(b) Include:
1. The issuance of a recommended order;

2. Procedures for written exceptions; and

3. The issuance of a final order.

(4) The cabinet may initiate an administrative disqualification hearing regardless of the current eligibility of a recipient or the payment status of a child care provider.

(5)(a) In accordance with KRS 13B.050, an administrative disqualification hearing notice shall be sent by:

1.[~~By~~] Certified mail, return receipt requested, to the individual; or

2. Another method, such as electronic or first class mail, if the individual waives his or her right to certified mail delivery under KRS 13B.050[~~To the addressee only; and~~

~~3. With a return recipient requested~~].

(b) An administrative disqualification hearing notice shall provide information in accordance with KRS 13B.050.

(6) Timeframes for an administrative disqualification hearing shall be in accordance with KRS 13B.110 and 13B.120.

(7)(a) The cabinet shall combine a request for an administrative hearing in accordance with Section 16 of this administrative regulation and an administrative disqualification hearing into a single hearing if the:

1. Factual issues arise out of the same or related circumstances; and

2. Recipient or the child care provider receives prior notice that the hearings are being combined.

(b) If the hearings are combined for the purpose of settling the amount of the claim concurrent with a determination of whether an IPV occurred, the recipient or the child care provider subject to the claim shall lose the right to a subsequent administrative hearing on the amount of the claim.

(8) During an administrative disqualification hearing, the hearing officer shall advise the recipient or child care provider accused of an IPV of the option to refuse to answer questions during the hearing.

(9)(a)[~~In accordance with KRS 13B.080(6),~~] If a recipient or child care provider does not appear for the administrative disqualification hearing, the hearing officer shall[~~review the case file to determine if the hearing shall:~~

~~1.~~] proceed in accordance with KRS 13B.080(6)[~~without recipient or child care provider representation because the return receipt from the hearing notice verified the notice was received by the recipient or the child care provider; or~~

~~2. Not be conducted because the hearing notice or return receipt is annotated as unclaimed or undeliverable~~].

(b) The cabinet shall conduct a new administrative disqualification hearing if the:

1. Recipient or the child care provider was not represented at the hearing;

2. Recipient or the child care provider was determined to have committed an IPV; and

3. Hearing officer determined the household had good cause for not appearing, in accordance with:

a. Until April 1, 2016, 922 KAR 1:320, Section 6(7); or

b. Effective April 1, 2016, 922 KAR 2:260, Section 5(7)[~~, for not appearing~~].

(10)(a) The determination of an IPV made through an administrative disqualification hearing shall not be reversed by a subsequent administrative hearing decision.

(b) A recipient or child care provider shall be entitled to seek relief through a court of appropriate jurisdiction in accordance with:

1. KRS 13B.140 to 13B.160; or

2. KRS 23A.010.

Section 10. Collection of a Claim. (1) The cabinet shall collect a claim from a claimant through:

(a) Voluntary payment arrangement, negotiated either orally or in writing, which includes a payment schedule;

(b) Court-ordered repayment;

(c) State tax refund interception in accordance with KRS 45.238;

(d) Lottery offsets;

(e) Wage garnishment; or

(f) Referral to a collection agency.

(2)(a) The cabinet shall accept a lump sum payment on a claim from a recipient or a child care provider.

(b) The lump sum payment may be a full or partial payment.

(3)(a) If a claimant who is a child care provider submits a completed DCC-97 Supplement A, Voluntary Payment Reduction, indicating the amount the provider wishes to have applied to the claim, the child care provider currently receiving CCAP payment may choose to have an amount withheld from the provider's CCAP payment to be applied towards a claim.

(b) The amount indicated on the DCC-97 shall not be less than ten (10) percent of the total CCAP payment.

(4) The cabinet shall refund to a claimant any amount the claimant pays in excess of the amount of the claim.

Section 11. Delinquent Claims. (1) In accordance with KRS 45.237(4), a claim shall be considered delinquent if:

(a) A claimant has not made a payment or entered into a satisfactory payment arrangement with cabinet sixty (60) calendar days from the date on the notice provided in accordance with Section 7(4)(b) of this administrative regulation; or

(b) Sixty (60) days have lapsed since the claimant has missed a scheduled payment pursuant to the payment arrangement with the cabinet.

(2) The cabinet shall pursue collection on a delinquent claim through a collection method specified in Section 10(1)(b) through (f) of this administrative regulation.

(3)(a) If the cabinet determines that a claimant who is a recipient is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

1. Terminate the recipient's CCAP; and

2. Not reapprove the recipient for CCAP until the recipient has paid all[~~two (2) months of~~] delinquent payments.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:

a. Case plan developed in accordance with 922 KAR 1:430; or

b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(4) If the cabinet determines that a claimant who is a child care provider is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

(a) Disallow any CCAP payments to the child care provider; and

(b) Not approve the child care provider for further CCAP payments until the provider has paid all[~~two (2) months of~~] delinquent payments.

(5) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation prior to an action specified in subsection (3) or (4) of this section.

(6) If the cabinet is unable to determine a claim's delinquency status because the claim collection is coordinated through the court system, the cabinet shall not subject a claim to the requirements for delinquent debts in accordance with this section.

(7) A claim shall not be considered delinquent if:

(a) Another claim for the same claimant is currently being paid through a repayment agreement or court order; and

(b) The cabinet expects to begin collection on the claim once the prior claim is settled.

(8)(a) A claim awaiting an administrative hearing shall not be considered delinquent.

(b) If a hearing officer or agency head determines that a claim does exist as result of an administrative hearing, the cabinet shall:

1. Send subsequent notice of the claim in accordance with Section 6 of this administrative regulation; and

2. Base delinquency on the due date of the subsequent notice.

(c) If a hearing officer or agency head determines that a claim does not exist as a result of an administrative hearing, the cabinet shall terminate the claim in accordance with Section 12(2) of this administrative regulation.

Section 12. Compromising or Terminating a Claim. (1) Except for a claim that is established by a court of appropriate jurisdiction, the cabinet may compromise a claim or a portion of a claim if:

(a) A request for a compromise is received from the claimant; and

(b) The cabinet makes a determination that the claimant will be unable to pay the claim within five (5) years.

(2) The cabinet shall terminate a claim if the:

(a) Claim:

1. Is invalid, unless pursuing the overpayment as a different type of claim is appropriate;

2. Balance is twenty-five (25) dollars or less, and the claim has been delinquent for ninety (90) days or more, unless another claim is pending against the same claimant resulting in an aggregate claim total of greater than twenty-five (25) dollars; or

3. Has been delinquent for at least three (3) years;

(b) Claimant dies; or

(c) Cabinet is unable to locate the claimant.

(3) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation if the cabinet:

(a) Compromises or terminates a claim; and

(b) Has a mailing address for the claimant.

Section 13. Underpayments and CCAP Restoration. (1) If an underpayment has occurred, the cabinet shall issue a payment to the child care provider that includes the difference between the amount that the child care provider:

(a) Was entitled to receive; and

(b) Actually received.

(2) CCAP shall be restored for no more than twelve (12) months to a recipient or a child care provider if benefits were lost:

(a) Due to an agency error; or

(b) By a disqualification period for an IPV that is subsequently reversed through an order of a court of appropriate jurisdiction.

Section 14. Disclosure of Information. The disclosure or the use of CCAP information shall be restricted in accordance with:

(1) KRS 194A.060; and

(2) 45 C.F.R. 205.50(a)(1)(i).

Section 15. Retention of Records. (1) Records for CCAP shall be retained in accordance with 45 C.F.R. 98.90(e).

(2) The cabinet shall retain:

(a) The official records of an administrative disqualification hearing until all appeals have been exhausted; and

(b) A CCAP record with an IPV disqualification indefinitely.

Section 16. A parent in the recipient household or a child care provider may request an appeal of the establishment of a claim in accordance with:

(1) Until April 1, 2016, 922 KAR 1:320, Section 2(10); or

(2) Effective April 1, 2016, 922 KAR 2:260, Section 2(4).

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DCC-83, Deferred Adjudication Disqualification Consent Agreement",[~~edition~~] 11/09;

(b) "DCC-83, Deferred Adjudication Disqualification Consent Agreement", 02/16;

(c) "DCC-84, Notice of Suspected Intentional Program Violation",[~~edition~~] 11/09;

(d) "DCC-84, Notice of Suspected Intentional Program Violation", 02/16;

(e)[~~(c)~~] "DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing", edition 11/09;

(f) "DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing", 02/16;

(g)[~~(d)~~] "DCC-97 Supplement A, Voluntary Payment Reductions",[~~edition~~] 11/09;[~~and~~]

(h)[~~(e)~~] "KCD-2, General Claims Notice",[~~edition~~] 11/09; and

(i) "KCD-2, General Claims Notice", 02/16.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 am through 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish improper payments, claims, and penalties within CCAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the content of the authorizing statutes by establishing procedures for improper payments, claims, and penalties used by the cabinet in CCAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation currently assists in the effective administration of the statutes through its establishment of the cabinet's procedures for improper payments, claims, and penalties in CCAP.

(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 is necessary to implement tougher penalties for intentional program violations (i.e., fraud and abuse) committed by either a CCAP recipient or a child care provider participating in CCAP. The penalties to be applied in CCAP are identical to penalties currently used for intentional program violations (IPVs) in the Supplemental Nutrition Assistance Program (SNAP). In addition, after a period of 90 days delinquency in repayment of an established claim, the amendment will require that all delinquent claim payments be made prior to a CCAP recipient or child care provider returning to active status within CCAP. The amendment to this administrative also aligns the administrative regulation's incorporated materials with the new claims system. Lastly, the amendment also makes technical corrections in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to toughen penalties and claim collections practices within CCAP in effort to deter and respond appropriately to programmatic fraud and abuse and to reconcile outstanding claim balances. The proposed changes to the administrative regulation assure alignment with the new claims system, which promises further programmatic modernization, greater efficiency in ongoing case maintenance, and enhanced reporting and archiving functionalities.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes through its enhancement of penalties and claim collection practices in CCAP.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes through its improvements to the cabinet's procedures for improper payments, claims, and penalties in CCAP.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The parent of a child eligible for CCAP or

a provider serving a child eligible for CCAP could be impacted by this administrative regulation if an overpayment or underpayment or a suspected intentional program violation has occurred involving the child's case/eligibility or payment to the child care provider. During State Fiscal Year 2015, CCAP served, on average, 22,792 children in 12,236 families per month. For State Fiscal Year 2015, the numbers for providers participating in CCAP are as follows: 2,056 licensed (Type I and Type II), 336 certified, and 207 registered. For the first half of State Fiscal Year 2015, July through December, 1,814 claims were established on both recipients and providers participating in CCAP.

(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: Measures incorporated impact CCAP recipients and child care providers that have committed an intentional program violation and/or are in a repayment agreement due to a claim. The disqualification period for an intentional program violation has been extended comparable to the Supplemental Nutrition Assistance Program (SNAP), and collection practices for delinquent claim repayments have been enhanced to foster greater compliance on the part of repaying CCAP recipients and child care providers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new or additional costs to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment to this administrative regulation will foster accuracy in benefits and program integrity for applicants, recipients, and providers participating in CCAP. Benefits to CCAP recipient households include reduced fraud in CCAP and correction of underpayments. Overpayments returned to CCAP will be utilized to support new or existing recipients.

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

(a) Initially: There will be no new or additional cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no new or additional cost to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for implementation and enforcement of this administrative regulation will be the federal Child Care and Development Fund Block Grant, state matching, state maintenance of effort funds, and General Fund dollars. In addition, child care provided to work-eligible adults participating in the Kentucky Works Program is supported by federal and state funds allocated to the Temporary Assistance for Needy Families (TANF) Block Grant.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to change this 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 does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS Chapter 13B, 45.237-45.241, 194A.050(1), 194A.060, 199.8994

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

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 will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13B, 45.237-45.241, 194A.050(1), 194A.060, 199.8994, 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

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 new revenue during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no new revenue for in subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will create no new or additional costs during the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will create no new or additional costs in subsequent years.

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

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

STATEMENT OF EMERGENCY
922 KAR 2:160E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 to ensure an adequate supply of child care providers participating in the Child Care Assistance Program (CCAP) through payment enhancements and operating modifications. Without the amendment, children's health, safety, and welfare would be jeopardized due to reduced child care options for vulnerable households, including children receiving Child Protective Services, children with special needs, children of teen parents, children whose parents are transitioning from cash assistance or welfare, and children from low-income households. CCAP providers have not seen a rate increase in ten (10) years. Since 2013, there has been a net participation decline of over 500 licensed and certified child care providers. In accordance with KRS 13A.190(1)(a)2 and 3, the emergency administrative regulation also ensures timely compliance with Pub. L. 113-186, Child Care and Development Grant Act of 2014, the associated federal proposed rule, and related technologies' deployment in effort to avoid costly federal corrective action or federal financial penalty. An ordinary administrative regulation would not allow the agency sufficient time to implement measures to respond appropriately to decline child care provider participation in CCAP and to timely comply with newer federal requirements. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
VICKIE YATES BROWN GLISSON, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Emergency Amendment)

922 KAR 2:160E. Child Care Assistance Program.

RELATES TO: KRS 194A.060, 199.892, 199.894(1),(5), 199.896, 199.898(1), (2), 199.8982, 199.899, 199.8994, 214.036, 314.011(5), 337.275, 600.020(50)[~~(49)~~], 605.120(5), 620.020(10), 2014 Ky. Acts ch. 117, Part 1, G.9(3), 7 C.F.R. 1463,[~~2012,~~] 20 C.F.R. 652, 660-671, 45 C.F.R. 98, 205.10(a)(6), 205.50(a)(1)(i), 400.66(d), 7 U.S.C. 2012, 25 U.S.C. 459, 1261, 1401, 29 U.S.C. 723(a)(5), 38 U.S.C. 1815, 42 U.S.C. 601-619, 1395w-141[~~1451~~], 1771-1793[~~, 1775~~], 2000d, 3001, 4950-5085[~~5084~~], 8621, 9902(2), 9857-9858q[~~9858-9858g~~], 10602(c)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.892, 199.8994

EFFECTIVE: February 26, 2016

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. KRS 199.892 enables the Cabinet for Health and Family Services to promulgate administrative regulations to qualify to receive federal funds under provisions of the federal Social Security Act, 42 U.S.C. 9857-9858q[~~601-619~~], and to provide for effective regulation of child care centers. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. This administrative regulation establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available.

Section 1. Definitions. (1) "Applicant" means a child's natural or adoptive parent or an individual caring for a child in loco parentis who is applying for CCAP.

(2) "Cabinet" is defined by KRS 199.894(1).

(3) "Change in a circumstance" means a change that affects eligibility or benefit amounts and includes:

(a) Beginning or ending employment;

(b) Change in an employer or obtaining additional employment;

(c) Increase or decrease in the number of work hours;

(d) Increase or decrease in the rate of pay;

(e) Increase or decrease in family members;

(f) Change in self-employment activity;

(g) Change in scheduled hours care is needed;

(h) Beginning or ending an educational activity;

(i) Change in child care provider;

(j) Change in address or residence;

(k) Change in marital status; or

(l) Beginning or ending receipt of unearned income.

(4) "Child care" means the provision of care for a child for a portion of a day on a regular basis, designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development, and supervision.

(5) "Child care and development fund" or "CCDF" is defined by 45 C.F.R. 98.2.

(6) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of this administrative regulation, with the financial resources to find and afford quality child care.

(7) "Child care certificate" is defined by 45 C.F.R. 98.2.

(8) "Child protective services" is defined in 922 KAR 1:330, Section 1(3).

(9) "Child with a special need" means a child who has multiple or severe functional needs requiring ongoing specialized care.

(10) "Employment" means public or private, permanent or temporary work for an average of twenty (20) hours per week for compensation or as an unpaid job requirement.

(11) "Family" means an applicant or parent, a child, and another responsible adult if present, residing in the same home.

(12) "Family child-care home" is defined by KRS 199.894(5).

(13) "Full day" means child care that is provided for five (5) or more hours per day.

(14) "Health professional" means a person actively licensed as a:

(a) Physician;

(b) Physician's assistant;

(c) Advanced practice registered nurse;

(d) Qualified mental health professional as defined by KRS 600.020(50); or

(e) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(15) "Homeless" means an individual or a family lacking a fixed, regular, and adequate residence due to economic hardship.

(16) "In loco parentis" means a person acting in place of a parent, including:

(a) A legal guardian;

(b) An individual related by blood, marriage, or adoption to the child; or

(c) A nonrelative pursuing legal custody of the child within one (1) year of application.

(17)[~~(16)~~] "Infant" means a child who is less than one (1) year old.

(18)[~~(17)~~] "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families or "TANF" money payment program established in 921 KAR Chapter 2.

(19)[~~(18)~~] "Parent" is defined by 45 C.F.R. 98.2.

(20)[~~(19)~~] "Part day" means child care that is provided for less than five (5) hours per day.

(21)[~~(20)~~] "Preschool child" means a child who has reached the third birthday up to, but not including, the sixth birthday.

(22)[~~(21)~~] "Preventive services" is defined by KRS 620.020(10).

(23)[~~(22)~~] "Provider" means the entity providing child care services, including:

(a) A member of a limited liability corporation (LLC);

(b) The head of an organization;

(c) An owner of a corporation;
(d) A member of a partnership;
(e) An owner of a business;
(f) An individual provider; or
(g) A stockholder of a stock-holding company.

(24)[~~(23)~~] "Qualified alien" means a child who meets the requirements of 921 KAR 2:006, Section 1(14).

(25)[~~(24)~~] "Registered provider" means a child care provider who meets the requirements of 922 KAR 2:180.

(26)[~~(25)~~] "Related" means having one (1) of the following relationships:
(a) Child;
(b) Stepchild;
(c) Grandchild;
(d) Great-grandchild;
(e) Niece;
(f) Nephew;
(g) Sibling;
(h) Child in legal custody; or
(i) Child living in loco parentis.

(27)[~~(26)~~] "Responsible adult" means a person other than the applicant who is in the child's household and who is:
(a) The natural parent, adoptive parent, or stepparent; or
(b) The spouse of an individual caring for a child in loco parentis.

(28)[~~(27)~~] "School-age child" means a child who has reached the sixth birthday.

(29) "State median income" or "SMI" means the estimated median income of households in the state.

(30)[~~(28)~~] "Supplemental Nutrition Assistance Program" or "SNAP" means the program, formerly known as the Food Stamp Program:
(a) Defined by 7 U.S.C. 2012; and
(b) Governed by 921 KAR Chapter 3.

(31)[~~(29)~~] "Teenage parent" means a head of household under the age of twenty (20) and attending high school or obtaining a GED [~~parent who is nineteen (19) years of age or younger~~].

(32)[~~(30)~~] "Toddler" means a child who has reached the first birthday up to, but not including, the third birthday.

Section 2. Application Rights and Requirements. (1) An individual may apply or reapply for CCAP through the cabinet or its designee.

(2)(a) Unless an applicant is approved according to the criteria in Section 5 or 6 of this administrative regulation, an application shall have been made on the date:

1. The following is received at the cabinet or its designee's office:

a. Until April 1, 2016,[~~1.~~] a signed DCC-90, Application for Subsidized Child Care Assistance, 11/09, or DCC-90.1, Intent to Apply for Child Care Assistance, 11/09,[~~is received at the cabinet or its designee office~~]; or

b. Effective April 1, 2016, a signed DCC-90, Subsidized Child Care Assistance Application Summary, 04/16, or submission in accordance with 921 KAR 2:040, Section 1(6); or

2. The agency is contacted, if the person:
a. Has a physical or mental disability; and
b. Needs special accommodation due to the impairment.

(b) An[~~If the applicant is physically unable to come to the office to apply, the~~] applicant may designate an authorized representative to make application.

(c) An[~~The~~] applicant may be:
1. Assisted by another individual of choice in the application process; and
2. Accompanied by the individual in a contact with the agency.

(d) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for persons who are:
1. Deaf; or
2. Hard of hearing.

(e) Interpreter services shall be provided for a non-English speaking individual in accordance with Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d.

(3) The cabinet or its designee shall not discriminate against an applicant based on age, race, color, sex, disability, religious creed, national origin, or political beliefs.

(4) For the month child care payment is intended to cover, a family shall meet the technical and financial eligibility criteria, according to its particular circumstances, as described in Sections 3, 4, 5, 6, and 7 of this administrative regulation.

(a) An[~~The~~] applicant or recipient shall be the primary source of information and shall:
1. Furnish verification of:
a. Income;
b. Technical eligibility; and
c. Employment; and
2. Give written consent to the cabinet or its designee necessary to verify information pertinent to the eligibility determination.

(b) Upon receiving written notice of a request for information or a scheduled appointment to present required documentation, failure of an applicant or recipient to respond shall be considered a failure to present adequate proof of eligibility.

(c) A homeless household shall be approved for CCAP with an extended period to verify information not to exceed ninety (90) days in accordance with 42 U.S.C. 9858c(c)(3)(B)(i).

(5) The cabinet or its designee shall:
(a) Render a decision on each application; and
(b)[~~Send a DCC-105, Child Care Assistance Program Notice of Action, to the applicant in accordance with Section 11(5) of this administrative regulation~~] To provide written notification of the decision within thirty (30) calendar days of receipt of the application submitted in accordance with subsection (2) of this section, send:

1. A DCC-105, Child Care Assistance Program Notice of Action, 11/09, to the applicant in accordance with Section 11(5)(a) of this administrative regulation; or

2. Effective April 1, 2016, notice to the applicant in accordance with Section 11(5)(b) of this administrative regulation.

(6) Each decision regarding eligibility for assistance shall be supported by documentation recorded in the applicant or recipient's case record.

(7) A family shall not receive:
(a) Assistance until approval of the application for benefits; or
(b) Benefits prior to application.

Section 3. Technical Eligibility. (1) A child shall be eligible for child care assistance, if the child:
(a) Is a:
1. Resident of Kentucky; and
2. U.S. citizen or qualified alien;
(b) Is under age:
1. Thirteen (13); or
2. Nineteen (19) and is:
a. Physically or mentally incapable of caring for himself, as demonstrated by a written document provided by a health professional;
b. Under court supervision; or
c. Identified as a priority by federal statute, regulation, or funding source; and

(c) Has a current immunization certificate showing that the child is immunized, unless:
1. There is an exception pursuant to KRS 214.036; or
2. The child is attending a:
a. Licensed child-care center;
b. Certified child-care home;
c. Public school;
d. Head Start; or
e. Other entity that requires the immunization record.

(2) If a child served by the CCAP is not immunized, child care assistance benefits shall be available or continue for a period of thirty (30) calendar days following the notification of the needed immunization while the family takes necessary action to comply with the immunization requirement.

(3) A family shall not be eligible for a CCAP benefit if care is provided by:
(a) A parent or stepparent;
(b) A legal guardian;

(c) A member of the K-TAP or SNAP case in which the child in need of child care assistance is included;

(d) A person living in the same residence as the child in need of care;

(e) A provider not:

1. Licensed according to 922 KAR 2:090, Child care center licensure;

2. Certified according to 922 KAR 2:100, Certification of family child care homes; or

3. Registered according to 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

(f)[~~Effective August 15, 2015, a licensed child-care center or certified family child-care home that does not participate in the quality rating program governed by 922 KAR 2:170 or 922 KAR 2:210, unless an exception is granted pursuant to Section 12(8) of this administrative regulation;~~

~~(g)~~] A Head Start program unless the child care is provided before, after, or in between the Head Start program's operating hours as wrap-around child care; or

(g)[~~(h)~~] Another child care provider if the family operates the child care business in the home.

(4) If the restrictions specified in subsection (3) of this section do not apply to the provider related to the child, the provider related to the child may be eligible for payment from CCAP if the requirements of 922 KAR 2:180 are met.

(5) A child in foster care shall not be eligible for CCAP.

Section 4. Requirements for Low Income Working Family Eligibility Determination. (1) A child shall be eligible to receive CCAP if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

(a) An applicant who has employment an average twenty (20) hours per week;

(b) An applicant and a responsible adult who have employment an average of forty (40) hours per week combined, if the individual with the least employment has an average of at least five (5) hours of employment per week;

(c) An applicant and a responsible adult if either the applicant or the responsible adult has employment an average of twenty (20) hours per week, and the other is physically or mentally unable to provide adequate care or supervision as documented by a written statement from a health professional;

(d) Until April 1, 2016, a recipient[~~An applicant~~] who:

1. Loses employment or training through no fault of the recipient[~~their own~~] up to four (4) weeks;

2. Is on maternity leave for up to six (6) weeks; or

3. Is on medical leave from employment due to a health condition verified by a health professional for up to six (6) weeks;

(e) Effective April 1, 2016, a recipient who is less than ninety (90) days from:

1. The loss of employment, required number of employment hours, or training through no fault of the recipient and is actively searching for employment in accordance 42 U.S.C. 9858c(c)(2)(N)(iii);

2. The start of maternity leave; or

3. The start of medical leave from employment due to a health condition verified by a health professional;

(f) A relative caregiver pursuant to the conditions of a program established by KRS 605.120(5), who meets:

1. All requirements in this section; and

2. Income eligibility standards in Section 7; or

(g)[~~(f)~~] A teen parent attending high school or pursuing a general equivalency degree (GED).

(2) Compliance with subsection (1) of this section for an applicant or a responsible adult who is self-employed shall be determined by dividing income calculated in accordance with Section 7(7)(d) of this administrative regulation by minimum wage established in accordance with KRS 337.275.

(3) Until April 1, 2016, an applicant eligible in accordance with this section shall sign and return the DCC-91, Client Rights and Responsibilities Sheet, and the DCC-94, Child Care Service Agreement and Certificate, 11/09.

Section 5. Requirements for Protection and Permanency Eligibility Determination. (1) A child shall be eligible to receive CCAP if the child:

(a) Resides with an applicant who:

1. Receives child protective or preventive services; or

2. Needs to receive child protective or preventive services based upon an assessment conducted by child protective services staff pursuant to 922 KAR 1:330; and

(b) Meets the requirements listed in Section 3 of this administrative regulation.

(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application, as an integral part of a protective or preventive services plan in accordance with 922 KAR 1:430.

(3)[~~A child who participates in the CCAP as a result of a child protective or preventive services authorization shall not be eligible for more than six (6) months without further authorization.~~

~~(4)~~](a) Based on the assessment in accordance with 922 KAR 1:330, the cabinet may waive the family copayment required by Section 10 of this administrative regulation for a child who participates in CCAP as a result of child protective services authorization.

(b) If the cabinet waives the family copayment in accordance with paragraph (a) of this subsection, the cabinet shall document the reason for the waiver in the child's protective services case plan.

(5) Until April 1, 2016, an applicant eligible in accordance with this section shall sign and return the DCC-91.

Section 6. Kentucky Works Child Care Eligibility Determination. (1) A child shall be eligible for CCAP if the child:

(a) Resides with an applicant who is participating in the Kentucky Works Program described in 921 KAR 2:370; and

(b) Meets the requirements listed in Section 3 of the administrative regulation.

(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application as an integral part of a Kentucky Works Program self-sufficiency plan.

(3) Until April 1, 2016, an applicant eligible in accordance with this section shall sign and return the DCC-91.

Section 7. Income Eligibility. (1)(a) A child shall be eligible for the CCAP if the family's income is less than or equal to:

Family Household Size	Initial Application Annual Income Limit	Initial Application Monthly Income Limit	Recertification or Recalculation Annual Income Limit	Recertification or Recalculation Monthly Income Limit
2	$22,068.00	$1,839.00	$24,276.00	$2,023.00
3	$27,804.00	$2,317.00	$30,588.00	$2,549.00
4	$33,528.00	$2,794.00	$36,888.00	$3,074.00
5	$39,264.00	$3,272.00	$43,188.00	$3,599.00
6	$44,988.00	$3,749.00	$49,500.00	$4,125.00
7	$50,724.00	$4,227.00	$55,800.00	$4,650.00
8	$56,448.00	$4,704.00	$62,100.00	$5,175.00

(b) For a family with more than eight (8) people, the cabinet or its designee shall determine the household's maximum income for eligibility determination purposes by adding:

1. $478.00 to the monthly income limit, or $5,736.00 to the annual income limit, for each additional family member for initial application; and

2. $525.00 to the monthly income limit, or $6,300.00 to the annual income limit, for each additional family member for recertification or recalculation[~~140 percent of the 2011 federal poverty level at:~~

~~1. Initial application; or~~

~~2. Redetermination or eligibility recalculation in accordance with Section 8 of this administrative regulation.~~

~~(b) On or after July 1, 2015, a child shall be eligible for the CCAP if the family's income is less than or equal to:~~

~~1. 150 percent of the 2011 federal poverty level at initial application; or~~

~~2. 165 percent of the 2011 federal poverty level at redetermination or eligibility recalculation in accordance with Section 8 of this administrative regulation.~~

~~(2) A family that becomes ineligible for K-TAP shall remain eligible for CCAP for twelve (12) months from the date of the K-TAP discontinuance, if the family's income remains less than or equal to:~~

~~(a) 140 percent of the 2011 federal poverty level; or~~

~~(b) 165 percent of the 2011 federal poverty level on or after July 1, 2015~~].

(2)[~~(3)~~] Except for a child who is eligible as specified in Section 5 of this administrative regulation, gross income received or anticipated to be received by the applicant and responsible adult shall be considered when the cabinet or its designee determines the family's eligibility for the CCAP.

(3)[~~(4)~~] A child that is eligible for CCAP as specified in Section 5 of this administrative regulation shall be eligible without regard to the family's income.

(4)[~~(5)~~] Excluded income shall be:

(a) K-TAP child only payments, including back payment;

(b) A payment received from the Kinship Care Program, pursuant to 922 KAR 1:130, including back payment;

(c) Educational grant, loan, scholarship, and work study income;

(d) The value of Kentucky Works supportive services payment pursuant to 921 KAR 2:017;

(e) The value of United States Department of Agriculture program benefits including:

1. Donated food;

2. Supplemental food assistance received pursuant to 42 U.S.C. 1771;

3. Special food service program for a child pursuant to 42 U.S.C. 1775;

4. Nutrition program for the elderly pursuant to 42 U.S.C. 3001; and

5. The monthly allotment under SNAP;

(f) Payment made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;

(g) In-kind income;

(h) Reimbursement for transportation in performance of an employment duty, if identifiable;

(i) Nonemergency medical transportation payment;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grant;

(m) Home produce utilized for household consumption;

(n) Housing subsidy received from federal, state, or local governments;

(o) Receipt distributed to a member of certain Indian tribes by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;

(p) Funds distributed per capita to or held in trust for a member of an Indian tribe by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;

(q) Payment for supporting services or reimbursement of out-of-pocket expense made to an individual volunteering as:

1. Senior health aide; or

2. Member of the:

a. Service Corps of Retired Executives; or

b. Active Corps of Executives;

(r) Payment made to an individual from a program pursuant to 42 U.S.C. 4950 to 5085[~~5084~~] if less than the minimum wage under state or federal law, whichever is greater, including:

1. Volunteers in Service to America (VISTA);

2. Foster Grandparents;

3. Retired and Senior Volunteer Program; or

4. Senior Companion;

(s) Payment from the cabinet for:

1. Child foster care; or

2. Adult foster care;

(t) Energy assistance payment made under:

1. The Low Income Home Energy Assistance Program pursuant to 42 U.S.C. 8621; or

2. Other energy assistance payment made to an energy provider or provided in-kind;

(u) The principal of a verified loan;

(v) Up to $12,000 to Aleuts and $20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for a hardship experienced during World War II;

(w) The advance payment or refund of earned income tax credit;

(x) Payment made from the Agent Orange Settlement Fund;

(y) Payment made from the Radiation Exposure Compensation Trust Fund;

(z) Up to $2,000 per year of income received by individual Indians denied from a lease or other use of individually-owned trust or restricted lands;

(aa) Payment made to an individual because of the individual's status as a victim of Nazi persecution;

(bb) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census;

(cc) A payment received from the National Tobacco Growers Settlement Trust;

(dd) A Tobacco Loss Assistance Program payment pursuant to 7 C.F.R. 1463;

(ee) A payment received from a crime victim compensation program according to the Antiterrorism and Effective Death Penalty Act of 1996 pursuant to 42 U.S.C. 10602(c);

(ff) A payment made, pursuant to 38 U.S.C. 1815 by the Veteran's Administration, to children of female Vietnam veterans;

(gg) A discount or subsidy provided to Medicare beneficiaries pursuant to 42 U.S.C. 1395w-141[~~Section 1860D-31(g)(6) of the Social Security Act, 42 U.S.C. 601-619~~];

(hh) Any cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement Programs pursuant to 45 C.F.R. 400.66(d);

(ii) Reimbursement payment for a vocational rehabilitation individual participating in Preparing Adults for Competitive Employment pursuant to 29 U.S.C. 723(a)(5);[~~or~~]

(jj) Income or earnings from a program funded under the Work Investment Act (WIA) pursuant to 20 C.F.R. 652 and 660 to 671; or

(kk) Effective April 1, 2016, Supplemental Security Income (SSI) for a child.

(5)[~~(6)~~] Deductions from gross income shall be:

(a) Actual, legally obligated child support payment made by the applicant or responsible adult to a party not living in the family's residence; and

(b) Operating costs to determine adjusted gross income from self-employment.

(6)[~~(7)~~] Best estimate.

(a) Gross income shall be computed by using a best estimate of income that may exist in the benefit month.

(b) The following method shall be used to calculate a best estimate of earned income other than earned self-employment:

1. Cents shall:

a. Not be rounded to the nearest dollar before adding or multiplying hourly or daily earnings; and

b. Be rounded to the nearest dollar before adding or multiplying weekly, biweekly, semi-monthly, monthly, quarterly, or annual earnings[~~at any step in the calculation~~];

2. Unless it does not represent the ongoing situation, income from all pay periods in the preceding two (2) calendar months shall be used;

3. A monthly amount shall be determined by[~~: a.~~] adding gross income from each pay period,[~~; b.~~] dividing by the total number of pay periods considered,[;] and[~~c.~~] converting the pay period figure to a monthly figure by multiplying a:

a.[~~(i)~~] Weekly amount by:

(i) 4.334; or

(ii) Effective April 1, 2016, four and one-third (4 1/3);

b. Biweekly amount by:

(i) 2.167; or

(ii) Effective April 1, 2016, two and one-sixth (2 1/6); or

c.[~~(iii)~~] Semimonthly amount by two (2); and

4. If income has recently begun and the applicant or recipient has not received a calendar month[~~two (2) calendar months~~] of earned income, the anticipated monthly income shall be computed by:

a. Multiplying the:

(i) Hourly rate by the estimated number of hours to be worked in a pay period; or

(ii) Daily rate by the estimated number of days to be worked in the pay period;[~~and~~]

b. Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3.c. of this paragraph; and

c. Rounding to the nearest dollar.

(c) For a case with unearned income, other than unearned self-employment income, a monthly amount shall be determined by:

1.[~~Not rounding cents at any step in the calculation;~~

~~2.~~] Using the gross monthly amount of continuing, stable unearned income received on a monthly basis; and

2.[~~3.~~] Averaging the amount of unstable[~~nonstable~~] unearned income received in the three (3) prior calendar months, unless it does not represent the ongoing situation.

(d) For a case with self-employment income, a monthly amount shall be determined as follows:

1.[~~Cents shall not be rounded at any step in the calculation;~~

~~2.~~] If the self-employment enterprise has been in operation for at least a year, the income shall be prorated by dividing the income from the last calendar year by twelve (12);

2.[~~3.~~] If the self-employment enterprise has been in operation for less than a year, the income shall be prorated by dividing by the number of months the business has been in existence; and

3.[~~4.~~] Profit shall be determined by:

a. Rounding the total gross income to the nearest dollar;

b. Rounding the total amount of allowable expenses to the nearest dollar;

c. Dividing total gross income and total amount of allowable expenses separately by twelve (12) or the appropriate number of months, and rounding the quotients to the nearest dollar; and

d. Subtracting the rounded monthly allowable expense quotient from the rounded monthly gross income quotient.

(e) If the cabinet or its designee becomes aware of a change in circumstance, the best estimate shall be recalculated[~~Dividing the allowable expenses permitted by the Internal Revenue Service except for depreciation by:~~

~~(i) Twelve (12) if the enterprise has been in operation for at least a year; or~~

~~(ii) The number of months the business has been operating if the business has been in existence for less than a year; and~~

~~b. Subtracting the monthly expense from the monthly income~~].

Section 8. Continuing Eligibility. (1) Continued eligibility under the CCAP shall be recertified[~~redetermined~~] at least every[~~: (a)~~] twelve (12) months[~~; or~~

~~(b) Six (6) months for a child eligible pursuant to requirements in Section 5 of this administrative regulation~~].

(2) Eligibility shall be reviewed and recalculated if necessary due to a known or reported change in circumstance.

(3) A nonrelative who is acting in loco parentis for a child shall be required to show proof of efforts to seek permanent custody of the child or adopt the child within one (1) year of initial application as a condition of continued eligibility for CCAP.

(4) Effective April 1, 2016, in accordance with 42 U.S.C. 9858c(c)(2)(N), if a family's income does not exceed eighty-five (85) percent of Kentucky's SMI, the family shall remain eligible for CCAP until recertification in accordance with this section.

Section 9. Payment Rates and Policy. (1)(a) Prior to February 1, 2016, to the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rates Chart, 10/14.

(b) Effective on or after February 1, 2016, to the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rates Chart, 02/16.

(c)[~~(a)~~] The rates in the DCC-300 shall represent the maximum payment rates on a per day, per child, per child care provider basis.

(d)[~~(b)~~] The maximum payment rates shall include the following categories:

1. Full day;
2. Part day;
3. Licensed;
4. Certified;
5. Registered;
6. Infant/Toddler;
7. Preschool child; and
8. School-age child.

(2) To the extent funds are available, a licensed or certified provider shall receive:

(a) Two (2) dollars per day beyond the maximum rate if the provider is accredited by the:

1. National Association for the Education for Young Children;
2. National Early Childhood Program Accreditation;
3. National Association for Family Child Care;
4. Council on Accreditation; or
5. Other accrediting body approved by the Early Childhood Advisory Council or the cabinet; or

(b) One (1) dollar per day beyond the maximum rate for nontraditional care for providing child care assistance based on the parent's schedule between:

1. 7 p.m. to 5 a.m. daily; or
2. Friday, 7 p.m. through Monday, 5 a.m.

(3) To the extent funds are available, a licensed, certified, or registered provider shall receive a special care rate of one (1) additional dollar per day beyond the maximum rate for care of a child:

(a) With a special need; or

(b) Who is age thirteen (13), but under age nineteen (19), and is:

1. Physically or mentally incapable of caring for himself as determined by a health professional; or
2. Under court supervision.

(4) The cabinet or its designee shall determine the maximum daily reimbursement rate not to exceed the amount charged to the general public.

(5) A child care provider registered according to 922 KAR 2:180 shall not be paid for more than:

(a) Three (3) children receiving CCAP per day; or

(b) Six (6) children receiving CCAP per day, if those children are:

1. A part of a sibling group; and
2. Related to the provider.

(6) A family meeting the requirements of Section 4 or 6 of this administrative regulation shall be eligible for payment to cover child care needs due to full-time or part-time enrollment in an educational program.

(7) To the extent funds are available, required enrollment fees shall be paid no more than three (3) times in a twelve (12) month period for a family meeting the requirements in Section 5 or 6 of this administrative regulation.

Section 10. Family Copayment. (1) Unless a family copayment has been waived in accordance with Section 5(4) of this administrative regulation, a family of a child served by the CCAP shall be responsible for a copayment in accordance with the family copayment table in subsection (3) of this section.

(2) If a court orders a parent of a CCAP-eligible child to pay a portion of the child's child care expenses, the court-ordered payment shall be in lieu of the family copayment required by subsection (3) of this section.

(3)(a) The cabinet or its designee shall determine a copayment that a family shall pay to the provider for the cost of child care, based on the following table:

Family Co-Payment Per Day								
Income Range Monthly		Family Size 2 Family Co-Pay With 1 Child	Family Size 3 Family Co-Pay		Family Size 4 Family Co-Pay		Family Size 5 or More Family Co-Pay	
			With 1 Child	With 2 or more	With 1 Child	With 2 or more	With 1 Child	With 2 or more
0	899	$0	$0	$0	$0	$0	$0	$0
900	999	$2	$2	$3	$2	$2	$2	$2
1,000	1,099	$3	$3	$3	$2	$3	$2	$3
1,100	1,199	$4	$4	$4	$3	$3	$2	$3
1,200	1,299	$4	$4	$5	$4	$4	$3	$3
1,300	1,399	$5	$5	$5	$5	$5	$3	$4
1,400	1,499	$6	$5	$6	$5	$6	$4	$4
1,500	1,599	$7	$6	$6	$6	$6	$5	$5
1,600	1,699	$8	$6	$7	$6	$7	$6	$6
1,700	1,799	$9	$7	$8	$7	$8	$6	$7
1,800	1,899	$10	$8	$9	$7	$8	$7	$8
1,900	1,999	$10	$9	$10	$8	$9	$8	$9
2,000	2,099	$11	$10	$11	$8	$9	$8	$9
2,100	2,199.99	$12	$10	$11	$9	$10	$9	$10
2,200	2,299.99	$12	$11	$12	$10	$11	$9	$10
2,300	2,399.99	$12	$12	$13	$11	$12	$9	$10
2,400	2,499.99	$12	$12	$13	$12	$13	$10	$11
2,500	2,599.99	$12	$13	$14	$12	$13	$10	$11
2,600	2,699.99	$12	$13	$14	$13	$14	$12	$13
2,700	2,799.99	$12	$13	$14	$13	$14	$13	$14
2,800	2,899.99	$12	$13	$14	$14	$15	$14	$15
2,900	2,999.99	$12	$13	$14	$14	$15	$16	$17
3,000	3,099.99	$12	$13	$14	$15	$16	$18	$19
3,100	3,199.99	$12	$13	$14	$15	$16	$20	$21
3,200	3,299.99	$12	$13	$14	$15	$16	$20	$21
3,300	3,399.99	$12	$13	$14	$15	$16	$22	$23
3,400	3,499.99	$12	$13	$14	$15	$16	$22	$23
3,500	3,599.99	$12	$13	$14	$15	$16	$24	$25
3,600	3,699.99	$12	$13	$14	$15	$16	$25	$25

(b) The maximum copayment for an eligible family with more than five (5) members shall be twenty-five (25) dollars.

[~~(4)(a) If a provider notifies the cabinet or its designee that a family has failed to comply with a required copayment for two (2) weeks, the cabinet or its designee shall request that the provider develop a payment plan with the family.~~

~~(b) If a provider notifies the cabinet or its designee that a family fails to enter into a payment plan within ten (10) days from a provider's notification that a payment plan is necessary, or a family fails to make two (2) payments in accordance with the payment plan, the cabinet shall:~~

~~1. Not pay a subsequent provider until the family demonstrates compliance with the payment plan; and~~

~~2. Terminate CCAP for the family.~~

~~(c) The cabinet or its designee may grant an exception to paragraph (b) of this subsection due to:~~

~~1. A disaster verified by utility provider, local, state, or federal government;~~

~~2. The closure of a provider;~~

~~3. Family circumstances, such as relocation, illness, or death; or~~

~~4. A risk to the health, welfare, or safety of the child or parent.~~]

Section 11. Family Rights and Responsibilities. (1) The family of a child served by the CCAP shall have rights pursuant to KRS 199.898(1) and (2).

(2) Unless an alternative program such as Head Start, state preschool, or state kindergarten is available and accessible during the time child care is needed, an applicant for a child who receives or has been approved to receive CCAP benefits shall:

(a) Be offered choice of child care assistance subject to the availability of state and federal funds; and

(b) Receive a child care certificate:

1.[~~,~~] The DCC-94, 11/09; or

2. Effective April 1, 2016, the DCC-94, 04/16.

(3) An applicant approved in accordance with Section 4 of this administrative regulation shall sign and return:

(a) The DCC-91 and the DCC-94, 11/09; or

(b) Effective April 1, 2016, the DCC-90, 04/16.

(4) Until April 1, 2016, an applicant approved in accordance with Section 5 or 6 of this administrative regulation shall sign and return the DCC-91.

(5) Notification of action.

(a) Until April 1, 2016, a DCC-105, Child Care Assistance Program Notice of Action, 11/09:

1. Shall serve many purposes in the administration of CCAP, including notice to an applicant or recipient of:

a.[~~1.~~] Changes in:

(i)[~~a.~~] Copayment;

(ii)[~~b.~~] Certification period; or

(iii)[~~c.~~] Household size;

b.[~~2.~~] Approval of:

(i)[~~a.~~] Application; or

(ii)[~~b.~~] Continued eligibility; or

c.[~~3.~~] Adverse action, including:

(i)[~~a.~~] Denial of application;

(ii)[~~b.~~] Reduction of CCAP benefits; or

(iii)[~~c.~~] Termination of CCAP benefits;[~~.~~]

2.[~~(b) the DCC-105~~] Providing notice of an adverse action shall include:

a.[~~1.~~] Reason for the adverse action;

b.[~~2.~~] Citation from an applicable state administrative

regulation; and

c.[3.] Information regarding the:

(i)[a.] Informal dispute resolution process in accordance with Section 17 of this administrative regulation; and

(ii)[b.] Opportunity to request an administrative hearing in accordance with Section 18 of this administrative regulation; and

3.[. (c) the language on the DCC-105] Shall contain language that differs[differ] according to the purpose of the notice described in subparagraphs 1 through 2 of this paragraph[paragraphs (a) and (b) of this subsection].

(b) Effective April 1, 2016:

1. A DCC-94C, Provider Notification Letter, shall provide notice to a provider of a child's discontinuation from CCAP or disenrollment with a provider;

2. A DCC-94.1, CHILD CARE Approval Notice, shall provide notice of:

a. A change in the certification period of child;

b. Approval of an application; or

c. Continued eligibility;

3. A DCC-105, Child Care Denial/Discontinuance Notice, 04/16, shall provide notice of:

a. Denial of an application;

b. Discontinuance of a CCAP benefit;

c. Reason for adverse action;

d. Citation from an applicable state administrative regulation; and

e. Information regarding the opportunity to request an administrative hearing in accordance with Section 17 of this administrative regulation; and

4. The language on the form shall differ according to the purpose of the notice described in subparagraphs 1 through 3 of this paragraph.

(6)[An applicant may change the applicant's provider a maximum of three (3) times in a twelve (12) month period, unless an exception is authorized by the cabinet or its designee due to:

(a) A disaster verified by utility provider, local, state, or federal government;

(b) Closure of a provider;

(c) Family circumstances, such as relocation, illness, or death;

(d) A risk to the health, welfare, or safety of the child or the applicant; or

(e) Failure of the provider to comply with Section 13(1) of this administrative regulation.

(7) A family that changes the child care provider more than three (3) times as described in subsection (6) of this section shall be discontinued from the CCAP and unable to participate until the end of the eligibility period in effect at the time of discontinuance.

(8)] An applicant for a child served by CCAP shall advise the cabinet or its designee of a change in a circumstance within ten (10) calendar days of the day the change is known.

(7)[(9)] Failure to report a change in a circumstance may result in a:

(a) Decrease or discontinuance of CCAP benefits based on the type of change; or

(b) Claim in accordance with 922 KAR 2:020.

(8)[(10)] An applicant for a child served by CCAP who fails to cooperate with a cabinet quality control or case review shall be:

(a) Discontinued from CCAP benefits; and

(b) Unable to participate in CCAP until the applicant meets the requirements of the quality control or case review.

(9)[(11)] An applicant for a child served by CCAP shall report to the cabinet or its designee a provider whom the applicant suspects is not fulfilling requirements in accordance with Section 13(1)(c) of this administrative regulation.

Section 12. Cabinet Requirements. (1) The DCC-94 shall:

(a) Be used for child care assistance provided by a licensed, certified, or registered provider; and

(b) Not be considered a contract, employment, or grant to the child care provider, but shall be considered assistance to the applicant pursuant to 45 C.F.R. 98.30(c)(6).

(2) The cabinet or its designee shall provide consumer information regarding conditions for termination of the DCC-94 pursuant to KRS 199.8994(6)(b).

(3) The cabinet or its designee shall assure that a provider of child care assistance funded under the CCDF and other local, state, or federal funds shall comply with the applicable regulatory requirements pursuant to:

(a) 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

(b) 922 KAR 2:090, Child care center licensure;

(c) 922 KAR 2:100, Certification of family child care homes;

(d) 922 KAR 2:110, Child care facility provider requirements;

(e) 922 KAR 2:120, Child care facility health and safety standards;

(f)[922 KAR 2:170, STARS for KIDS NOW Program for Type I licensed child-care centers, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation;

(g)] 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program; and

(g)[(h)] 922 KAR 2:190, Civil penalties[; and

(i) 922 KAR 2:210, STARS for KIDS NOW Program for Type II licensed child-care centers and certified family child-care homes, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation].

(4) Effective April 1, 2016, the cabinet or its designee shall complete a home inspection of a registered child care provider in CCAP in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and 922 KAR 2:180.

(5) If CCAP benefits are reduced or discontinued[terminated] due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to each family receiving child care assistance.

(6)[(5)] If the daily maximum payment rate is reduced due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to licensed, certified, or registered providers.

(7)[(6)] The cabinet shall send a notice of adverse action ten (10) calendar days in advance of taking adverse action.

(8)[(7)] The cabinet shall prioritize child care assistance benefits as determined by the available funds as follows:

(a) Child protective or preventive services authorization;

(b) A child with a special need;

(c) K-TAP recipients participating in the Kentucky Works Program established in 921 KAR 2:370;

(d) Teen parents attending high school or pursuing a general equivalency degree (GED);

(e) A K-TAP recipient attempting to transition off assistance through employment;

(f) A parent whose K-TAP case has been discontinued during the previous twelve (12) months and who needs child care assistance in order to accept or retain employment;

(g) A low income working parent; or

(h) A parent in education or training programs leading to self-sufficiency.

[(8)(a) The cabinet shall grant an exception for a CCAP-eligible child's placement with a child care provider participating in the quality rating program governed by 922 KAR 2:170 and 922 KAR 2:210 if:

1. A violation of or conflict with 45 C.F.R. 98.30 would result, such as:

a. A geographic area in which an adequate supply of child care is lacking; or

b. A parent's scheduling, transportation, or other circumstance that prevents the use of a child care provider participating within the quality rating program;

c. A child is approved for CCAP in accordance with Section 5 or 6 of this administrative regulation;

d. A child has special needs; or

e. The provision of child care is available through a provider:

(i) Registered in accordance with 922 KAR 2:180;

(ii) Operated by the armed services located on an armed forces base; or

(iii) Regulated by another state;

2. A situation or circumstance, such as an emergency or

~~disaster, necessitates the provision of emergency child care; or~~

~~3. Noncompliance or federal penalty under 421 U.S.C. 601-619 or 42 U.S.C. 9858-9858g would result.~~

~~(b) The DCC-400, Request for Exception from Placement with a STAR-Rated Child Care Provider:~~

~~1. Shall be used to request an exception in accordance with paragraph (a)1 of this subsection; and~~

~~2. May be used to request an exception in accordance with paragraphs (a)2 and (a)3 of this subsection.~~

~~(c) The cabinet shall respond to a completed and signed DCC-400 in accordance with Section 11(3) of this administrative regulation within ten (10) calendar days of its submission unless:~~

~~1. The cabinet experiences a circumstance that prolongs the review of the request; and~~

~~2. Notice of the extension is provided to the requesting parent.~~]

Section 13. Provider Requirements. (1) A licensed child-care center, certified family child-care home, or registered child care provider that serves a child who participates in the CCAP shall:

(a) Sign and give to the parent for submission[~~submit the DCC-94~~] to the cabinet or its designee, prior to receiving payment from the CCAP, the following form:

1. Until April 1, 2016, the DCC-94, 11/09; or

2. Effective April 1, 2016, the DCC-94, 04/16;

(b) Report all absences on the DCC-97, Provider Billing Form, submitted to the cabinet or its designee;

(c)1. Maintain the DCC-94E, Child Care Daily Attendance Record, in which the attendance is:

a. Recorded legibly each time the child arrives and each time the child departs the provider's care; and

b. Signed by the parent or applicant for the child served by CCAP; and

2. Submit the DCC-94E upon request of the cabinet or its designee;

(d) Comply with the applicable regulatory requirements pursuant to:

1. 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

2. 922 KAR 2:090, Child care center licensure;

3. 922 KAR 2:100, Certification of family child care homes;

4. 922 KAR 2:110, Child care facility provider requirements;

5. 922 KAR 2:120, Child care facility health and safety standards;

6.[~~922 KAR 2:170, STARS for KIDS NOW Program for type I licensed child-care centers, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation;~~

~~7.~~] 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program; and

7.[~~8.~~] 922 KAR 2:190, Civil penalties[~~; and~~

~~9. 922 KAR 2:210, STARS for KIDS NOW Program for type II licensed child-care centers and certified family child-care homes, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation~~]; and

(e) Complete the cabinet approved training on billing and the DCC-94E[~~:~~

~~1.~~] prior to receiving an initial payment from CCAP [~~if the provider will begin participation in CCAP after October 15, 2014; or~~

~~2. By August 4, 2015, if the provider began participation in CCAP prior to October 15, 2014~~].

(2) A licensed or certified child care provider shall complete and submit the following form[~~DCC-94B, Licensed or Certified Provider Agreement Form,~~] prior to receiving payment from the CCAP:

(a) Until April 1, 2016, the DCC-94B, Licensed or Certified Provider Agreement Form, 10/14; or

(b) Effective April 1, 2016, the DCC-94B, 04/16.

(3) A licensed child care provider shall maintain written documents with attendance records stating the reason for any absence of a child receiving CCAP in excess of five (5) absences per month per child.

(4)(a) If CCAP records indicate that a certified family child-care home or a licensed child-care center is operating over capacity, as specified in 922 KAR 2:100 or 922 KAR 2:120 respectively, by having two (2) or more shifts, the cabinet shall request an operating plan from the provider.

(b) An operating plan in accordance with paragraph (a) of this subsection shall specify:

1. Each employee of each shift;

2. The work hours for each employee of each shift;

3. The management for each shift;

4. The work hours for each management employee of each shift; and

5. The children enrolled for each shift.

(c) The cabinet shall approve a provider for overcapacity if:

1. The operating plan meets all requirements of 922 KAR 2:090, 2:110, and 2:120; and

2. The provider has had less than two (2) health, safety, or welfare deficiencies or violations within the previous twenty-four (24) month period, even if deficiencies were corrected[~~an operating plan that demonstrates the health, safety, and welfare of a child in care in accordance with this administrative regulation and an administrative regulation listed in subsection (1)(d) of this section~~].

(5) Effective April 1, 2016, a registered child care provider in CCAP shall comply with an inspection in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and 922 KAR 2:180 conducted by the cabinet or its designee.

(6) A provider shall be ineligible for CCAP if the provider:

(a) Was discontinued or disqualified from participation in a governmental assistance program due to fraud or abuse of the program;

(b) Has had a previous ownership interest in a child-care provider, which had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action; or

(c) Is a parent, spouse, sibling, or child of a previous provider described in paragraphs (a) and (b) of this subsection, and the previous provider will be involved in new provider's operations in any capacity.

Section 14. Other Services. To the extent state funds are available, a child whose family's income is over the income limits for the CCAP described in Section 7 may be eligible for:

(1) Child care payments;

(2) Enrollment fees;

(3) Activity or day trip fees;

(4) Material fees;

(5) Transportation fees; or

(6) Other items relating to child care services with prior approval of the cabinet.

Section 15. An improper payment, claim, or penalty in CCAP shall be in accordance with 922 KAR 2:020.

Section 16. Criteria for Nonpayment. (1) Payment under the CCAP shall:

(a) Not be made to a licensed provider for more than five (5) absences per child during a month if the provider fails to verify in writing, and maintain attendance records verifying, that the additional absences were related to:

1. A death in the family;

2. An illness of the:

a. Child; or

b. Applicant; or

3. A Disaster verified by utility provider, local, state, or federal government;

(b) Not be made to a certified provider for more than five (5) absences per child during a month;

(c) Not be made to a registered provider for any absences;

(d) Be denied in accordance with KRS 199.8994(6);

(e) Cease if a family or provider defaults on a payment in accordance with Section 10(4) of this administrative regulation or 922 KAR 2:020;

(f) Not be made if a family no longer meets the technical or

financial eligibility requirements under the CCAP;

(g) Not be made to a provider for payment requests ninety (90) days after the date of service;

(h) Not be made to a licensed or certified provider for more than ten (10) holidays per calendar year;

(i) Cease if a provider denies:

1. A parent of a child in care, the cabinet, the cabinet's designee, or a representative of an agency with regulatory authority:

a. Entry into the provider's premises during operating hours; or

b. Access to a child in care; or

2. The cabinet, the cabinet's designee, or a representative of an agency with regulatory authority access to the provider's records relevant to a:

a. Cabinet review, including CCAP quality control or case review; or

b. Review by another agency with regulatory authority;

(j) Not be made to a provider if the provider's DCC-94E in accordance with Section 13(1)(c) of this administrative regulation does not support billing for a child reported as served for the same period of time on the DCC-97;

(k) Not be made if a licensed or certified provider cares for a child served by CCAP at a location not specified on the DCC-94; or

(l) Not be made to a provider for a child in care over the capacity of the provider, as governed by 922 KAR 2:100 or 922 KAR 2:120, unless an operating plan is approved in accordance with Section 13(4) of this administrative regulation.

(2) Subject to the availability of state or federal funds, the cabinet may suspend approval of initial application for benefits under the CCAP following the priorities established in Section 12(8)[~~(7)~~] of this administrative regulation.

Section 17.[~~Informal Dispute Resolution and Appeals. (1) An applicant for CCAP or a parent of a child receiving CCAP:~~

~~(a) May seek an informal dispute resolution if the applicant or parent is dissatisfied with an action by the cabinet or its designee concerning a denial, reduction, or termination of CCAP benefits;~~

~~(b) Shall request an informal dispute resolution with the cabinet or its designee within ten (10) days of the:~~

~~1. Notice of denial for CCAP in accordance with Section 2(5) of this administrative regulation; or~~

~~2. Date of the adverse action for which notice is provided in accordance with Section 12(6) of this administrative regulation; and~~

~~(c) Who is dissatisfied with the decision of the informal dispute resolution, may submit an administrative hearing request:~~

~~1. In accordance with Section 18 of this administrative regulation; and~~

~~2. Within thirty (30) calendar days of the date of the decision made by the cabinet or its designee in accordance with subsection (3) of this section.~~

~~(2)(a) If the child's parent provides notice within ten (10) calendar days from the date of adverse action in accordance with 45 C.F.R. 205.10(a)(6), a child receiving CCAP may continue to receive CCAP during the informal dispute resolution or administrative hearing process pending the outcome of the informal dispute resolution or the administrative hearing.~~

~~(b) If an informal dispute resolution or administrative hearing process upholds the denial, reduction, or termination of CCAP, the child's parent who continued to receive CCAP benefits during the informal dispute resolution or administrative hearing process shall repay the CCAP back to the effective date of the denial, reduction, or termination.~~

~~(3) Upon receipt of a request for the informal dispute resolution, the cabinet or its designee shall:~~

~~(a) Review the request; and~~

~~(b) Render a written decision on the issue raised within ten (10) days, unless:~~

~~1. The commissioner or designee grants an extension to the timeframe specified in this paragraph due to extenuating circumstances that prolong the review of the request; and~~

~~2. Notice of the extension is provided to the applicant or parent who made the request for informal dispute resolution.~~

~~(4) An applicant for CCAP or a parent of a child receiving CCAP may request an administrative hearing in accordance with Section 18 of this administrative regulation at any time during the informal dispute resolution process established in this section.~~

~~Section 18.~~] Administrative Hearings. (1) A CCAP applicant or recipient may request an administrative hearing regarding eligibility determination, recalculation, or recertification in accordance with 921 KAR 2:055.

(2) An administrative hearing pertaining to a matter not specified in subsection (1) of this section may be requested in accordance with:

(a)1. Until April 1, 2016,[~~(1)~~] 922 KAR 1:320; or

2. Effective April 1, 2016, 922 KAR 2:260; or

(b)[~~(2)~~] 922 KAR 2:020.

Section 18.[~~19.~~] Records. Records of CCAP shall be maintained and disclosed in accordance with:

(1) KRS 194A.060;

(2) 45 C.F.R. 98.90(e); and

(3) 45 C.F.R. 205.50(a)(1)(i).

Section 19.[~~20.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DCC-90, Application for Subsidized Child Care Assistance", 11/09;

(b) "DCC-90, Subsidized Child Care Assistance Application Summary", 04/16;

(c) "DCC-90.1, Intent to Apply for Child Care Assistance", 11/09;

(d)[~~(c)~~] "DCC-91, Client Rights and Responsibilities Sheet", 04/13;

(e)[~~(d)~~] "DCC-94, Child Care Service Agreement and Certificate", 11/09;

(f) "DCC-94, Child Care Service Agreement and Certificate", 04/16;

(g) "DCC-94.1, CHILD CARE Approval Notice", 04/16;

(h)[~~(e)~~] "DCC-94B, Licensed or Certified Provider Agreement Form", 10/14;

(i) "DCC-94B, Licensed or Certified Provider Agreement Form", 04/16;

(j) "DCC-94C, Provider Notification Letter", 04/16;

(k)[~~(f)~~] "DCC-94E, Child Care Daily Attendance Record", 7/13;

(l)[~~(g)~~] "DCC-97, Provider Billing Form", 04/13;

(m)[~~(h)~~] "DCC-105, Child Care Assistance Program Notice of Action", 11/09;

(n) "DCC-105, Child Care Denial/Discontinuance Notice", 04/16; and

(o)[~~(i)~~] "DCC-300, Kentucky Child Care Maximum Payment Rates Chart", 02/16[~~10/14; and~~

~~(j) "DCC-400, Request for Exception from Placement with a STAR-Rated Child Care Provider", 10/14~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation enables the Cabinet to qualify for federal funds under the Child Care and Development Fund (CCDF) and establishes procedures for the implementation of the Child Care

Assistance Program (CCAP) to the extent that funding is available.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to qualify for federal funds under CCDF and for the proper administration of CCAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorized statutes by allowing the cabinet to qualify for federal funds and establishing procedures for the implementation of CCAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the CCAP in a manner which is consistent with federal and state requirements, including available funding, and the interests of the clients to be served, child care providers, and taxpayers.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation enhances payments to child care providers serving a child in CCAP, ensures compliance with new federal requirements in accordance with Pub. L. 113-186, aligns policy and procedures with new forthcoming technology improving business processes for both the client and agency, and removes the mandate for child care providers to participate in the STARS for KIDS NOW Program due to forthcoming changes in Kentucky's quality-rating system. Lastly, the amendment makes technical in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to: ensure an adequate supply of child care providers willing to participate in CCAP and available to parents needing child care, avoid costly federal corrective action or federal financial penalty, and conform to forthcoming changes in Kentucky's quality-rating system and new technology promising improved efficiencies for both the agency and clients.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by ensuring an adequate supply of participating providers, improved customer service, and timely conformity with overarching federal law.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes and support the sustainability and worth of CCAP through its enhancements to CCAP reimbursements to child care providers, greater programmatic efficiencies, and alignment with federal law and state context.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The parent of a child eligible for CCAP or a provider serving a child eligible for CCAP will be impacted by this administrative regulation. During State Fiscal Year 2015, CCAP served, on average, 22,792 children in 12,236 families per month. For State Fiscal Year 2015, the numbers for providers participating in CCAP are as follows: 2,056 licensed (Type I and Type II), 336 certified, and 207 registered.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment to this administrative regulation will not require additional action on the part of regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation will create no new or additional costs to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from measures to support an adequate supply of child care providers willing to participate in CCAP. Regulated entities will also benefit from the administrative regulation's conformity with the newly enacted federal law and new forthcoming technology promising improved efficiencies for CCAP recipients and the preservation of federal funding. Lastly, regulated entities will benefit from the clarity provided through the inclusion of a maximum income chart, as opposed to a reference to federal poverty level.

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

(a) Initially: The administrative regulation will be implemented within available federal and state appropriations for CCAP.

(b) On a continuing basis: The administrative regulation will be implemented within available federal and state appropriations for CCAP. The administrative body will continually monitor its costs to make any adjustments necessary to maintain CCAP and related services within available funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for implementation and enforcement of this administrative regulation are the federal Child Care and Development Fund Block Grant, state match, state maintenance of effort 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: The administrative regulation requires no increase in fees or funding.

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

(9) TIERING: Is tiering applied? The Child Care Assistance Program is implemented in a like manner statewide. However, provider payment rates are tiered to recognize the higher operating costs of certain geographical, more populated areas. The provider payment rates were originally established based on the classification of cities. The rates are further supported by the analysis of the market rate survey results specified in KRS 199.899.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS 194A.050(1), 199.892, 199.8994

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

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, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services, Department for Community Based Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 199.892, 199.8994, 45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

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 Child Care Assistance Program (CCAP) has been operational for a number of years. It does not directly generate revenues for the state; however, it supports the health, safety, and welfare of children and the ability of low-income parents to work and obtain additional skills and training. This administrative regulation will not directly generate any new revenue for the first year. Research suggests that quality early care and education help avoid future public 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? This administrative regulation will not directly generate any new revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? The administration of this program is projected to fall within available federal and state appropriations.

(d) How much will it cost to administer this program for subsequent years? The administration of this program is projected to fall within available federal and state appropriations. The administrative body will continually monitor its costs to make any adjustments necessary to maintain CCAP and related services within available funding.

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
922 KAR 2:260E

This emergency administrative regulation is necessary in accordance with KRS 13A.190(1)(a)1 and 2 to conform to new technology and business operations of the Child Care Assistance Program (CCAP). Without the amendment, the state would risk noncompliance with federal funding mandates potentially leading to corrective action or a loss of funding. In addition, the amendment ensures that parents, child care providers, and early care and education professionals have their service appeal and complaint rights clearly delineated to avoid potentially jeopardizing the welfare of children subject to their care or service provision. An ordinary administrative regulation would not allow the agency sufficient time to implement measures to conform to the new CCAP technology and business operations. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
VICKIE YATES BROWN GLISSON, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Service
Division of Child Care
(New Emergency Administrative Regulation)

922 KAR 2:260E. Child care service appeals.

RELATES TO: KRS Chapter 13B, 23A.010, 194A.005, 194A.030(1), 45 C.F.R. Part 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 13B.170, 194A.010(2), 194A.050(1)

EFFECTIVE: February 26, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010(2) designates the Cabinet for Health and Family Services as the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds. Under 42 U.S.C. 9858c, the cabinet is the agency designated to administer the Child Care and Development Fund block grant. KRS 13B.170 permits an agency to promulgate administrative regulations to carry out provisions of KRS Chapter 13B pertaining to administrative hearings. This administrative regulation establishes cabinet procedures related to appeals and complaints for child care benefits and services under 922 KAR Chapter 2 effective April 1, 2016.

Section 1. Definitions. (1) "Child care assistance" means the subsidy benefits as described by 922 KAR 2:160, Child Care Assistance Program.

(2) "Commissioner" means the Commissioner of the Department for Community Based Services or designee.

(3) "Contract agency" means a business or organization that offers child care benefits or services to the public through a contract or agreement with the cabinet.

(4) "Good cause" means justification for failure to carry forward with a legal obligation related to an appeal in accordance with Section 5(7) of this administrative regulation.

(5) "Parent" is defined by 45 C.F.R. 98.2.

(6) "Provider" means the entity providing child care services.

(7) "Registered child care provider" means a caregiver registered under 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program.

Section 2. Right to Appeal. (1) A CCAP applicant or recipient may request an administrative hearing regarding eligibility determination, recalculation, or recertification in accordance with 922 KAR 2:160, Section 17(1).

(2) A provider may request an administrative hearing regarding certification, licensure, or civil monetary penalty through the Office of Inspector General, Division of Regulated Child Care in accordance with:

(a) 922 KAR 2:090, Child-care center licensure;

(b) 922 KAR 2:100, Certification of family child-care homes, or

(c) 922 KAR 2:190, Civil penalties.

(3) An administrative hearing pertaining to a matter not specified in subsection (1) or (2) of this section may be requested in accordance with:

(a) This administrative regulation; or

(b) 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

(4) With the exception of subsections (1), (2), and (3)(b) of this section, an individual or provider aggrieved by an action of the cabinet may request an administrative hearing in accordance with this administrative regulation for a matter by which a Kentucky Revised Statute or 922 KAR Chapter 2 expressly permits the appeal of a cabinet action or alleged act.

(5) With the exception of subsections (1), (2), and (3)(b) of this section, a parent or provider aggrieved by an action of the cabinet may request review of the following through an administrative hearing in accordance with this administrative regulation:

(a) A cabinet denial, reduction, suspension, or termination of services or federally-funded benefit, payments, or financial assistance to which an individual may be entitled under 922 KAR Chapter 2; or

(b) A cabinet failure to act within program timeframes to a request for a federally-funded benefit, payment, or financial assistance to which an individual may be entitled under 922 KAR Chapter 2.

Section 3. Matters Not Appealable through an Administrative Hearing. (1) The following shall not be subject to review through an administrative hearing in accordance with this administrative regulation:

(a) A matter in which a court:

1. Has previously made a judicial determination or issued an order on the same issue being appealed; or

2. Is currently engaged in legal proceedings regarding the same issue being appealed;

(b) A final administrative decision made by the cabinet or cabinet's designee as a result of a previous appeal on the same issue;

(c) An appeal that has been abandoned by an appellant who failed to demonstrate good cause for failure to go forward;

(d) Failure to submit a written request for appeal within the time frame established by Section 5(4)(b) of this administrative regulation; or

(e) A situation where state or federal law requires adjustment of a payment or grant, except if a payment or grant computation is incorrect.

(2) A complaint of discrimination may be filed with the cabinet's Office of Human Resource Management in accordance with 920 KAR 1:090.

Section 4. Service Complaints. (1) If a matter is not subject to review through an administrative hearing, a parent, a provider, or an early care and education professional may:

(a) Attempt to resolve the issue by submitting a written complaint to the department's Division of Child Care within thirty (30) calendar days after the date of the cabinet action or alleged act; or

(b) Contact the cabinet's Office of the Ombudsman if the matter was not previously reviewed:

1. By that office; or

2. Pursuant to paragraph (a) of this subsection.

(2)(a) The director of the department's Division of Child Care, director's designee, or the cabinet's Office of the Ombudsman shall provide a written response to the complainant within thirty (30) calendar days of receipt of a written complaint not subject to review through an administrative hearing.

(b) The director of the department's Division of Child Care or the ombudsman may grant an extension to the response timeframe given in paragraph (a) of this subsection if:

1. Extenuating circumstances prolong the review of the complaint; and

2. Notice of the extension is provided to the complainant.

(3)(a) A parent, provider, or an early care and education professional dissatisfied with a written response rendered by the director of the department's Division of Child Care, director's designee, or the Office of the Ombudsman may request that the commissioner review the complaint and the written response.

(b) A request for review shall be submitted in writing to the commissioner within ten (10) days of receipt of the written response provided in accordance with subsection (2) of this section.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the complainant of the need for an extension to the timeframe specified in this paragraph.

(d) The department shall abide by the commissioner's written determination.

(4) The department may compile data regarding service complaints to:

(a) Fulfill federal and state reporting requirements; or

(b) Use for program development and evaluation.

Section 5. Request for Appeal. (1) The cabinet shall provide:

(a) Information regarding appeals to a child care assistance applicant or recipient pursuant to 922 KAR 3:030; or

(b) A DCC-88, Child Care Service Appeal Request, to a provider:

1. In accordance with 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program, for a:

a. Withdrawal or denial of child care registration application, not at the request of the applicant; or

b. Revocation or closure of a registered child care provider, not at the request of the provider;

2. Upon a reduction or revocation of a child care provider's STARS level in accordance with:

a. 922 KAR 2:170, STARS for KIDS NOW Program Type I licensed child-care centers; or

b. 922 KAR 2:210, STARS for KIDS NOW Program for Type II licensed and certified family child-care homes; or

3. Upon a revocation of a trainer's credential in accordance with 922 KAR 2:240, Kentucky Early Care and Education Trainer's Credential and training approval.

(2) Unless the matter is appealable in accordance with Section 2(1), 2(2), or 2(3)(b) of this administrative regulation, the cabinet shall send a notice of adverse action at least ten (10) days prior to the denial, reduction, modification, suspension, or termination of a benefit or services.

(3) The cabinet may take emergency action under KRS 13B.125.

(4) A request for appeal shall:

(a) Be written by the appellant, with the assistance of the cabinet or contract agency if the appellant is unable to comply without assistance;

(b) Be submitted to the cabinet no later than thirty (30) calendar days from the date:

1. That the notice provided in accordance with subsection (2) of this section was issued; or

2. Of the occurrence of the disputed action;

(c) Describe the:

1. Cabinet action in dispute; or

2. Alleged act;

(d) Specify:

1. The reason the appellant disputes the cabinet's action;

2. Name of each cabinet staff person involved with the disputed action, if known; and

3. Date of the cabinet action or alleged act in dispute; and

(e) Include the notice provided in accordance with subsection (2) of this section, if available.

(5)(a) Upon receipt of a written request for appeal, the cabinet shall determine whether the matter is subject to review through an administrative hearing.

(b) If the matter is not subject to review, the cabinet shall inform the individual in writing that the:

1. Matter is not appealable; and

2. Resolution of the matter may be pursued through the service complaint process described in Section 4 or 9 of this administrative regulation.

(6) If the cabinet receives a written request for appeal within ten (10) calendar days from the date the notice provided in accordance with subsection (2) of this section was issued or date of the disputed action and the matter is appealable, the cabinet shall continue to provide federally-funded assistance in accordance with 45 C.F.R. 205.10(a)(6) pending the outcome of the appeal.

(7) The cabinet shall not dismiss a request for appeal if an appellant demonstrates good cause. Justification may include:

(a) An appellant's inability to comprehend the cabinet's written statement describing appeal rights; or

(b) A cabinet-sanctioned determination that the appellant or the appellant's legal representative is not at fault for failure to:

1. Submit a written request for appeal; or

2. Participate in a proceeding related to an administrative hearing.

Section 6. Administrative Hearing. Each administrative hearing conducted by the cabinet or designee shall comply with KRS Chapter 13B.

Section 7. Recommended Order. (1) A copy of the recommended order shall be sent simultaneously to:

(a) Each party to the administrative hearing;

(b) The commissioner of the Department for Community Based Services; and

(c) The secretary of the Cabinet for Health and Family Services or designee.

(2) If a party to a hearing disagrees with the recommended order, the party may file a written exception as provided in KRS 13B.110(4) with the secretary, which shall:

(a) Be filed within fifteen (15) days of the date the recommended order was mailed;

(b) Be based on facts and evidence presented at the hearing;

(c) Not refer to evidence that was not introduced at the hearing; and

(d) Be sent to each other party involved in the hearing.

Section 8. Final Order. (1) The secretary of the Cabinet for Health and Family Services or designee shall issue a final order in accordance with KRS 13B.120.

(2) An aggrieved party may petition for judicial review in accordance with:

(a) KRS 13B.140 to 13B.160; or

(b) KRS 23A.010.

Section 9. Contract Agencies. (1) A contract agency shall offer a complaint process consistent with:

(a) Section 4 of this administrative regulation; or

(b) Provisions of the contract or agreement between the contract agency and the cabinet, if the provisions are different from Section 4 of this administrative regulation.

(2)(a) An individual dissatisfied with a final written response rendered by a contract agency regarding a complaint may request that the commissioner review the complaint and the contract agency's written response.

(b) A request for review shall be submitted to the commissioner within ten (10) days of the contract agency's written response.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the client of the need for an extension to the timeframe specified in this paragraph.

(d) The contract agency shall abide by the commissioner's written determination.

Section 10. Incorporation by Reference. (1) The form "DCC-88, Child Care Service Appeal Request", 04/16, is incorporated by reference.

(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, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, Phone: 502-564-7905, Fax: 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes cabinet procedures related to appeals and complaints for benefits and services under 922 KAR Chapter 2.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the establishment of cabinet appeal and complaint procedures for benefits and services under 922 KAR Chapter 2.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of cabinet appeal and complaint procedures for benefits and services under 922 KAR Chapter 2.

(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 through its establishment of cabinet procedures related to appeals and service complaints for benefits and services under 922 KAR Chapter 2.

(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: The parent of a child eligible for CCAP or a provider serving a child eligible for CCAP could be impacted by this administrative regulation if they appeal a decision by the Cabinet. During State Fiscal Year 2015, CCAP served, on average, 22,792 children in 12,236 families per month. For State Fiscal Year 2015, the numbers for providers participating in CCAP are as follows: 2,056 licensed (Type I and Type II), 336 certified, and 207 registered. For the first half of State Fiscal Year 2015, July through December, 1,814 claims were established on both recipients and providers participating in CCAP.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities have no new or additional action to take. The administrative regulation reorganizes the cabinet's appeal and complaint procedures for 922 KAR Chapter 2 into this new administrative regulation to better distinguish and separate subject matter.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will face no new or additional cost as a result of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from the improved clarity that the reorganization of the cabinet's appeal and complaint procedures for 922 KAR Chapter 2 into this new administrative regulation will afford.

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

(a) Initially: The administrative body will experience no new or additional costs to implement this administrative regulation. The administrative regulation entails content reorganization and technical changes necessary as a result of the new forthcoming technology and business operations to be used in CCAP. The agency burden associated with the cabinet's appeal and complaint procedures for child care benefits and services is unchanged.

(b) On a continuing basis: The administrative body is projected to experience no new or additional continuing costs to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding sources for this administrative regulation include the federal Child Care and Development Fund block grant, state matching and maintenance of effort funds for the block grant, and tobacco settlement dollars.

(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 administrative regulation requires no increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
45 C.F.R. 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS 13B.170, 194A.010(2), 194A.050(1)

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

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, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13B.170, 194A.010(2), 194A.050(1), 45 C.F.R. 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

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 new revenues 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 new revenues for the subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will impose no new or additional costs in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will impose no new or additional costs in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

FINANCE AND ADMINISTRATION CABINET
Kentucky Teachers' Retirement System
(As Amended at ARRS, March 7, 2016)

102 KAR 1:060. Refunds.

RELATES TO: KRS 161.470***, 161.700***
STATUTORY AUTHORITY: KRS 161.310
NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 161.310 requires the Board of Trustees of the Kentucky Teachers' Retirement System (KTRS) to promulgate all administrative regulations for the administration of funds of the retirement system and for the transaction of business.*** KRS 161.470(6) provides that members of ***KTRS[~~the Kentucky Teachers' Retirement System (KTRS)~~]*** may receive a refund of their contributions, less contributions to the medical insurance fund, upon withdrawal from service. This administrative regulation provides the administrative procedures necessary to carry out the provisions of this statute.

Section 1. Definitions. (1) "Alternate payee" is defined by KRS 161.220(26).
(2) "Qualified domestic relations order" or "QDRO" is defined by KRS 161.220(25).

Section 2. Refunds shall be made on the basis of permanent withdrawal from service in a covered position. ***A refund shall not[~~No refund may~~]*** be made if the member is under contract for employment in a covered position.

Section 3.[~~2.~~] Partial refunds of member contributions shall only be permitted when a member cancels service credit and obtains credit for the service in a state or municipal retirement system outside Kentucky as provided in 102 KAR 1:045.

Section 4. Administrative Provisions. (1) Following permanent withdrawal from service, a member may contact KTRS and request a refund application. A refund ***shall not[~~may~~]*** be processed***[~~no~~]*** earlier than sixty (60) days after the member's termination date.
(2) Upon receipt of a request for a refund, KTRS shall review the member's account. If the member is eligible for service retirement, the member shall not refund the account unless:
(a) Denial of the refund ***will[~~shall~~]*** prohibit the member from qualifying for Social Security benefits; or
(b) The member ***will[~~shall~~]*** be using the refund to obtain credit in another retirement plan.
(3) If the member is eligible for service retirement as provided in KRS 161.600, KTRS shall provide the member with instructions on how to apply for service retirement.
(4) If the member is eligible for a refund, KTRS shall forward the following:
(a) A KTRS Refund Application for Withdrawal of Account Balance form;
(b) A Direct Rollover Statement;
(c) A Refund Tax Notice; and
(d) A Special Tax Notice Regarding Plan Payments.
(5) If the member worked for multiple KTRS employers, Section B only of the application may be duplicated, as needed.
(6) KTRS may accept a photocopy or facsimile of Section B of the application from the employer.
(7) If the member has not made any contributions to KTRS within the last two (2) fiscal years, Section B of the application shall not be completed.
(8) The member may choose one (1) of the following payment options:
(a) Refund paid directly to the member;
(b) Refund rolled into a qualified plan or IRA; or
(c) Partial payment to the member and the remainder of the refund rolled into a qualified plan or IRA. ***If the member chooses the rollover option,*** a minimum of $200 shall be rolled into a qualified plan or IRA.
(9) If the member chooses to have all or a portion of the refund rolled into a qualified plan or IRA, the member shall forward the Direct Rollover Statement to the qualified plan or IRA for completion.
(10) The member shall file the signed application with KTRS.
(11) The member shall also provide KTRS with a photocopy of the member's:
(a) Signed Social Security card; and
(b) Valid driver's license.
(12) KTRS shall not process the refund until the retirement system receives the member's completed application, signed Social Security card, valid driver's license, and if necessary, Direct Rollover Statement. KTRS shall compare information provided by the employer in Section B of the application to the information previously provided by the employer in the annual statement or most recent payroll report to confirm the information. If there is a discrepancy between the information in Section B of the application and the information in the annual statement or most recent payroll report, KTRS shall contact the employer to reconcile the information.
(13) A refund shall be processed at either the beginning or the middle of each month, whichever is the applicable date following receipt of the properly completed application.
(14) If the member requested a direct refund of the account balance, KTRS shall mail the member:
(a) The refund check; and
(b) A letter that shall include a breakout of the gross, taxable, and net amount of the refund.
(15) If the member requests a partial or full rollover of the account balance, KTRS shall mail the refund check directly to the qualified plan or IRA. The member shall receive a letter that shall confirm payment of the refund to the qualified plan or IRA.
(16) If a QDRO requires a portion of a member's refund to be paid to an alternate payee, the QDRO shall be submitted to KTRS for approval as required by KRS 161.700 and 102 KAR 1:320.
(a) Following approval of the QDRO by KTRS and entry by a court of competent jurisdiction, if the member is eligible for, and requests a refund, KTRS shall forward the documents listed in subsection (4) of this section to the member.
(b) KTRS shall forward to the alternate payee the following:
1. The Qualified Domestic Relations Order (QDRO)/Application for Withdrawal of Account Balance form (QDRO/Application);
2. The Qualified Domestic Relations Order (QDRO)/Direct Rollover Statement;
3. A Refund Tax Notice; and
4. A Special Tax Notice Regarding Plan Payments.
(c) The alternate payee shall file the QDRO/Application form with a copy of the alternate payee's signed Social Security card. If the alternate payee chooses to have all or a portion of his or her refund rolled into one (1) of the options set forth in subsection (8) of this section, the alternate payee shall forward the Qualified Domestic Relations Order (QDRO)/Direct Rollover Statement to the qualified plan or IRA for completion.
(d) KTRS shall respond to the alternate payee as required by either subsection (14) or (15) of this section.
(17) KTRS shall record the date of the refund on the member's account and designate the member's account status as refunded.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Refund Application for Withdrawal of Account Balance", 2016;
(b) "Direct Rollover Statement", 2016;

(c) "Refund Tax Notice", 2016;

(d) "Special Tax Notice Regarding Plan Payments", 2016;

(e) "Qualified Domestic Relations Order (QDRO)/Application for Withdrawal of Account Balance", 2016; and

(f) "Qualified Domestic Relations Order (QDRO)/Direct Rollover Statement", 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

ARTHUR GREEN, Chairperson

APPROVED BY AGENCY: December 21, 2015

FILED WITH LRC: January 14, 2016 at noon

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199.

FINANCE AND ADMINISTRATION CABINET
Kentucky Teachers' Retirement System
(As Amended at ARRS, March 7, 2016)

102 KAR 1:320. Qualified domestic relations orders.

RELATES TO: KRS 161.220, ***161.700,*** 161.716, 403.190, 26 U.S.C. 414(p)

STATUTORY AUTHORITY: KRS 161.310(1), 161.700(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310(1) requires the Board of Trustees of the Kentucky Teachers' Retirement System (KTRS) to promulgate administrative regulations for the administration of the funds of the retirement system. KRS 161.700(4) requires the Board of Trustees of KTRS to promulgate administrative regulations setting forth the requirements, procedures, and forms for the approval and processing of qualified domestic relations orders impacting the benefits of participants of the retirement system. This administrative regulation establishes these requirements.

Section 1. Definitions. (1) "Alternate payee" is defined by KRS 161.220(26).

(2) "Benefits" means a monthly service or disability retirement allowance or refund payable at the request of a participant covered by KTRS who terminates employment in a KTRS covered position prior to becoming eligible to receive a retirement allowance.

(3) "Member" is defined by KRS 161.220(4).

(4) "Participant" is defined by KRS 161.220(24).

(5) "Qualified domestic relations orders" or "QDRO" is defined by KRS 161.220(25).

Section 2. (1) A QDRO shall state the following:

(a) The member's name, KTRS member identification number, and last-known mailing address;

(b) The alternate payee's name and last known mailing address;

(c) Whether the order applies to:

1. An active account from which the member is not currently receiving a retirement allowance; or

2. A retired account from which the member is currently receiving a retirement allowance and the date on which the member retired the account;

(d) The date of marriage;

(e) The date of decree of dissolution of marriage;

(f) That the order is for the purpose of property division;

(g) Whether the alternate payee shall receive payments under Option A, Option B, or Option C;

(h) The amount of the participant's monthly retirement allowance or termination refund to be paid by KTRS to the alternate payee as either;

1. A fixed dollar amount; or

2. The percentage calculated under Section 7(1) or (2) of this administrative regulation;

(i) When payments shall begin;

(j) When payments shall cease;

(k) That the alternate payee shall be paid in the same form as the participant;

(l) If the alternate payee spouse shall share in the participant's cost of living adjustments if the QDRO awards a fixed dollar amount to the alternate payee;

(m) Who shall be responsible for payment of the KTRS processing fee; and

(n) All information required on the Qualified Domestic Relations Order to Divide Kentucky Teachers' Retirement System Benefits.

(2) A QDRO shall be:

(a) Approved by KTRS as to enforceability and compliance with the requirements of KRS 161.700 and this administrative regulation;

(b) Approved and submitted by the participant and alternate payee or their legal counsel;

(c) Signed by the judge of a court of competent jurisdiction;

(d) Filed with the clerk of the court; and

(e) Certified by the clerk of the court.

Section 3. Administrative Provisions. (1) Upon entry of a final divorce decree, the participant shall forward a copy of the decree to KTRS and:

(a) If the participant is a retired member, request:

1. A Change of Option Following Termination of Marriage form, if the participant wants to change his or her retirement option, which shall be done within sixty (60) days of the final divorce decree;

2. A Change of Beneficiary form, if the participant had chosen retirement Option I or Option II and does not want to change his or her retirement option, but wants to name a new beneficiary;

3. A Designation of Beneficiary for KTRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate; or

4. A W-4P Withholding Certificate for Pension or Annuity Payments or W-4P, if the participant wants to change the amount of federal tax withheld from his or her retirement benefit; or

(b) If the participant is an active member, he or she shall request:

1. A Designation of Beneficiary for KTRS Retirement Account Balance form, if the participant wants to designate a beneficiary other than his or her estate; or

2. A Designation of Beneficiary for KTRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate.

(2) Thirty (30) days prior to filing the QDRO with KTRS, the participant or alternate payee shall present a written request for benefits information for divorce purposes. The participant, alternate payee, or third party, including the party's legal counsel, shall provide a completed KTRS Authorization for Release of Information form with the request.

(3)[~~(a)~~] For a QDRO directed to an active account from which a participant is not currently receiving a retirement allowance, KTRS may, for the current fiscal year, provide the unaudited salary information electronically submitted to KTRS by[~~shall forward a KTRS Report for Current Year Earnings and Contributions form to~~] the participant's employer upon receipt of the written request and release.

[~~(b) The employer shall return the completed form to KTRS within ten (10) work days.~~]

(4) If the QDRO is directed to an account from which the participant is not currently receiving a retirement allowance, KTRS shall not project future earnings or future service. KTRS shall provide:

(a) The participant's total accrued service credit, including service credit purchased during the marriage, and the member account balance, including the total amount of accrued contributions and interest, as posted at the end of each fiscal year during the marriage and for which an employer annual report has been received by KTRS and for which the member has not received a refund; and

(b) An estimate of the monthly retirement allowance the

participant would receive if the participant retired without a statutory reduction of the basic retirement allowance based upon the participant's final compensation and total accrued service credit as of the date of dissolution of marriage or receipt of the request for information.

(5) If the participant has retired, KTRS shall provide the amount of the participant's monthly retirement allowance, the participant's accumulated account balance at retirement, the total retirement allowance received to date, and the participant's total accrued service credit, including any service credit purchased during the marriage. The parties, their legal counsel, or the court may use the information to decide what portion of the participant's account is marital. KTRS shall not decide whether, or if, any portion of the participant's account is marital and potentially subject to division.

(6) The participant***,[or]*** alternate payee***,*** or legal counsel shall submit a Qualified Domestic Relations Order to Divide Kentucky Teachers' Retirement System Benefits form to KTRS for review forty-five (45) days prior to filing the QDRO with the court. If more than one (1) of participant's accounts is subject to classification and division as marital property, a separate QDRO shall be issued for each KTRS account.

(7) KTRS shall not review the QDRO unless it is accompanied by the following:

(a) The KTRS Administrative Regulatory Compliance form, which has been approved by ***the:***

1. Participant or legal counsel; and

2. Alternate payee or legal counsel[both the participant or alternate payee or their legal counsel];

(b) A fifty (50) dollar nonrefundable processing fee, by certified check or on the attorney's trust account, made payable to the Kentucky State Treasurer, except that a processing fee shall not be charged for a QDRO issued solely for child support;

(c) The KTRS Confidential Information form, which shall include the participant's and alternate payee's address, Social Security number, and date of birth;

(d) Copies of the participant's and alternate payee's signed Social Security cards;

(e) KTRS Authorization for Direct Deposit form; and

(f) Any other documents that are required to confirm additional service credit purchased, or sought to be purchased, for retirement calculation purposes under KRS 161.220 through 161.716, including KTRS Military Service Certification and Affidavit form, with a copy of discharge papers.

(8) Within twenty (20) days of receipt of the QDRO, KTRS shall notify the participant and alternate payee in writing whether the QDRO meets KTRS requirements. If the QDRO meets KTRS requirements, KTRS shall approve the QDRO and circulate an original, signed QDRO for signature by the participant and alternate payee for submission to the court. If the participant or alternate payee is represented by legal counsel, the approved QDRO shall instead be provided to their legal counsel for signature by counsel and submission to the court. KTRS shall forward a W-4P Withholding Certificate for Pension or Annuity Payments form to the alternate payee.

(9) If the QDRO does not meet KTRS requirements, KTRS shall notify the participant and alternate payee in writing, identifying those provisions which are not in compliance and the amendments needed to bring the QDRO into compliance. If the participant or alternate payee is represented by legal counsel, this notice shall instead be provided to their legal counsel. The amended QDRO shall be submitted to KTRS for review and approval prior to filing with the court.

(10) KTRS shall reject any QDRO entered by a court which has not been reviewed or approved by KTRS prior to its submission to the court. KTRS shall notify the participant, the alternate payee, or their legal counsel, and the court in writing, identifying those provisions which are not in compliance and the amendments needed to bring the QDRO into compliance before it shall be accepted by KTRS.

(11) If the QDRO is subsequently amended before filing with the court, the amended QDRO shall be resubmitted to KTRS with a twenty-five (25) dollar nonrefundable processing fee for review and approval.

(12) Following approval by the court, the participant, alternate payee, or legal counsel shall file a certified copy of the QDRO with KTRS.

(a) The QDRO shall not become effective until the certified copy is received by KTRS.

(b) Upon receipt of the certified copy, KTRS shall designate the participant's account for implementation of the QDRO.

(c) While a separate account balance shall not be maintained for the alternate payee, a separate payroll account shall be established.

(d) If the participant is a retired member, payments to the alternate payee shall commence in the calendar month following the date that a certified copy of the QDRO is received by KTRS, if the alternate payee has supplied a correctly executed W-4P[~~Withholding Certificate for Pension or Annuity Payments~~] form. If the alternate payee either fails to return the W-4P or does not correctly execute the form, KTRS shall apply the IRS default option of married with three (3) exemptions, which results in no withholding of federal tax. If the alternate payee chooses a different option and then provides a correctly executed W-4P, future payments shall be adjusted.

(e) If the participant is an active member, payments to the alternate payee shall commence in the calendar month in which the participant begins to receive a monthly annuity, if the alternate payee has provided his or her current address, a correctly executed W-4P and banking information as required by subsection (15) of this section. If the alternate payee either fails to return the W-4P or does not correctly execute the form, KTRS shall proceed in the same manner as described in paragraph (d) of this subsection.

(f) If the participant is an active member who withdraws from service prior to eligibility for retirement and requests a refund of his or her accumulated account balance, 102 KAR 1:060 sets forth the requirements for processing payment of the refund to the participant and the alternate payee.

(13) If KTRS is enforcing a QDRO which is subsequently amended or terminated by the court, then either the participant, alternate payee, or legal counsel shall submit a certified copy of the amended QDRO or order of termination to KTRS for processing.

(14) The participant, alternate payee, or legal counsel shall not submit a QDRO that is not final and under consideration by an appellate court.

(15) The alternate payee shall be responsible for notifying KTRS of any change in name, mailing address, or banking information.

(a) KTRS shall provide a Name or Change of Address form or Authorization for Direct Deposit form upon request.

(b) KTRS shall contact the alternate payee at the last known mailing address on file to notify the alternate payee when an annuity benefit subject to the QDRO becomes payable.

(c) Other than sending a notice as established in paragraph[~~paragraphs (a) and~~] (b) of this subsection, KTRS shall have no duty or responsibility to search for, or locate, the alternate payee.

(d) If the notification sent to the alternate payee's last known address is returned due to the alternate payee's failure to notify KTRS of an address change or if the bank notifies KTRS that the alternate payee's account has been closed, within sixty (60) days of the return of the notification to the alternate payee or receipt of notification from the bank, the amounts otherwise payable to the alternate payee shall be paid to the participant until a new address or bank account information is provided by the alternate payee.

(e) KTRS shall have no liability to the alternate payee with respect to amounts paid to the participant.

(16) The participant shall be responsible for notifying KTRS in writing of an event which causes benefit payments to the alternate payee spouse, child, or other dependent, to cease.

(a) The participant shall provide KTRS with a certified copy of the alternate payee's death certificate or marriage certificate. KTRS shall suspend payments due the alternate payee provided that submission of proof of the death or marriage of the alternate

payee, if marriage terminates payments under the terms of the QDRO, is received by the beginning of the month following KTRS's receipt of the participant's written notification.

(b) The alternate payee shall also be responsible for notifying KTRS in writing of the alternate payee's remarriage if, under the terms of the QDRO, that is an event that terminates the alternate payee's right to receive any payments.

(c) KTRS shall not be responsible for payments made to the alternate payee until it is given timely written notice and documentation of any event terminating those payments.

Section 4. A QDRO may apply to a participant's:

(1) Retirement allowance;

(2) Disability retirement allowance; or

(3) Termination refund.

Section 5. A QDRO shall not apply to a participant's:

(1) Survivor annuity that becomes payable after the member's death;

(2) Survivor benefits that become payable after an active contributing member's death;

(3) Accounts that are not vested at the time of the dissolution of marriage;

(4) Life insurance benefit;

(5) Refund as a result of an error;

(6) Refund of an active or retired account in response to a member's death;

(7) Health insurance; and

(8) Any other payment or benefit not described in Section 4 of this administrative regulation.

Section 6. If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's annuity benefits and dies before the participant dies, retires, or withdraws his account, the entire remaining account value shall be restored to the participant.

Section 7. Calculation and payment. (1)(a) If the participant has retired, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance, disability retirement allowance, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable KTRS service earned during the marriage, including service credit purchased during the marriage; and

2. The denominator of which shall be the participant's total full and fractional years of KTRS service credit through the date of retirement.

(b) The resulting fraction shall be converted to a percentage which shall be divided by two (2).

(c) Option C may be utilized if the duration of the retired participant and the alternate payee's marriage was less than the participant's total full and fractional years of KTRS service at the date of retirement. The parties or their legal counsel shall report the marital years in Option C of the QDRO.

(2)(a) ***For[~~In the case of~~]*** an active account, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance, disability retirement allowance, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable KTRS service earned during the marriage, including service credit purchased during the marriage, as reported by the parties or their legal counsel in Option C of the QDRO; and

2. The denominator of which shall be the participant's total full and fractional years of KTRS service credit as determined by KTRS at the time that the participant retires either by service retirement or disability retirement or requests a refund of his or her account balance.

(b) The resulting fraction shall be converted to a percentage which shall be divided by two (2).

(3) If the participant is or will be receiving a disability retirement allowance, the participant's total annuity benefit for purposes of this administrative regulation shall be calculated under the service retirement formula established under KRS 161.661(5), even if the entitlement period described under KRS 161.661(3) and (4) has not expired.

(4) If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's disability retirement allowance which is subsequently discontinued, the alternate payee shall not receive a benefit. Further, if a participant remains disabled at the end of his or her entitlement period, pursuant to KRS 161.661(5), the disability benefits shall be recalculated which may result in a lower monthly payment to both the participant and the alternate payee.

(5) If the QDRO is directed to an account from which the participant is not receiving a retirement allowance, the participant's total annuity benefit shall be calculated without inclusion of the discounts required under KRS 161.620(1)(b) and (d).

(a) If at retirement the participant is subject to discounts required under KRS 161.620(1)(b) and (d), and if the QDRO establishes a set dollar amount to be withheld from the retirement benefits that are payable to the participant and to be paid to the alternate payee, KTRS shall reduce the amount to be paid to the alternate payee under the QDRO by the amount of the discounts.

(b) KTRS shall increase the amount paid to the alternate payee in amount equal to any discounts that are subsequently eliminated as the result of the participant's return to work after retirement under the provisions of KRS 161.605(11), upon the participant's resumption of receipt of retirement benefits.

(6) If the QDRO is directed to an account from which the participant is not receiving a retirement allowance, and the participant at issuance of the QDRO is not eligible for calculation of his total annuity benefit based on his three (3) highest salaries as provided under KRS 161.220(9), then his total annuity benefit shall be calculated on his five (5) highest salaries.

(7) The participant may select any retirement option[~~, but payment to the alternate payee shall be measured as though the participant had chosen Option I, Straight Life Annuity with Refundable Balance, under KRS 161.620 and 102 KAR 1:150~~].

Section 8. Any person who attempts to make KTRS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the annuity benefits payable to the participant shall be liable to KTRS for its costs and legal fees.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KTRS Authorization for Release of Information", 15 January 2013;

(b)[~~"KTRS Report for Current Year Earnings and Contributions", 14 July 2010;~~

~~(c)~~] "Qualified Domestic Relations Order to Divide Kentucky Teachers' Retirement System Benefits", 14 March 2014;

(c)[~~(d)~~] "KTRS Administrative Regulatory Compliance", 14 July 2010;

(d)[~~(e)~~] "KTRS Confidential Information", 14 January 2013;

(e)[~~(f)~~] "KTRS Authorization for Direct Deposit", 14 July 2010;

(f)[~~(g)~~] "KTRS Military Service Certification and Affidavit", 14 July 2010;

(g)[~~(h)~~] "KTRS Name or Change of Address", 14 July 2010;

(h)[~~(i)~~] "Change of Option Following Termination of Marriage", 15 February 2002;

(i)[~~(j)~~] "Change of Beneficiary", February 2002;

(j)[~~(k)~~] "Designation of Beneficiary for KTRS Life Insurance Benefit", 15 January 2013;

(k)[~~(l)~~] "Designation of Beneficiary for KTRS Retirement Account Balance", 15 January 2013; and

(l)[~~(m)~~] "W-4P", 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

(3) W-4P may also be obtained at www.irs.gov/pub/irs-pdf/w4p.pdf.

ARTHUR GREEN, Chairperson

APPROVED BY AGENCY: December 21, 2015

FILED WITH LRC: January 14, 2016 at noon

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, March 7, 2016)

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 administrating 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)[~~(172)~~] 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)[~~(173)~~] 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)[~~(174)~~] 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)[~~(175)~~] 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)[~~(176)~~] 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)[~~(177)~~] 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)[~~(178)~~] 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)[~~(179)~~] 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)[~~(180)~~] 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)[~~(181)~~] 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 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 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[~~2011~~];

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~~];

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", ***February 2016[~~November 2015~~]***[~~2014~~];

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

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

163. Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", ***February 2016[~~November 2015~~]***[~~2014~~];

164. Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return", ***February 2016[~~November 2015~~]***[~~2014~~];

165. Revenue Form 62A500-M1, "Boat Dealer's Used Inventory Listing for Line 31 Tangible Personal Property Tax Return", ***February 2016[~~November 2015~~]***[~~2014~~];

166. Revenue Form 62A500-S1, "Automobile Dealer's Inventory Listing for Line 34 Tangible Personal Property Tax Return", ***February 2016[~~November 2015~~]***[~~2014~~];

167. Revenue Form 62A500-W, "2016[~~2015~~] Tangible Personal Property Tax Return (Documented Watercraft)", ***February 2016[~~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 2011~~];

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~~].

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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.

GENERAL GOVERNMENT CABINET
Real Estate Commission
(As Amended at ARRS, March 7, 2016)

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 ***a single family*** residential real estate ***dwelling***, as required by KRS 324.360, upon execution of the listing agreement ***or a similar agreement by which a licensee intends to market the property***[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 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;~~			

~~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 under-ground 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 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 ***single family residential real estate dwelling[~~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***(10)[~~(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's[~~seller~~]*** Disclosure of Property ***Condition*** 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's[~~seller~~]*** Disclosure of Property ***Condition[~~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", ***3/2016[~~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.

CONTACT PERSON: Rhonda K. Richardson, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended at ARRS, March 7, 2016)

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

RELATES TO: KRS 216B.400(2), (4), 314.011(14), 314.103, 314.142, 314.470, 403.707, 421.500-421.575

STATUTORY AUTHORITY: KRS 314.131(1), 314.142(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.142(1) requires the board to promulgate administrative regulations to create a Sexual Assault Nurse Examiner Program. This administrative regulation establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner.

Section 1. Definition. "SANE course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of a sexual assault victim fourteen (14) years of age or older and to promote and

preserve the victim's biological, psychological, and social health.

Section 2. SANE Course Approval Application. (1) On the form Application for Initial or Continued SANE Course Approval, the applicant for approval of a SANE course shall submit evidence to the board of completion of the requirements for course approval that consists of the following documentation:

(a) Position description and qualifications of the nurse administrator of the SANE course;

(b) Qualifications and description of the faculty;

(c) Course syllabus;

(d) Course completion requirements;

(e) Tentative course presentation dates;

(f) Records maintenance policy; and

(g) Copy of certificate of course completion form.

(2) Nurse administrator of SANE course. A registered nurse, with current, active Kentucky licensure or a multistate licensure privilege pursuant to KRS 314.470, a baccalaureate or higher degree in nursing, and experience in adult and nursing education shall be administratively responsible for assessment, planning, development, implementation, and evaluation of the SANE course.

(3) Faculty qualifications. The course shall be taught by multidisciplinary faculty with documented expertise in the subject matter. The name, title, and credentials identifying the educational and professional qualifications for each instructor shall be provided as part of the application.

(4) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements, and fees;

(b) Course outcomes, which shall provide statements of observable competencies, which if taken as a whole, present a clear description of the entry level
behaviors to be achieved by the learner;

(c) Unit objectives for an individual, which shall be stated in operational or behavioral terms with supportive content identified;

(d) Content, which shall be described in detailed outline format with corresponding lesson plans and time frame, and which shall be related to, and consistent with, the unit objectives, and support achievement of expected course outcomes;

1. The SANE course shall include:

a. A minimum of forty (40) hours of didactic instruction pursuant to subparagraph 3. of this paragraph; and

b. The clinical practice experience required by subparagraph 2. of this paragraph.

2. Clinical practice. The clinical portion of the course[~~shall be a minimum of sixty (60) hours and~~] shall include:

a. Detailed genital and anal inspection, including speculum insertion[~~a minimum of sixteen (16) speculum examinations~~], visualization techniques, and use of equipment supervised by a physician, a physician[~~physician's~~] assistant, an advanced practice registered nurse, or a sexual assault nurse examiner until the student is deemed competent by the supervisor[~~– twenty-six (26) hours~~];

b.[~~Mock~~] Sexual assault history taking and examination techniques with evaluation supervised by a physician, a physician[~~physician's~~] assistant, an advanced practice registered nurse, or a sexual assault nurse examiner[~~- ten (10) hours~~];

c. Observing live or previously recorded[~~relevant civil or~~] criminal trials ***and[,]*** meeting with the Commonwealth Attorney or a representative from the Commonwealth Attorney's office in order to gain an understanding of the trial process including testifying[~~, or similar legal experience - sixteen (16) hours~~];

d. Meeting with the local rape crisis center and a rape crisis center victim advocate in order to gain an understanding of the services provided to victims by rape crisis centers and the role of an advocate[~~or mental health professional with expertise in the treatment of a sexually assaulted individual – four (4) hours~~]; and

e. Meeting with local[~~members of~~] law enforcement officers or investigators responsible for investigating reports of rape or sexual assault in order to gain an understanding of the investigative process[~~- four (4) hours~~].

3. The didactic portion of the course shall include instruction consistent with the Sexual Assault Nurse Examiner (SANE) Education Guidelines. It shall also include:

a. Application of the Kentucky statewide medical protocol relating to the forensic and medical examination of an individual reporting sexual assault pursuant to KRS 216B.400(2) ***and (4)***; and

b. The victim's bill of rights, KRS 421.500 through 421.575[~~in the following topics related to forensic evaluation of an individual reporting sexual assault:~~

~~a. The role and responsibilities of a sexual assault nurse examiner, health care professional, rape crisis, law enforcement, and judicial system personnel;~~

~~b. Application of the statewide medical protocol relating to the forensic and medical examination of an individual reporting sexual assault pursuant to KRS 216B.400(2);~~

~~c. Principles and techniques of evidence identification, collection, evaluation, preservation, and chain of custody;~~

~~d. Assessment of injuries, including injuries of forensic significance;~~

~~e. Physician consultation and referral;~~

~~f. Medicolegal documentation;~~

~~g. Victim's bill of rights, KRS 421.500 through 421.575;~~

~~h. Crisis intervention;~~

~~i. Dynamics of sexual assault;~~

~~j. Testifying in court;~~

~~k. Overview of the criminal justice system and related legal issues;~~

~~l. Available community resources including rape crisis centers;~~

~~m. Historical development of the forensic nursing conceptual model;~~

~~n. Cultural diversity and special populations;~~

~~o. Ethics;~~

~~p. Genital anatomy, normal variances, and development stages;~~

~~q. Health care implications and interventions; and~~

~~r. Developing policies and procedures~~].

(e) Teaching methods with the activities of both instructor and learner specified in relation to the content outline, and which shall be congruent with stated course objectives and content, and reflect the application of adult learning principles;

(f) Evaluation methods**,** which shall be clearly defined for evaluating the learner's achievement of course outcomes, and which shall include a process for annual course evaluation by students, providers, faculty, and administration; and

(g) Instructional or reference materials required**,** which shall be identified.

(5) Completion requirements. Requirements for successful completion of the SANE course shall be clearly specified and shall include demonstration of clinical competency. A statement of policy regarding a candidate who fails to successfully complete the course shall be included.

Section 3. (1) Contact hour credit for continuing education. The SANE course shall be approved for contact hour credit which may be applied to licensure requirements.

(2) Approval period. Board approval for a SANE course shall be granted for a four (4) year period.

(3) Records shall be maintained for a period of five (5) years, including the following:

(a) Provider name, date, and site of the course; and

(b) Participant roster, containing at a minimum the name, Social Security number, and license number for each participant.

(4) A participant shall receive a certificate of completion that documents the following:

(a) Name of participant;

(b) Title of course, date, and location;

(c) Provider's name; and

(d) Name and signature of authorized provider representative.

Section 4. Continued Board Approval of a SANE Course. (1) An application for continued approval of a SANE course shall be submitted on the Application for Initial or Continued SANE Course Approval at least three (3) months prior to the end of the current approval period.

(2) A SANE course syllabus shall be submitted with the Application for Initial or Continued SANE Course Approval.

(3) Continued approval shall be based on the past approval period performance and compliance with the board standards described in this administrative regulation.

Section 5. The board may deny, revoke, or suspend the approval status of a SANE course for violation of this administrative regulation.

Section 6. Appeal. If a SANE course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the procedure established in this section shall be followed. (1) A written request for the review shall be filed with the board within thirty (30) days after the date of notification of the board action which the SANE course administrator contests.

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel to present reasons why the board's decision should be set aside or modified.

Section 7. Requirements for Sexual Assault Nurse Examiner (SANE) Credential. (1) The applicant for the SANE credential shall:

(a) Hold a current, active registered nurse license in Kentucky or a multistate licensure privilege pursuant to KRS 314.470;

(b) Have completed a board approved SANE educational course or a comparable course;

1. The board or its designee shall evaluate the applicant's course to determine its course comparability; and

2. The board or its designee shall advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed;

(c)[~~If the applicant has completed a comparable course, complete that portion of a SANE course of at least five (5) hours which shall include those topics specified in Section 2(4)(d)3a, b, c, g, k, and l of this administrative regulation if not included in the comparable course completed by the applicant.~~

~~1. The Office of the Attorney General may offer in cooperation with a board approved continuing education provider a course of at least five (5) hours.~~

~~2. The course shall include those topics specified in this paragraph;~~

~~(d)~~] Complete the Sexual Assault Nurse Examiner Application for Credential;

(d)[~~(e)~~] Pay the fee established in 201 KAR 20:240;

(e)[~~(f)~~] Provide a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and pay the fee required by the FBI that is within six (6) months of the date of the application;

(f)[~~(g)~~] Provide a report from the Kentucky Administrative Office of the Courts, CourtNet Disposition System that is within six (6) months of the date of the application;

(g)[~~(h)~~] Provide a certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(h)[~~(i)~~] Provide a letter of explanation that addresses each conviction, if applicable.

(2) Upon completion of the application process, the board shall issue the SANE credential for a period ending October 31.

(3) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(e)[~~(1)(f)~~] of this section and any conviction is addressed by the board.

Section 8. Renewal. (1) To renew the SANE credential for the next period, each sexual assault nurse examiner shall complete at least five (5) contact hours of continuing education related to the role of the sexual assault nurse examiner or forensic nursing within each continuing education earning period. A provider of a board approved SANE course may offer continuing education related to the role of the sexual assault nurse examiner.

(2) Upon completion of the required continuing education, completion of the SANE Renewal Application or Annual Credential Renewal Application: SANE with RN Compact License (Not Kentucky), as applicable, and payment of the fee established in 201 KAR 20:240, the SANE credential shall be renewed at the same time the registered nurse license is renewed.

(3) The five (5) contact hours may count toward the required contact hours of continuing education for renewal of the registered nurse license.

(4) Failure to meet the five (5) contact hour continuing education requirement shall cause the SANE credential to lapse.

Section 9. Reinstatement. (1) If the SANE credential has lapsed for a period of less than four (4) consecutive registered nurse licensure periods, and the individual wants the credential reinstated, the individual shall apply to reinstate the credential by:

(a) Submitting the Sexual Assault Nurse Examiner Application for Credential;

(b) Paying the fee established in 201 KAR 20:240;

(c) Submitting evidence of earning the continuing education requirement referenced in Section 8(1) of this administrative regulation for the number of registered nurse licensure periods since the SANE credential lapsed;

(d) Providing a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and paying the fee required by the FBI that is within six (6) months of the date of the application;

(e) Providing a report from the Kentucky Administrative Office of the Courts, CourtNet Disposition System that is within six (6) months of the date of the application;

(f) Providing a certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(g) Providing a letter of explanation that addresses each conviction, if applicable.

(2) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(d) of this section and any conviction is addressed by the board.

(3) If the SANE credential has lapsed for more than four (4) consecutive licensure periods, the nurse shall complete a SANE course prior to reinstatement.

Section 10. The board shall obtain input from the Sexual Assault Response Team Advisory Committee concerning any proposed amendment to this administrative regulation as follows:

(1) The board shall send a draft copy of any proposed amendment to the co-chairs of the Sexual Assault Response Team Advisory Committee prior to ***approval[~~adoption~~]*** by the board;

(2) The board shall request that comments on the proposed amendment be forwarded to the board's designated staff person within ninety (90) days; and

(3) At the conclusion of that time period or upon receipt of comments, whichever is sooner, the board, at its next regularly-scheduled meeting, shall consider the comments.

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

(a) "Application for Initial or Continued SANE Course Approval", 6/2014, Kentucky Board of Nursing;

(b) "Sexual Assault Nurse Examiner Application for Credential", 6/2014, Kentucky Board of Nursing;

(c) "SANE Renewal Application", 6/2012, Kentucky Board of Nursing;[~~and~~]

(d) "Annual Credential Renewal Application: SANE with RN Compact License (Not Kentucky)", 6/2014, Kentucky Board of Nursing; and

(e) "Sexual Assault Nurse Examiner (SANE) Education Guidelines", 2015***[Edition]***, International Association of Forensic Nurses.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. to 4:30 p.m.

GAIL WISE, President

APPROVED BY AGENCY: December 11, 2015

FILED WITH LRC: January 7, 2016 at 11 a.m.

CONTACT PERSON: Nathan Goldman, General Counsel,

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

GENERAL GOVERNMENT CABINET
Kentucky Board of Prosthetics, Orthotics, and Pedorthics
(As Amended at ARRS, March 7, 2016)

201 KAR 44:080. Renewals.

RELATES TO: KRS 319B.120
STATUTORY AUTHORITY: KRS 319B.030(1)(a), (b), (e), 319B.120
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.120 authorizes the board to promulgate administrative regulations required to establish conditions for the renewal and reinstatement of licenses. This administrative regulation establishes procedures for the renewal of licenses.

Section 1. Renewal. (1) A licensed prosthetist, licensed orthotist, licensed pedorthist, or licensed fitter-orthotics shall annually, on or before June 30:
(a) File a completed Kentucky Board of Prosthetics, Orthotics and Pedorthics ***Application for*** Renewal***[Application, 2015]***[~~Application for Renewal~~];
(b) Submit proof of completion of continuing education established by 201 KAR 44:060; and
(c) Pay to the board the renewal fee established by 201 KAR 44:010.

Section 2. Grace Period. A six (6) month grace period shall apply beginning July 1, during which a licensed prosthetist, licensed orthotist, licensed pedorthist, or licensed fitter-orthotics may:
(1) Continue to practice during the six (6) month grace period;[~~and~~]
(2) Renew his or her license upon payment of the initial license fee and the late renewal fee ***established by 201 KAR 44:010***; and
(3) Complete the requirements of Section 1(1)(a) and (b) of this administrative regulation.

Section 3. Expiration of License. (1) A license that is not renewed before December 31 shall be expired for failure to renew.
(2) Upon expiration for failure to renew, the licensed prosthetist, licensed orthotist, licensed pedorthist, or licensed fitter-orthotics shall not practice prosthetics, orthotics, or pedorthics in the Commonwealth of Kentucky.
(3) The board shall:
(a) Notify in writing the licensed prosthetist, licensed orthotist, licensed pedorthist, or licensed fitter-orthotics at the last known address of record of the expiration for failure to renew; and
(b) Instruct in writing the person whose license has expired to cease and desist practice.

Section 4. Reinstatement. After January 1, a person whose license has expired for failure to renew[~~,~~] shall have his or her license reinstated upon:
(1) Payment of the initial license fee ***established by 201 KAR 44:010*** and the reinstatement fee;
(2) Completion of the Kentucky Board of Prosthetics, Orthotics and Pedorthics ***Application for*** Reinstatement***[Application, 2015]***[~~Application for Reinstatement~~];
(3) Documentation of employment from the time of expiration of employment until the present; and
(4) Completion of the current requirements for licensure established in this administrative regulation.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Kentucky Board of Prosthetics, Orthotics and Pedorthics ***Application for*** Renewal***[Application]***", ***March, 2016[2015]***[~~Application for Renewal", 4/2012~~]; and
(b) "Kentucky Board of Prosthetics, Orthotics and Pedorthics ***Application for Reinstatement[Renewal Application]***", ***March, 2016[2015]***[~~Application for Reinstatement", 4/2012~~].
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Prosthetics, Orthotics, Pedorthics, 911 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m.

SIENNA NEWMAN, Chair
APPROVED BY AGENCY: November 18, 2015
FILED WITH LRC: December 18, 2015 at 8 a.m.
CONTACT PERSON: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-564-3296.

GENERAL GOVERNMENT CABINET
Kentucky Board of Prosthetics, Orthotics, and Pedorthics
(As Amended at ARRS, March 7, 2016)

201 KAR 44:090. Requirements for licensure as an orthotist, prosthetist, orthotist-prosthetist, pedorthist, or orthotic fitter on or after January 1, 2013.

RELATES TO: KRS 319B.010, 319B.030, 319B.110
STATUTORY AUTHORITY: KRS 319B.030(1), (2), 319B.110
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.030(1) requires the board to establish licensure categories and issue licenses for persons who wish to practice in this state as a licensed orthotist, licensed prosthetist, licensed orthotist-prosthetist, licensed pedorthist, or licensed orthotic fitter. This administrative regulation establishes the procedure by which those applicants shall apply for a license pursuant to KRS 319B.030.

Section 1. Licensure of an Orthotist, Prosthetist or Orthotist-Prosthetist. An applicant for licensure as an orthotist, prosthetist, or orthotist-prosthetist shall submit:
(1) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics[~~"~~] Application for Licensure***[, 2015]***[~~", Form BPOP1~~];
(2) A certified copy of the applicant's transcript from an accredited college or university showing a minimum of a baccalaureate degree awarded to the applicant;
(3) A certified copy of the applicant's education program in orthotics, prosthetics, or both from an educational program accredited by the Commission on Accreditation of Allied Health Education Program;
(4) Proof of completion of a residency meeting the standards established in KRS 319B.010(26) for the discipline for which the applicant has applied;
(5) Proof of the applicant's having obtained a passing score on the American Board of Certification (ABC) examination;
(6) The appropriate fee for licensure as required by 201 KAR 44:010; and
(7) Detailed work history, including scope of practice, covering the four (4) year period immediately prior to the date of application.

Section 2. Licensure of a Pedorthist. An applicant for licensure as a pedorthist shall submit:
(1) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics[~~"~~] Application for Licensure***[, 2015]***[~~", Form BPOP1~~];
(2) A certified copy of high school diploma or comparable credential;
(3) Proof of completion of an NCOPE-approved pedorthic education program;
(4) Proof of passing the American Board of Certification (ABC) exam;
(5) Proof of a minimum of 1,000 hours of pedorthic patient care, 500 hours shall be completed after the NCOPE-approved education program;
(6) The appropriate fee for licensure as required by 201 KAR 44:010; and
(7) A detailed work history, including scope of practice,

covering the four (4) year period prior to the date of application.

Section 3. Licensure of an Orthotic Fitter. An applicant for licensure as an orthotic fitter shall submit:

(1) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics["] Application for Licensure***[, 2015]***[", ~~Form BPOP1~~];

(2) A certified copy of high school diploma or comparable credential;

(3) Proof of completion of an NCOPE-approved orthotic fitter education program ***or a program approved by the American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC)***;

(4) Proof of passing the American Board of Certification (ABC) exam;

(5) Proof of a minimum of 1,000 hours of orthotic fitter patient care, 500 hours shall be completed after the NCOPE-approved education program ***or a program approved by the American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC)***;

(6) The appropriate fee for licensure as required by 201 KAR 44:010; and

(7) A detailed work history, including scope of practice, covering the four (4) year period prior to the date of application.

Section 4. Incorporation by Reference. (1) "Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure", ***March, 2016[2015]***[~~BPOP1, 07/2012~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5:00 p.m.

SIENNA NEWMAN, Chair

APPROVED BY AGENCY: December 16, 2015

FILED WITH LRC: December 18, 2015 at 8 a.m.

CONTACT PERSON: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-564-3296.

GENERAL GOVERNMENT CABINET
Kentucky Board of Prosthetics, Orthotics, and Pedorthics
(As Amended at ARRS, March 7, 2016)

201 KAR 44:100. Inactive status.

RELATES TO: KRS 319B.040(6)

STATUTORY AUTHORITY: KRS 319B.040(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.040(6) authorizes the board to promulgate administrative regulations to establish conditions for inactive licensure status. This administrative regulation establishes procedures for inactive status and reactivation.

Section 1. (1) A licensee may apply for inactive status by submitting:

(a) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Inactive License***[, 2015]***; and

(b) The fee for inactive licensure.

(2) A licensee on inactive status shall not engage in the practice of prosthetics, orthotics, or pedorthics.

(3) The fee for licensure on inactive status shall be fifty (50) dollars per year.

(4) Continuing education requirements shall be waived for licensees on inactive status during the time they remain inactive.

(5) If the inactive licensee applies to the board to return to active status, the licensee shall submit proof that he or she has completed six (6) hours of continuing education for the area of discipline in which the licensee is applying within the last twelve (12) month period immediately preceding the date on which the application is submitted.

(6) The licensee may submit a request to the board to return to active status immediately, with the provision that he shall receive the appropriate number of continuing education hours within six (6) months of the date on which he returns to active status.

(7) The reactivation fee for changing from inactive status to active status shall be in compliance with 201 KAR 44:010, Section 2(1) through (3).

Section 2. Incorporation by Reference. (1) "Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Inactive License", ***March, 2016[2015]***[~~Form BPOP4, 07/2012~~], is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 5:00 p.m.

SIENNA NEWMAN, Chair

APPROVED BY AGENCY: November 18, 2015

FILED WITH LRC: December 18, 2015 at 8 a.m.

CONTACT PERSON: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-564-3296.

GENERAL GOVERNMENT CABINET
Kentucky Board of Prosthetics, Orthotics, and Pedorthics
(As Amended at ARRS, March 7, 2016)

201 KAR 44:110. Licensure by endorsement.

RELATES TO: KRS 319B.130

STATUTORY AUTHORITY: KRS 319B.030, 319B.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.130
authorizes the board to issue a license to a prosthetist, orthotist, pedorthist, or orthotic fitter possessing a license issued by another state. This administrative regulation establishes the requirements for issuance of a license by endorsement.

Section 1. The board shall issue a license by endorsement, without examination, to a prosthetist, orthotist, pedorthist, or orthotic fitter currently licensed by examination by the corresponding authority of another state upon:

(1) Verification that the applicant meets all current requirements for licensure as established by KRS 319B.030(1)[~~and 201 KAR 44:090~~];

(2) ***Submission of the Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure, as incorporated by reference in 201 KAR 44:090;***

(3) Payment of the fee for licensure as established by 201 KAR 44:010; and

(4)[(3)] Verification of the applicant's license issued by another state that certifies that the license is:

(a) Active;

(b) In good standing; and

(c) Free of pending complaints.

[~~Section 2. Incorporated by Reference. (1) "Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure", 2015~~[~~by Endorsement", BPOP2, 07/2012~~]***[~~, is incorporated by reference.~~***

[~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.~~]

SIENNA NEWMAN, Chair

APPROVED BY AGENCY: November 18, 2015

FILED WITH LRC: December 18, 2015 at 8 a.m.

CONTACT PERSON: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601,

phone 502-564-3296.

GENERAL GOVERNMENT CABINET
Kentucky Board of Prosthetics, Orthotics, and Pedorthics
(As Amended at ARRS, March 7, 2016)

201 KAR 44:120. Post residency registration.

RELATES TO: KRS 319B.030(1)(c)
STATUTORY AUTHORITY: KRS 319B.030(1)(c)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.030(1)(c) authorizes the board to establish circumstances and conditions for individuals who have completed the required training and established circumstances by which an individual may continue to practice as a prosthetist or orthotist. This administrative regulation establishes the requirements for registration for post residency practice.

Section 1. Eligibility. (1) An orthotic or prosthetic resident, who has successfully completed ***a National Commission on Orthotic and Prosthetic Education (NCOPE)[an NCOPE]*** residency in the appropriate field and prior to completing the American Board for Certification examination, may work in the discipline in which he or she is exam eligible upon application to and approval by the board.
(2) An applicant shall submit to the board:
(a) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Post Residency Registration***[, 2015]***[form];
(b) Documentation of residency completion;
(c) Documentation of application for examination; and
(d) A letter from a supervisory licensed practitioner that monitoring of the applicant will continue.
(3) The exemption shall expire fifteen (15) months from the date of completion of the NCOPE residency.

Section 2. Incorporation by Reference. (1) "Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Post Residency Registration", ***March, 2016[2015]***[Form BPOP3, 07/2012], is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

SIENNA NEWMAN, Chair
APPROVED BY AGENCY: November 18, 2015
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CONTACT PERSON: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-564-3296.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission
(As Amended at ARRS, March 7, 2016)

739 KAR 2:100. Volunteer firefighter requirements.

RELATES TO: KRS ***67.083, Chapter 75,*** 95A.040***, 95A.990, Chapter 273***
STATUTORY AUTHORITY: KRS 95A.040***(1)(d)***
NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.040***(1)(d)*** 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:
(1)[(a)] Able to read, write, and understand the English language ***based on educational attainment or experience;***
(2) Not in violation, and has not been in violation within the last five (5) years, of driving under the influence or public intoxication;
(3) Not convicted of a felony offense;
(4) A citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, as evidenced by submission to the Kentucky Fire Commission of a driver's license, birth certificate, a United States Permanent Resident Card (form I-551), or other legal authorization to live and work in the United States; and
(5) Eighteen (18) years of age or older, as evidenced by submission to the Kentucky Fire Commission of proof of age in the form of a driver's license, birth certificate, or other government-issued identification card[;
(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.
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.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission
(As Amended at ARRS, March 7, 2016)

739 KAR 2:110. Acceptance of *out-of-state[Out of State]* and military training and service.

RELATES TO: KRS 95A.050, 95A.090***, 95A.210(4), 95A.230***
STATUTORY AUTHORITY: KRS 95A.050***(3)***, 95A.090***(2)***
NECESSITY, FUNCTION, AND CONFORMITY: ***KRS 95A.050(3) requires the commission to promulgate administrative regulations relating to fire protection personnel.*** 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***, and[; 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) "Professional firefighter" as defined by KRS 95A.210(4); and

(b) 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)***(a)*** 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 ***established in the Firefighter Certification Minimum Required Course Categories and Hours Chart[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.

(b) Except as established in subsection (4) of this section and[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 ***pursuant to the List of Approved Curricula for Level I Fire Instructors. A Level II fire instructor may write and teach a lesson plan within the employing or affiliated department***.

(2) ***Except as established in subsection (4) of this section,*** each certified volunteer firefighter shall produce documentation of completion of at least 150 hours of certified training as recognized by the commission ***as established in subsection (1) of this section*** to receive certification and at least twenty (20) hours of certified training annually to maintain certification.

(3) The commission ***shall[may]*** consider the IFSAC or ProBoard accreditation of a ***firefighter's out-of-state certification[firefighter certified out of state]*** as the fulfillment of subsections (1) and (2) of this section and ***shall[may]*** certify ***that a firefighter's out-of-state certification has been accredited by[a firefighter certified out of state through]*** IFSAC or ProBoard by reciprocity.

(4) The ***commission may contact the division of the U.S. Armed Forces or the state in which the firefighter received training to confirm that the training or service is comparable to the requirements of this administrative regulation[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 ***the division director's[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 ***a candidate[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]***", ***2016[2015]***;

(b) "Out-of-State Transfer Worksheet", 2015;***[and]***

(c) "Kentucky Fire Commission Out-of-State Transfer***[Chart]***", 2015***;***

(d) "Firefighter Certification Minimum Required Course Categories and Hours Chart", 2016; and

(e) "List of Approved Curricula for Level I Fire Instructors", 2016.

(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.

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COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission
(As Amended at ARRS, March 7, 2016)

739 KAR 2:120. Notification of merger or splitting of volunteer fire districts.

RELATES TO: KRS ***65.182,*** 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) ***A letter of agreement from or between each county judge executive of the jurisdiction or jurisdictions of the departments involved in the merger or split;[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***;***

(e) A list of the operational apparatus owned by each fire department;

(f) Each fire department's verified tax identification number;

(g) Inactivation letters for firefighters, if applicable; and

(h) Each department's mission statement.

(2) The merger or split shall not be effective until approved in writing by the commission. ***The eligibility committee of the commission shall review and report to the commission on the fire department's Application for Fire Department Merger and Separation and other documentation submitted pursuant to this administrative regulation. The commission shall approve the application if each department created as a result of the merger complies with this administrative regulation.***

Section 3. Incorporation by Reference. (1) "Application for Fire Department Merger and Separation", ***2016[~~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

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COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission
(As Amended at ARRS, March 7, 2016)

739 KAR 2:130. Thermal vision grant application process.

RELATES TO: KRS 95A.400, 95A.410, ***95A.420,*** 95A.430, 95A.440

STATUTORY AUTHORITY: KRS 95A.430

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.430***(1)*** 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" ***is defined by KRS 95A.420[~~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***, signed by the chief of the applicant department or the administrator of the authority with jurisdiction over the applicant department[~~to the commission~~]***.

(2)[~~(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.

(3)[~~(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.

(4)[~~(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.

(5)[~~(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. ***The thermal imaging device shall be purchased from:***

(a) Bullard;

(b) Scott;

(c) MSA;

(d) Argus;

(e) ISG;

(f) FLIR;

(g) Drager; or

(h) Avon Protection.

(6)[~~(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", ***2016;***

(b)[~~2015;~~

~~(c)~~] "Thermal Imaging Camera Grant Application", ***2016[~~2015~~]***; and

(c)[~~(d)~~] "Approval Letter", ***2016[~~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

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ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(Amended After Comments)

105 KAR 1:145. Voluntary cessation of participation by employers.

RELATES TO: KRS 61.510, 61.522, 61.546, 61.552, **61.555,** 61.565, **61.590,** 61.598, **61.625, 61.637,** 61.675, 78.510 – 78.852**, 26 U.S.C. 401**

STATUTORY AUTHORITY: 61.522**(8)**, 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. **KRS 61.522(8) requires the board to promulgate administrative regulations to administer the provisions of the statute.** 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**:**

(a) Whose Form 7730, Application for Voluntary Cessation from CERS or KERS, has been approved by the systems**;** and

(b) Who:

1.~~[the employer]~~ Has paid the full actuarial cost~~[by lump sum]~~**;** or

2. Is **currently** paying the full actuarial cost by installments for a period of time determined by the board pursuant to KRS **61.522(3)(a)**~~[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) **Kentucky Retirement Systems shall notify the employer of the administrative cost to process the Form 7725, Request for Estimated Actuarial Cost of Voluntary Cessation. The administrative cost shall be calculated as follows:**

(a) If the number of employees and former employees to be submitted to the actuary for purposes of determining the estimated actuarial cost of voluntary cessation equals one (1) to 100 employees, the administrative cost shall be $1,500.

(b) If the number of employees and former employees to be submitted to the actuary for purposes of determining the estimated actuarial cost of voluntary cessation equals 101 or more employees, the administrative cost shall be $4,000.

(7) Kentucky Retirement Systems shall process the Form 7725, Request for Estimated Actuarial Cost of Voluntary Cessation, after the employer has remitted its payment for the administrative cost~~[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;

(c)~~[(d)]~~ The employer's current by-laws, if applicable;

(d)~~[(e)]~~ The employer's Certificate of Existence/Authorization from the Kentucky Secretary of State, if applicable;

(e)~~[(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;

(f)~~[(g)]~~ The employer's most recent five (5) audited financial statements and independent auditor's reports;

(g)~~[(h)]~~ The employer's most recent five (5) Consolidated Annual Financial Reports, if applicable;

(h)~~[(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

(i)~~[(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, **an encrypted electronic file listing[~~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**;**

(h) Beginning and ending dates of any active duty military service when the employee was not employed by the employer filing the Form 7730, Application for Voluntary Cessation from CERS or KERS, if available; and

(i) Beginning and ending dates of any active duty military service when the employee was employed by the employer filing the Form 7730, Application for Voluntary Cessation from CERS or KERS.

(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 **a[~~an employer's~~]** Form 7730, Application for Voluntary Cessation from CERS or KERS, **for an employer who[~~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 **and** the result of which may affect the accounts of the employer's employees**, the employer's full actuarial cost of ceasing participation,** 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 **prior to the cessation date following submission of the Form 7730, Application for Voluntary Cessation from CERS or KERS**.

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 **cost[~~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 **an irrevocable[a]** refund**, pursuant to KRS 61.522(3)(a)5.,** 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 **by submitting a completed Form 1500, KRS 61.522 60-Day Transfer Request, to Kentucky Retirement Systems**. The notice shall be sent at least ten (10) days prior to the employer's cessation date.

(a) Kentucky Retirement Systems shall send the notice to the active employees listed by the employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, on its most recent report required by KRS 61.675 or 78.625 filed prior to the date the notices required by KRS 61.522 are mailed.

(b) The employer shall submit the name and contact information of each employee it hires between the date the employer filed its Form 7730, Application for Voluntary

Cessation from CERS or KERS, and the employer's effective cessation date within five (5) days of the date the employee begins working for the ceasing employer.

(c) A Form 1500, KRS 61.522 60-Day Transfer Request, submitted on or before the employer's effective cessation date shall be void.

(d) A Form 1500, KRS 61.522 60-Day Transfer Request, submitted after the last day of the sixty (60) day refund period shall be void.

(e) The employee shall be employed by the employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, on the employer's effective cessation date to be eligible to request a refund of his accumulated account balance pursuant to KRS 61.522(3)(a)5.

(f) If the employee requests a refund of his accumulated account balance pursuant to KRS 61.522(3)(a)5., the employee's accumulated account balance shall be transferred to the employer's alternative retirement plan pursuant to this section even if the employee terminates employment with the employer prior to the date the Board of Trustees of Kentucky Retirement Systems has approved the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, and the employer has become a ceased employer.

(3)**(a) The employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, shall establish an alternative retirement plan that is a qualified plan pursuant to 26 U.S.C. 401 on or before the expiration of the sixty (60) day refund period provided in KRS 61.522(3)(a)5.**

(b) The employer shall submit verification that it has established an alternative retirement plan that is a qualified plan pursuant to 26 U.S.C. 401.

(c) Kentucky Retirement Systems shall accept one (1) of the following as verification that the employer has established an alternative retirement plan that is a qualified plan pursuant to 26 U.S.C. 401:

1. A determination letter from the Internal Revenue Service providing that the alternative retirement plan established by the employer is a qualified plan pursuant to 26 U.S.C. 401;

2. A letter from the employer's legal counsel certifying that the alternative retirement plan established by the employer is intended as a qualified plan pursuant to 26 U.S.C. 401 capable of accepting trustee to trustee transfers; or

3. Other reliable verification as determined by Kentucky Retirement Systems.

(d) Refunds requested pursuant to KRS 61.522(3)(a)5. shall be transferred to the alternative retirement plan established by the employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, by trustee to trustee transfer after the Board of Trustees of Kentucky Retirement Systems has approved the employer's Form 7730, Application for Voluntary Cessation from CERS or KERS, and the employer has become a ceased employer.

1. The alternative retirement plan shall accept and separately account for post-tax employee contributions.

2. The employer's legal counsel shall provide written certification that its alternative retirement plan shall accept and separately account for post-tax employee contributions.

(e) If the employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS, fails to establish an alternative retirement plan pursuant to paragraph (a) of this subsection or refuses to accept and separately account for post-tax employee contributions, the refund requests pursuant to KRS 61.522(3)(a)5. shall be void. The employees who filed the refund requests pursuant to KRS 61.522(3)(a)5. shall remain members of the system and shall be included in the full actuarial cost.

(4) 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).

(5)[~~(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.

(6)[~~(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.

(7) Current employees of the employer on its effective cessation date may request a refund pursuant to KRS 61.522(3)(a)5.

(8) Former employees of the employer who are not participating in 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 pursuant to KRS 61.522(3)(a)5.

(9) Current and former employees shall not be eligible to purchase service credit pursuant to KRS 61.552 after the employer's effective cessation date.

(a) 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, the employee's eligibility to purchase service pursuant to KRS 61.552 shall be reinstated.

(b) An employee may purchase service credit pursuant to KRS 61.552(23) for service with an employer other than the employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS.

(10)(a) Former employees shall not be eligible to purchase service after the employer's effective cessation date pursuant to KRS 61.552(1) through (5), (12), (14), (15), (21), (22), (23), (24), (26), (28), and (30) if the service is related to employment with the employer who has filed a Form 7730, Application for Voluntary Cessation from CERS or KERS.

(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, the employee's eligibility to purchase service pursuant to KRS 61.552(1) through (5), (12), (14), (15), (21), (22), (23), (24), (26), (28), and (30) shall be reinstated[~~(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 **provide notice to**[~~send~~] each employee **of** the amount of employee contributions due **to Kentucky Retirement Systems** 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 **to Kentucky Retirement Systems**.

(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)**(a)** 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 **and applicable interest attributable to the time the employee was employed by the ceased employer** that had been accrued as of the ceased employer's cessation date.

(b) Employees of the ceased employer who began participating on or after January 1, 2014 shall not be vested in the four (4) percent employer pay credit or applicable interest attributable to the time the employee was employed with an employer other than the ceased employer[~~(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. **(1) Employees of an employer that has submitted a Form 7730, Application for Voluntary Cessation from CERS or KERS, shall comply with the provisions of KRS 61.590, 61.625 and 61.637.**

(2) Employees of a ceased employer shall terminate employment with all participating employers and the ceased employer prior to retiring pursuant to KRS 61.590 or taking a refund pursuant to KRS 61.625.

(3)(a) Employees of a ceased employer shall comply with KRS 61.637 and 105 KAR 1:390 after retirement.

(b) The ceased employer shall certify that the employee seeking to retire is terminating employment or has terminated employment with no prearranged agreement to return to work for the ceased employer.

Section 9. (1) 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.

(a)[~~(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).

(b)[~~(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).

(c)[~~(3)~~] Kentucky Retirement Systems shall **credit the months of sick leave service reported pursuant to this section to the employee's total service credit and include the months in the calculation of the employer's full actuarial cost.**

(2) Kentucky Retirement Systems shall credit the months of military service to which the employee is entitled pursuant to KRS 61.555(1) and (2) if reported by the employer or by the employee prior to the employer's effective cessation date and include the months in the calculation of the employer's full actuarial cost[~~calculate the liability created by the reported sick leave balances and incorporate that liability into the employer's full actuarial cost~~]**.**

Section **10.**[~~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 **11.[~~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.

(e) The amount of a ceased employer's monthly installment payment shall not be less than the average amount of the monthly employer contributions remitted during in the fiscal year containing the employer's effective cessation date.

(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 **12. (1)[~~11.~~]** A person shall not purchase service pursuant to KRS 61.552**(1) through (5), (12), (14), (15), (21), (22),** (23)**, (24), (26), (28), and (30)** if the service was with a ceased employer.

(2) An employee who becomes employed with a participating employer after terminating employment with a ceased employer may purchase service credit the employee would otherwise be eligible to purchase pursuant to KRS 61.552(8), (11), (18), (19), (20), (25), and (29).

Section **13.[~~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 **14.[~~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 **15.[~~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 **16.[~~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 **17.[~~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", **March 2016; and**

(c) Form 1500, "KRS 61.522 60-Day Transfer Request", March 2016[~~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: March 14, 2016

FILED WITH LRC: March 15, 2016 at noon

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:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amended After Comments)

201 KAR 20:320. Standards for curriculum of prelicensure nursing programs.

RELATES TO: KRS 314.011(5), 314.021, 314.041(1)(a), 314.111(1), 314.131(1), (2)

STATUTORY AUTHORITY: KRS 314.041(1)(a), 314.111(1), 314.131(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(1)(a) requires that an applicant for licensure as a registered or licensed practical nurse complete the basic nursing curriculum in an approved school of nursing. KRS 314.111(1) requires that schools of nursing regardless of delivery models shall meet minimum standards and be approved by the Board of Nursing. KRS 314.131(1) and (2) authorizes the board to promulgate administrative regulations necessary to approve programs of nursing. This administrative regulation establishes the curriculum requirements for prelicensure registered nurse programs.

Section 1. Definitions. (1) "Debriefing" means an activity that follows a simulation experience, is led by a nurse faculty as defined in 201 KAR 20:310, encourages participant's reflective thinking, and provides feedback regarding the participant's performance.

(2) "Distance learning" means didactic instruction offered by any means where the student and faculty are in separate physical locations.

(3)[~~"Associate degree program" means a program of nursing organized and administered by a community college, or a four (4) year college or university, which awards the graduate an associate degree in nursing upon meeting the requirements of the governing institution.~~

~~(2) "Baccalaureate degree program" means a program of nursing organized and administered by a senior college or university which awards the graduate a baccalaureate degree in nursing upon meeting the requirements of the governing institution.~~

~~(3) "Master's degree program" means a program leading to a master's degree, which is the individual's first professional degree in nursing and is conducted by an educational unit in nursing within the structure of a senior college or university.~~

~~(4) "Multiple entry-exit program" means a program that allows a student to challenge the NCLEX-RN or NCLEX-PN examinations once the student has completed sufficient course work in a professional nursing program that meets all requirements for the examination.~~

~~(5)~~] "Practical nursing program" means a program of nursing organized and administered by a vocational, technical, or adult education system or an independent school at a postsecondary level that awards the graduate a diploma in practical nursing upon meeting requirements of the program.

(4)[~~(6)~~] "Prelicensure nursing education program" means an educational entity that offers the courses and learning experiences that prepare graduates who are competent to practice nursing safely and who are eligible to take the NCLEX-RN or NCLEX-PN examinations.

(5)[~~(7)~~] "Registered nursing program" means a program of nursing organized and administered by an institution of higher learning that awards a degree in nursing upon meeting requirements of the program.

(6) "Simulation" means an activity or a technique that replicates actual or potential situations in clinical practice that allows the participant to develop or enhance critical thinking.

(7) "Traditional clinical experience" means academic time designated by the program of nursing for learning outside the classroom which includes observation or hands-on experience.[~~A registered nursing program is considered to be any program that culminates in the graduate being eligible for licensure. Examples of registered nurse programs are associate degree programs, baccalaureate degree programs, master's degree programs, and multiple entry-exit programs.~~]

Section 2. General. (1) An applicant for licensure shall complete a prelicensure program of nursing that meets the requirements of this administrative regulation.

(2) Length.

(a) A registered nursing program shall be a minimum of two (2) academic years, which may include prior articulated academic credits.

(b) A practical nursing program shall be a minimum of one (1) academic year.

(3) Philosophy, mission, and outcomes.

(a) The philosophy, mission, and outcomes of the program of nursing shall be clearly defined in writing by the nursing faculty and be consistent with those of the governing institution.

(b) The program outcomes shall describe the expected competencies of the graduate.

(c) The program shall conduct an evaluation[~~assessment~~] to validate that identified program outcomes have been achieved and provide evidence of improvement based on an analysis of those results.

[~~(d) The organizing framework shall serve as a foundation for level of progression, level of outcomes, and course sequencing.~~]

(4) Approval.

(a) A curriculum plan shall be approved by the board in accordance with this administrative regulation.

(b) The curriculum plan shall enable the student to develop the nursing knowledge, skills, and competencies for the expected entry level and scope of practice.

(c) Theory and clinical experiences shall provide the student with opportunities to acquire and demonstrate the knowledge, skills, and competencies necessary for safe practice.

(5) Curriculum plan.

(a) The development, implementation, evaluation, and revision of the curriculum shall be the responsibility of the nursing faculty including the program administrator with input from students.

(b) The curriculum of the prelicensure nursing education program shall assure the development of evidence based practice for the level and scope of nursing practice. This shall include the skills to identify and apply best practices in nursing care by providing client-centered, culturally competent care and respecting client differences, values, preferences, and expressed needs.

(c) A registered nursing program may determine that a portion of the curriculum fulfills the scope of practice for licensed practical nursing and allow students to exit the program and be made eligible for the NCLEX-PN examination. The registered nursing program shall submit its plan to the board for approval.

(6) Organization of the curriculum.

(a) There shall be a written plan, including supporting rationale,[~~and organizing framework,~~] which describes the organization and development of the curriculum.

(b) The curriculum plan[~~design~~] shall reflect the philosophy, mission, and outcomes of the program.

(c) There shall be a rationale for the amount of time or credits allocated to course and clinical practice experience.

(d) A course syllabus shall be developed for each nursing course to include outcomes-planned instruction, learning activities, and method of evaluation.

1. Each course shall be implemented in accordance with the established course syllabi.

2. A copy of each course syllabus shall be on file in the program of nursing office and shall be available to the board upon request.

(e) The curriculum plan shall be logical and sequential, and shall demonstrate an increase in difficulty and complexity as the student progresses through the program.

(f) A course may be offered as a distance learning course. A distance learning course shall meet the same standards as established in 201 KAR 20:260 through 201 KAR 20:360 for any other course.

(7) Curriculum components.

(a) The curriculum of a registered nursing program or a practical nursing program shall prepare the graduate for licensure and full scope of practice as defined by current standards for nursing practice and expected competencies of graduates at the appropriate educational level.

(b) The curriculum shall include theory and selected clinical practice experiences designed to enable students to provide nursing care to individuals throughout the life span.

(c) Clinical practice settings shall be appropriate for the type of nursing program and the program outcomes and enable the student to observe and practice safe nursing care of persons at each stage of the life span. Experiences shall include opportunities to learn and provide care to diverse ethnic and cultural populations.

(d) Clinical practice experience shall be supervised by board approved nursing faculty in accordance with 201 KAR 20:310[~~, including the utilization of clinical preceptors~~].

(e) The curriculum shall have written measurable program competencies that reflect the role of the graduate.

(f) Students shall have sufficient opportunities in simulated or clinical settings to develop psychomotor skills essential for safe, effective practice.

(8) Curriculum change.

(a) A prelicensure nursing education program that is not accredited by a national nursing accrediting body shall submit a written plan for major curriculum revisions to the board a minimum of four (4) months prior to the planned implementation.

1. A request for curriculum revision shall include the present plan, the proposed change with rationale and expected outcomes.

2. The board shall be available to assist if curriculum revisions are being considered.

3. Major curriculum revisions shall include:

a. A change in the philosophy, mission or outcomes, which results in a reorganization or re-conceptualization of the entire curriculum; or

b. The addition of tracks or alternative programs of study that provide educational mobility[~~; or~~

~~c. The initiation of on-line learning in which a student may obtain fifty (50) percent or more of the nursing credits needed to meet program completion requirements~~].

(b)[~~An accredited program of nursing shall submit to the board a copy of any curriculum revision submitted to an accrediting agency within thirty (30) days. The program of nursing shall submit a copy of all correspondence related to program accreditation from the accrediting agency to the board.~~

~~(c)~~] A program of nursing that implements a curriculum change shall provide an evaluation of the outcomes of those changes through the first graduating class following full implementation of the curriculum change. The program of nursing shall also submit the evaluation with its annual report.

(9) Integrated practicum.

(a) The curriculum shall include an integrated practicum. The integrated practicum shall consist of a minimum of 120 clock hours of concentrated clinical experience of direct patient care in a health care facility or health care organization.

(b) The integrated practicum shall be completed within a period not to exceed seven (7) consecutive weeks while the governing institution is in session during the last semester or quarter of a nursing program.

Section 3. Simulation Standards. (1)(a) A program of nursing that uses simulation shall adhere to the standards set in this section.

(b) A program of nursing shall not use simulation for more than fifty (50) percent of its total clinical hours required for graduation.

(2) Upon request by the board, a program of nursing shall provide evidence that the standards set in this section have been met.

(3)(a) The program of nursing shall provide adequate fiscal, human, and material resources to support the simulation activities.

(b) Simulation activities shall be managed by a nurse faculty member as defined in 201 KAR 20:310 who is academically and experientially qualified in the use of simulation, both in its pedagogical and technical aspects. The managing faculty member shall demonstrate his or her qualifications by:

1. Attendance at simulation conferences;

2. Completion of educational activities related to simulation; or

3. Holding a credential issued by the Society for Simulation in Healthcare or **a simulation preparation program recognized by** the International Nursing Association for Clinical Simulation.

(c) There shall be a budget that will sustain the simulation activities and training of the faculty.

(d) The program of nursing shall have written rationale for the use and purpose of simulation within the curriculum.

(e) The program of nursing shall have an orientation plan for faculty concerning simulation.

(f) The program of nursing shall have a written procedure on the method of prebriefing and debriefing each simulated activity.

(4) The program of nursing shall have appropriate facilities for conducting simulation. This shall include educational and technological resources and equipment to meet the intended objectives of the simulation.

(5) Faculty, both didactic and clinical, that utilize simulation shall:

(a) Have training in the use of simulation; and

(b) Engage in on-going professional development in the use of simulation.

(6) The simulation activities shall be linked to the program of nursing's course objectives and the programmatic outcomes.

(7)(a) The program of nursing shall develop written criteria to evaluate the simulation activities.

(b) Students and faculty shall evaluate the simulation experience on an ongoing basis.

(8) The program of nursing shall include information about its use of simulation in its annual report to the board.

GAIL WISE, President

APPROVED BY AGENCY: March 10, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets standards for curriculum in prelicensure RN and LPN programs of nursing.

(b) The necessity of this administrative regulation: It is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting standards.

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

(a) How the amendment will change this existing administrative regulation: This amendment is part of a comprehensive review of the administrative regulations governing RN and LPN prelicensure programs of nursing. The relevant administrative regulations have been reviewed to ensure they are current and address all relevant issues. This particular administrative regulation, among several housekeeping changes, includes the following changes: a new section had been added on the use of simulation in a program.

(b) The necessity of the amendment to this administrative regulation: The changes were needed to meet new circumstances and to improve the approval process for programs of nursing.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to make these changes.

(d) How the amendment will assist in the effective administration of the statutes: By addressing the issues.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: current and future prelicensure programs of nursing; currently there are 56 RN programs and 30 LPN programs in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The actions each entity will have to take will differ depending on the particular circumstances of each program. Each program will be expected to be in compliance with the administrative regulation. The Board will work with each program to assist in this endeavor.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Any potential cost will depend on the particular circumstances of the program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: Agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.111, 314.131.

(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? 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 additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amended After Comments)

201 KAR 20:340. Students in prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.111

STATUTORY AUTHORITY: KRS 314.041(1), 314.051(1), 314.111, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.111 authorizes the board to regulate nursing education programs. This administrative regulation establishes the standards to be met regarding[~~by~~] students in those programs.

Section 1. Students in Programs of Nursing. (1)**[~~The number of students admitted to the program of nursing shall be determined by the number of qualified faculty, adequate educational facilities, resources, and appropriate number of clinical learning experiences for students.~~**

~~(2)~~] Admission requirements and practices shall be stated and published in the governing institution's publications and shall include an assessment of achievement potential through the use of previous academic records and, if applicable, the use of preadmission examination scores consistent with curriculum demands and scholastic expectations.

(2)[~~(3)~~] Program information communicated by the program of nursing shall be accurate, complete, consistent, and publicly available.

(3)[~~(4)~~] Participation shall be made available for students in the development, implementation, governance, and evaluation of the program.

[~~(5) Programs of nursing shall post the Board of Nursing approval status:~~

~~(a) In a physical location that is able to be seen and accessible to students, faculty, staff, and the general public; and~~

~~(b) On the program's web site.~~]

Section 2.**(1) The board shall annually compile information on how the programs of nursing met the benchmarks established in 201 KAR 20:360, Section 5(2)(f). This information shall be published on the board's Web site.**

(2) A program of nursing shall post a link to the information compiled pursuant to subsection (1) of this section on the program's Web site. The link shall be displayed on the program of nursing's home page.

(3) A program of nursing shall post a physical copy of the information compiled pursuant to subsection (1) of this section in the school's facility in a place that is accessible to the general public.

Section 3. Student Policies. (1) Student policies of the program of nursing shall be congruent with those of the governing institution. Any difference shall be justified by the program of nursing.

(2) Program of nursing student policies[~~, recruitment, and advertising~~] shall be accurate, clear, and consistently applied.

(3) Upon admission to the program of nursing, each student shall be advised in electronic or written format of policies pertaining to:

(a) Approval status of the program as granted by the board;

(b) Policies on admission, transfer or readmission, advanced or transfer placement, withdrawal, progression, graduation, suspension, or dismissal;

(c) Evaluation methods to include the grading system;

(d) Fees and expenses associated with the program of nursing and refund policies;

(e) Availability of counseling resources;

(f) Health requirements and other standards as required for the protection of student health;

(g) Grievance procedures;

(h) Program of study or curriculum plan;

(i) Financial aid information;

(j) Student responsibilities;

(k) Student opportunities to participate in program development, implementation, governance, and evaluation; and

(l) Information on meeting eligibility for licensure.

(4) A plan for emergency care during class or clinical time shall be in writing and available to faculty and students.

GAIL WISE, President

APPROVED BY AGENCY: March 10, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets standards for students in prelicensure RN and LPN programs of nursing.

(b) The necessity of this administrative regulation: It is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting standards.

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

(a) How the amendment will change this existing administrative regulation: This amendment is part of a comprehensive review of the administrative regulations governing RN and LPN prelicensure programs of nursing. The relevant administrative regulations have been reviewed to ensure they are current and address all relevant issues. This particular administrative regulation, among several housekeeping changes, includes the following changes: The requirement for posting the approval status has been removed.

(b) The necessity of the amendment to this administrative regulation: The changes were needed to meet new circumstances and to improve the approval process for programs of nursing.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to make these changes.

(d) How the amendment will assist in the effective administration of the statutes: By addressing the issues.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Current and future prelicensure programs of nursing; currently there are 56 RN programs and 30 LPN programs in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The actions each entity will have to take will differ depending on the particular circumstances of each program. Each program will be expected to be in compliance with the administrative regulation. The Board will work with each program to assist in this endeavor.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Any potential cost will depend on the particular circumstances of the program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.111, 314.131.

(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? 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 additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amended After Comments)

201 KAR 20:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs[~~Evaluation of prelicensure registered nurse and practical nurse programs~~].

RELATES TO: KRS 314.111

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement KRS Chapter 314. KRS 314.111 requires nursing programs to be approved by the board. This administrative regulation establishes evaluative standards to assure that the programs of nursing provide the necessary instruction and services to prepare graduates for licensure eligibility as registered nurses or as practical nurses.

Section 1. Program of Nursing Accredited by a National Nursing Accrediting Body. (1)(a) A prelicensure registered nursing or licensed practical nursing program that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall be deemed to be in compliance with the standards of 201 KAR 20:260 through 20:360.

(b) The board shall retain jurisdiction over accredited programs and may conduct site visits or other investigations into any allegation that may constitute a violation of 201 KAR 20:260 through 20:360.

(2) A prelicensure program of nursing that is accredited by a national nursing accrediting body recognized by the United States Department of Education shall submit all correspondence and reports to and from the accrediting body to the board within thirty (30) days of submission or receipt.

Section 2. Programs of Nursing Not Accredited by a National Nursing Accrediting Body. (1) A prelicensure registered nursing or licensed practical nursing program that is not accredited by a national nursing accrediting body recognized by the United States Department of Education shall be required to demonstrate compliance with 201 KAR 20:260 through 20:360 at least every eight (8) years for continued approval.

(2)(a) A site visit shall be conducted at least every eight (8) years.

(b) A specific list of information required for review shall be sent by the board to the program of nursing prior to the site visit.

(3) Prior to the site visit, the program of nursing shall submit:

(a) A self-evaluation report that provides evidence of compliance with 201 KAR 20:260 through 20:360; and

(b) Other information as requested by the board.

Section 3. Reports and Evaluation. (1) A program of nursing shall submit the Annual Report of the Program of Nursing to the board regarding its compliance with 201 KAR 20:260 through

20:360.

(2) To verify continued compliance with 201 KAR 20:260 through 20:360, the program of nursing shall submit progress reports or periodic supplemental reports, completed questionnaires, surveys, and other documents as requested by the board.

(3) Pursuant to 201 KAR 20:260, Section 2(7)(a), the faculty shall establish an evaluation plan and shall engage in an evidence based planning and evaluation process that incorporates a systematic review of the program of nursing that results in continuing improvement. This process shall result in an evaluation report that is submitted to the board.

(4) The evaluation plan shall include evidence that data collection is evidence-based, on-going, and reflects the collection, aggregate analysis, and trending of data.

(5) The evaluation plan shall include specific responsibilities for data collection methods, individuals or groups responsible, frequency of data collection, indicators of achievement, findings, and outcomes for evaluating the following aspects of the program:

(a) Organization and administration of the program of nursing;

(b) Curriculum;

(c) Resources, facilities, and services;

(d) Teaching and learning methods including distance education;

(e) Faculty evaluation;

(f) Student achievement of program outcomes;

(g) Graduation rates;

(h) Licensure examination pass rates;

(i) Employment rates of graduates; and

(j) Clinical resources, including laboratory and simulation.

(6) If a program of nursing utilizes distance education for didactic instruction, it shall evaluate and assess the educational effectiveness of its distance education program to ensure that the distance education program is substantially comparable to a campus based program.

(7) The evaluation report shall provide evidence that the outcomes of the evaluation process are used to improve the quality and strength of the program.

Section 4. Calculation of Pass Rate. (1) The board shall calculate the pass rate for a program of nursing on an annual basis from January 1 to December 31 for all first time takers of the NCLEX.

(2) Individuals included in the annual calculation shall have tested within six (6) months of the program completion date as reported on the Certified List of Kentucky Program of Nursing Graduates or the Certified List of Out-of-state Program of Nursing Graduates incorporated by reference in 201 KAR 20:070.

Section 5. Site Visits. (1) The board may conduct site visits at any time.

(2) The following situations may be cause for a site visit to determine if the standards of 201 KAR 20:260 through 20:360 are being met:

(a) Denial, withdrawal, or change of status by a national nursing accrediting agency;

(b) Providing false or misleading information to students or the public concerning the program;

(c) A written complaint received from faculty, students, or the general public relating to a violation of these administrative regulations;

(d) A change in physical facilities;

(e) Information received by the board that may indicate a violation of 201 KAR 20:260 through 20:360;

(f) A change in any of these benchmarks:

1. A pass rate as calculated by Section 4 of this administrative regulation that:

a. Is less than an average of eighty-five (85) percent for three (3) consecutive years; or

b. Varies above and below eighty-five (85) percent from year to year over the previous five (5) years;

2. A faculty turnover rate greater than thirty (30) percent for two (2) consecutive years;

3. A program administrator turnover rate of more than three (3) individuals in five (5) years;

4. A graduation rate of less than sixty (60) percent of the admitted cohort within the maximum time frame allowed for completion. The maximum time frame shall be determined by multiplying the standard program length for normally progressing students by 1.5;

5. Twenty-five (25) percent or more of the total number of nursing faculty who file grievances or appeals that are substantiated; or

6. Substantiated student grievances and appeals of more than ten (10) percent of the nursing student population each year; or

(g) Failure to submit reports as required.

Section 6. Action Following Site Visit. (1)(a) Following a site visit and prior to board consideration, a draft of the site visit report shall be made available to the program administrator for review and correction of factual data.

(b) The program administrator shall be available during the discussion of the report at the board committee to provide clarification.

(c) If the site visit results in a finding of non-compliance with these administrative regulations by the program of nursing, a letter shall be sent to the program administrator regarding any requirements to be met.

(d) The board shall notify the program of nursing of the time frame within which it shall meet the requirements. The board shall verify that the requirements have been met.

(2)(a) If the program of nursing is unable to meet the requirements in the time set by the board, it may request additional time. The board, in its discretion, may grant or deny this request.

(b) If the board denies the request **for additional time, it shall begin the process established in Section 7 of this administrative regulation[~~, it shall send notice to the program administrator of its intent to withdraw approval. This notice shall be sent return receipt requested~~].**

Section 7. Withdrawal of Approval. (1) If, in the opinion of the board, the standards established by 201 KAR 20:260 through 20:360 are not being met, the board shall send notice to the program administrator of the affected program of nursing of its intent to withdraw approval. The notice shall be sent return receipt requested.

(2) When making this determination, the board shall consider the following factors:

(a) The number and severity of the deficiencies;

(b) The length of time in which the deficiencies have existed; and

(c) Any exigent circumstances.

(3) Within thirty (30) days of receipt of the notice, the program administrator of the affected program may request an administrative hearing pursuant to KRS Chapter 13B. If an administrative hearing is not requested, program approval shall be withdrawn and the program shall be closed. A closed program shall comply with subsection (5) of this section.

(4)(a) If a program of nursing requests an administrative hearing, that hearing shall be held within sixty (60) days of the request.

(b) The hearing shall be held before a hearing officer or before the full board.

(5)(a) A program of nursing whose approval has been withdrawn by the board shall be removed from the official approved status listing upon the effective date of the decision. Students currently enrolled in the last semester or quarter of the program may complete the program. If the student graduates, he or she may apply for licensure and make take the licensure examination. No other student shall be allowed to apply for licensure or take the licensure examination, unless they graduate from another approved program of nursing.

(b) The program of nursing that has been closed shall assist a currently enrolled student to transfer to an approved program of nursing.[~~Approval Status and Withdrawal of Approval. Approval status shall be based upon each program of nursing's performance~~

~~and demonstrated compliance with 201 KAR 20:260 through 20:360. (1) Developmental approval shall be the designation granted to a proposed program of nursing to continue development of plans for program implementation.~~

~~(2) Initial approval shall be the designation granted to a new program of nursing upon admission of the first class, if provided the date of enrollment is within eighteen (18) months of board approval of the proposal. During the period of initial approval, reports documenting implementation of the proposal shall be submitted on a quarterly basis.~~

~~(3)(a) Full approval shall be the designation granted to a program of nursing that has implemented the proposal and that continues to meet the standards of 201 KAR 20:260 through 20:360.~~

~~(b) Monitoring status shall be the designation granted to a program of nursing as established in this paragraph.~~

~~1. A program of nursing that has achieved initial approval and fails to achieve the pass rate established in Section 2(4) of this administrative regulation for its first graduating class shall be placed on monitoring status.~~

~~2. A program of nursing that meets the standards of 201 KAR 20:260 through 20:360 including achieving the pass rate established in Section 2(4) of this administrative regulation shall be granted full approval status.~~

~~3. A program of nursing that has achieved full approval status and fails to meet one (1) or more of the standards of 201 KAR 20:260 through 20:360 including achieving the pass rate established in Section 2(4) of this administrative regulation for one (1) year shall be placed on monitoring status.~~

~~4. While on monitoring status, a program of nursing shall make progress to correct its deficiencies.~~

~~a. If the deficiency is not achieving the pass rate established in Section 2(4) of this administrative regulation, the program administrator shall comply with Section 2(6) of this administrative regulation. The program's pass rate for the next year shall show an upward trend.~~

~~b. If the deficiency relates to any other standard, the program administrator shall analyze data to assess the factors that contribute to the deficiency and submit a plan to correct the deficiency that includes the timeframe involved. The program of nursing shall report its progress to the board.~~

~~c. The program shall submit the required documentation no later than four (4) months from the notice of deficiency.~~

~~5. A program of nursing shall not remain on monitoring status for more than three (3) consecutive years. The board may conduct a yearly site visit if the program's response warrants it. The program shall either attain full approval or be moved to conditional approval status.~~

~~(4) Conditional approval shall be the designation granted to a program of nursing if one (1) or more of the standards of 201 KAR 20:260 through 20:360 have not been met following monitoring status.~~

~~(a) Following the decision of the board to place a program of nursing on conditional approval status, the program administrator shall be notified of the areas of deficiency and the time frame allowed for corrective action to be implemented.~~

~~(b) The program administrator shall, within thirty (30) days of the notice of the deficiencies being sent, file a plan of compliance to correct each of the identified deficiencies.~~

~~(c) The program administrator may, within thirty (30) days of the notice of the deficiencies, submit a request to appear before the board to contest the board's determination of deficiencies.~~

~~(d) If the board's determination of deficiencies has not been contested or if the deficiencies are upheld after a request to contest them, the board may conduct periodic evaluations of the program of nursing during the time of correction to evaluate if deficiencies have been corrected.~~

~~(e) If the plan of compliance is not completed within the time frame set by the board and if the program of nursing has not been granted additional time for completion, the conditional approval status of the program of nursing shall be adjusted to probationary status.~~

~~(5) Probationary status shall be the designation granted to a program of nursing if one (1) or more standards have continued to be unmet.~~

~~(a) Following the decision of the board to place a program of nursing on probationary status, the program administrator shall be notified of the continued areas of deficiency. The probationary status shall not exceed one (1) academic year. A new student shall not be admitted to a program of nursing while it is on probationary status.~~

~~(b) The program administrator shall, within thirty (30) days of the notice of the deficiencies being sent, file a plan to correct each of the identified deficiencies.~~

~~(c) The program administrator may, within thirty (30) days, of the notice of the deficiencies, submit a request to appear before the board to contest the board's determination of deficiencies.~~

~~(d) If the board's determination of deficiencies has not been contested or if the deficiencies are upheld after a request to contest them, the board shall conduct quarterly evaluations of the program of nursing during the time of correction to evaluate if deficiencies have been corrected.~~

~~(6) If the program of nursing has not corrected the deficiencies within one (1) academic year of being placed on probationary status, a hearing pursuant to KRS Chapter 13B shall be conducted to evaluate whether to withdraw approval of the program of nursing.~~

~~(7) If the board decides to withdraw approval of a program of nursing, upon the effective date of the decision, the program of nursing shall be removed from the official approved status listing. A program of nursing whose approval has been withdrawn shall:~~

~~(a) Allow a student who is currently enrolled in a nursing class to complete the program of nursing; or~~

~~(b) Assist a currently enrolled student to transfer to an approved program of nursing.~~

~~(8) A program of nursing whose approval has been withdrawn but continues to operate pursuant to subsection (7)(a) of this section shall be continuously monitored by the board until the program closes.~~

~~Section 2. Reports and Examination Pass Rates. (1) A program of nursing that prepares graduates for licensure shall meet all standards of 201 KAR 20:260 through 20:360 in order to retain full approval. Level of approval status shall be established annually by the board on the basis of the program's annual report, NCLEX examination pass rates for first time test takers, and other pertinent data.~~

~~(2) A program of nursing shall submit an annual report regarding its compliance with administrative regulations 201 KAR 20:260 through 20:360. A secondary or distance learning site shall be treated independently for purposes of compliance with the regulatory standards.~~

~~(3) To verify continued compliance with these administrative regulations, the program administrator shall submit progress reports or periodic supplemental reports, completed questionnaires, surveys, and other documents as requested by the board.~~

~~(4) A program of nursing shall maintain at least an eighty-five (85) percent annual pass rate for graduates taking the NCLEX-RN or NCLEX-PN for the first time. Pass rates shall be published on a calendar year basis for those graduates who have tested within twelve (12) months of the program completion date as reported by the program of nursing.~~

~~(5) A program of nursing and a secondary learning site shall be evaluated individually concerning licensure examination results.~~

~~(6) If a program of nursing's pass rate for first time test takers is less than eighty-five (85) percent for a calendar year, the program administrator shall submit a self study report that evaluates factors that contributed to the graduates' performance on the NCLEX examination and a description of the corrective measures to be implemented.~~

~~Section 3. Factors That May Jeopardize Program Approval Status. Approval status may change for any of the following reasons:~~

~~(1) Deficiencies in compliance with 201 KAR 20:260 through~~

~~20:360;~~

~~(2) Noncompliance with the governing institution or program of nursing's stated philosophy, mission, program design, objectives, outcomes, or policies;~~

~~(3) Continual failure to submit records or reports to the board within the designated time frame;~~

~~(4) Failure to provide clinical learning opportunities for students as described in 201 KAR 20:320, Section 2(7)(b) and (c);~~

~~(5) Failure to comply with requirements of the board within the specified time;~~

~~(6) Failure to maintain the pass rate on the licensure examination for first time test takers as established in Section 2(4) of this administrative regulation; or~~

~~(7) Withdrawal of accreditation by a national nursing accrediting body recognized by the United States Department of Education.~~

~~Section 4. Program Evaluation. (1) The faculty shall engage in an evidence based planning and evaluation process that incorporates a systematic review of the program of nursing that results in continuing improvement. This process shall result in an evaluation plan that is submitted to the board.~~

~~(2) The evaluation plan shall include evidence that data collection is evidence-based, on-going, and reflects the collection, aggregate analysis, and trending of data.~~

~~(3) The evaluation plan shall provide evidence that the outcomes of the assessment process are used to improve the quality and strength of the program.~~

~~(4) The evaluation plan shall include specific responsibilities for data collection methods, individuals or groups responsible, frequency of data collection, indicators of achievement, findings, and outcomes for evaluating the following aspects of the program:~~

~~(a) Organization and administration of the program of nursing;~~

~~(b) Curriculum;~~

~~(c) Resources, facilities, and services;~~

~~(d) Teaching and learning methods including distance education;~~

~~(e) Faculty performance;~~

~~(f) Student achievement of program outcomes;~~

~~(g) Graduation rates;~~

~~(h) Licensure examination pass rates;~~

~~(i) Employment rates of graduates; and~~

~~(j) Clinical resources.~~

~~(5) If a program of nursing utilizes distance education for didactic instruction, it shall evaluate and assess the educational effectiveness of its distance education program to ensure that the distance education program is substantially comparable to a campus based program.~~]

Section **8.**[~~7.~~][~~5.~~] Voluntary Closure of a Program. (1) A governing institution seeking to close a program of nursing shall submit written notification to the board at least six (6) months prior to the planned closing date.

(2) A governing institution may choose one (1) of the following procedures for closing a program of nursing as established in paragraph (a) or (b) of this subsection.

(a) The governing institution shall continue the program of nursing until the last class enrolled has graduated.

1. The program shall continue to meet the standards until all students enrolled in nursing courses have graduated or transferred.

2. The official closing of the program shall be the date on the degree, certificate, or diploma of the last graduate.

3. The governing institution shall notify the board in writing of the official closing date.

(b) The governing institution shall close the program following the transfer of students to other approved programs.

1. The program shall continue to meet the standards until all students have transferred.

2. The names of students who have transferred to approved programs and the date of the last student transfer shall be submitted to the board by the governing institution.

3. The date of the last student transfer shall be the official closing date of the program.

(3) Custody of records.

(a) The governing institution that continues to operate shall retain responsibility for the records of the students and graduates. The board shall be advised of the arrangement made to safeguard the records.

(b) The governing institution that ceases to exist shall transfer the academic transcript of each student and graduate to the board for safekeeping.

1. The transcript of the student or graduate shall identify the date on which the program closed.

2. The board shall be consulted about the disposition of all other program records.

Section **9.**[**8.**][~~6.~~] Change in Ownership or Organization of the Governing institution. (1) The governing institution shall notify the board in writing of any intent to transfer administrative authority or ownership. The new administrative authority or owner shall inform the board of its plans for immediate and future operation.

(2) The board shall conduct a site visit to ensure adherence by the program of nursing to 201 KAR 20:260 through 20:360.

(3) Following this site visit, approval of the program of nursing shall continue under the new ownership or administrative authority if the approval standards continue to be met.

Section **10.**[**9.**] Incorporation by Reference. (1) "Annual Report of the Program of Nursing", 12/15, Kentucky Board of Nursing, is incorporated by reference.

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

GAIL WISE, President

APPROVED BY AGENCY: March 10, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets the process for continued approval and evaluation of prelicensure RN and LPN programs of nursing.

(b) The necessity of this administrative regulation: It is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting standards.

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

(a) How the amendment will change this existing administrative regulation: This amendment is part of a comprehensive review of the administrative regulations governing RN and LPN prelicensure programs of nursing. The relevant administrative regulations have been reviewed to ensure they are current and address all relevant issues. This particular administrative regulation, among several housekeeping changes, includes the following changes: the role of accreditation for programs of nursing; how site visits are to occur and what may trigger a site visit, in particular a change in several benchmarks; what evaluative reports are due from the programs; how the pass rate is to be calculated and how it is to be used to evaluate a program; and the process to be used if a program does not meet the standards.

(b) The necessity of the amendment to this administrative regulation: The changes were needed to meet new circumstances and to improve the approval process for programs of nursing.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to make these changes.

(d) How the amendment will assist in the effective administration of the statutes: By addressing the issues.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: current and future prelicensure programs of nursing; currently there are 56 RN programs and 30 LPN programs in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The actions each entity will have to take will differ depending on the particular circumstances of each program. Each program will be expected to be in compliance with the administrative regulation. The Board will work with each program to assist in this endeavor.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Any potential cost will depend on the particular circumstances of the program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.111, 314.131.

(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? 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 additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work
(Amended After Comments)

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 **Contract**, 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 **or her** 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 **in Kentucky or another jurisdiction** as a licensed**, independent** 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 **Contract**. The**[~~Contract for~~]** Clinical Social Work Supervision **Contract** required by KRS 335.080(3) and 335.100(3) shall **be submitted to the board for approval before the certified social worker begins supervision and** 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 **attached to the Clinical Social Work Supervision Contract** 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 **for no more than two (2) hours of individual supervision[~~of one direct meeting~~]** per month. Electronic supervision may be used for **no more than two (2) hours of individual supervision[~~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. **A certified social worker who completes the first twenty-five (25) hours of face-to-face individual supervision hours shall not have to repeat the face-to-face individual supervision hours if a new contract or supervisor of record is approved by the board.** 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**[~~supervision by~~] group supervision.

(d) No more than fifty (50) percent of the group supervision hours may be obtained by electronic supervision.

(e) Electronic supervision shall conform to all state and federal laws governing electronic practice to ensure the confidentiality of the **client's[~~patient's~~]** medical information is maintained as required by this chapter and by all applicable state and federal law.

(f)[~~; and~~

~~(c)~~] 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 **at least** five (5) years **prior to[~~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 **or her** 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 **or her** application along with appropriate documentation of supervision completed to the date of his **or her** application. **The applicant[~~He~~]** shall also submit with his **or her** application a **Clinical Social Work Supervision** 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 **Clinical Social Work Supervision** 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 **Clinical Social Work Supervision** 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 **shall[~~may~~]** submit a **Clinical Social Work Supervision** 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 **Contract** that describes the clinical **setting and** 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 **or her** 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 **Contract** 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", **03/2016[~~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[~~911 Leawood Drive~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM M. ADCOCK, Chair

APPROVED BY AGENCY: March 15, 2016

FILED WITH LRC: March 15, 2016 at noon

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 licensees, applicants, and continuing education course 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? The Board of Social Work

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

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amended After Comments)

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 **March 11, 2016[~~December 14, 2015~~]**[~~July 9, 2007~~], are incorporated by reference. Kentucky State Reformatory policies and procedures include:

KSR 01-00-08	Communication Among the Warden, Management Staff, Department Heads and Inmates (Added **3/11/16[~~12/14/15~~]**)
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 **3/11/16[~~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 **3/11/16[~~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 **3/11/16[~~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 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 Ill~~]
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 **3/11/16[~~12/14/15~~]**)
KSR 21-00-02 [~~Inmate~~]Library Services (Amended **3/11/16[~~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.

JONATHAN R. GRATE, Acting Commissioner
APPROVED BY AGENCY: March 8, 2016
FILED WITH LRC: March 11, 2016 at 1 p.m.
CONTACT PERSON**:** Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker
(1) Provide a brief summary of
(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures Governing the operation of 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
Office of Occupations and Professions
Board of Home Inspectors
(Amended After Comments)

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 prelicensing 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 prelicensing 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 prelicensing 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 **198B.700 to 198B.780[~~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 prelicensing training course shall not be accepted by the board unless the applicant:

(a) Is enrolled in a prelicensing course on or before the effective date of this administrative regulation;

(b) Maintains continuous enrollment; and

(c) Completes the prelicensing 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 license 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 **198B.700 to 198B.780[~~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 **198B.700 to 198B.780[~~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 prelicensing 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) **Two (2)[~~Three (3)~~]** hours in manufactured housing;

(b) Three (3) hours of KRS **198B.700 to 198B.780[~~Chapter 198B~~]** and 815 KAR Chapter 6; and

(c) **Nine (9)[~~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 prelicensing 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 **198B.700 to 198B.780[~~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 2015~~];

(b) "Application for License Renewal[~~Licensure 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.

MARK OERTHER, Board Chair

APPROVED BY AGENCY: March 15, 2016

FILED WITH LRC: March 15, 2016 at 11 a.m.

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 statues 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 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: 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 6:090. 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 license;

(e) Suspend a license;

(f) Revoke a license;

(g) Issue a public or private written reprimand; or

(h) Subject the license 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 **request an administrative hearing of[~~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 **administrative hearing[~~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 **administrative hearing[~~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 **or continuing educational 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 **request an administrative hearing of[~~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 **administrative hearing[~~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 **administrative hearing[~~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 **Administrative Hearing[~~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 **request an administrative hearing of[~~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 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 **administrative hearing[~~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 **administrative hearing[~~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 **request an administrative hearing of[~~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 **administrative hearing[~~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 **administrative hearing[~~appeal~~]**.

Section 7. Summary Suspension. The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during **the administrative hearing[~~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 **administrative hearing[~~appeal~~]** shall be governed in accordance with KRS Chapter 13B.

Section 12.[~~9.~~] Each **administrative hearing[~~appeal~~]** shall be limited to the specific issues in dispute identified in the request for an administrative hearing.

Section 13.[~~10.~~] 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.

MARK OERTHER, Board Chair

APPROVED BY AGENCY: March 15, 2016

FILED WITH LRC: March 15, 2016 at 11 a.m.

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
Department for Medicaid Services
Division of Policy and Operations
(Amended After Comments)

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; **or**

d. A psychiatrist currently participating in the Medicaid Program in accordance with 907 KAR 1:671;

(d) Consistent with a plan of care that shall:

1. Be developed:

a. By:

(i) An occupational therapist currently participating in the Medicaid Program in accordance with 907 KAR 1:671;

(ii) A physical therapist currently participating in the Medicaid Program in accordance with 907 KAR 1:671; or

(iii) A speech-language pathologist currently participating in the Medicaid Program in accordance with 907 KAR 1:671; and

b. In collaboration with:

(i) A physician currently participating in the Medicaid

Program in accordance with 907 KAR 1:671;

(ii) An advanced practice registered nurse currently participating in the Medicaid Program in accordance with 907 KAR 1:671;

(iii) A physician assistant currently participating in the Medicaid Program in accordance with 907 KAR 1:671; or

(iv) A psychiatrist currently participating in the Medicaid Program in accordance with 907 KAR 1:671; and

2. **Identify[~~For:~~**

~~a.~~] a specific amount and duration;

(e) For the:

1.[~~and~~

~~b.(i)~~] Maximum reduction of the effects of a physical or intellectual disability; or

2.[~~(ii)~~] Restoration of a recipient to the recipient's best possible functioning level; **and**

(f)[~~(d)~~] Medically necessary**[~~; and~~**

~~(e) Prior authorized by the department~~].

(3)[~~(2)~~](a) There shall be an annual limit of twenty (20) **visits for each of the following**:

1. Occupational therapy service visits per recipient per calendar year except as established in paragraph **(c)[~~(b)~~]** of this subsection;

2. Physical therapy service visits per recipient per calendar year except as established in paragraph **(c)[~~(b)~~]** of this subsection; and

3. Speech-language pathology service visits per recipient per calendar year except as established in paragraph **(c)[~~(b)~~]** of this subsection.

(b) **For example, a recipient may receive twenty (20) occupational therapy visits, twenty (20) physical therapy visits, and twenty (20) speech-language pathology service visits per calendar year.**

(c) 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.

(d) Medical necessity shall be determined on an individual basis per recipient based on the given recipient's needs.

(e)[~~(c)~~] Prior authorization by the department shall be required for **visits above[~~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 **plan of care developed pursuant to Section 2(2)(d) of this administrative regulation[~~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 **Medicaid** 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. **(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.

STEPHEN P. MILLER, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 11, 2016

FILED WITH LRC: March 14, 2106 at 3 p.m.

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: The amendment after comments clarifies that a psychiatrist may write an order for services as well as help develop a recipient's plan of care; establishes that a plan of care shall be developed for each recipient and that the plan of care is developed via collaboration between an occupational therapist, physical therapist, or speech-language pathologist and a physician, advanced practice registered nurse, psychiatrist, or physician assistant; eliminates the prior authorization requirement for the first twenty (20) visits per calendar year; clarifies that the twenty (20) visit per calendar year limit is for each type of service rather than an aggregate limit of twenty (20); clarifies that medical necessity is determined on an individualized basis per each recipient based on the recipient's needs; establishes that outcomes are identified in the collaborative plan of care rather than in the order by the physician, psychiatrist, advanced practice nurse practitioner, or physician assistant; and inserts a reference to the administrative regulation that contains appeals provisions for managed care enrollees.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary to clarify policies; to remove the administrative burden of obtaining prior authorization for the first twenty (20) visits in a year; and to insert a reference to a managed care organization administrative regulation that establishes appeals provisions for managed care organization enrollees as the providers identified in this administrative regulation may provide services to managed care organization enrollees if they so choose.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by clarifying provisions and by removing the administrative burden of obtaining prior authorization for the first twenty (20) visits in a year in order to better facilitate access to services.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation. The amendment will assist in the effective administration of the authorizing statutes by clarifying provisions and by removing the administrative burden of obtaining prior authorization for the first twenty (20) visits in a year in order to better facilitate access to services.

(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
(Amended After Comments)

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.

(4) The unit amount for a given service shall be as established in the corresponding:

(a) Current procedural terminology code for the service; or

(b) Healthcare common procedure coding system code for the service or item.

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.

STEPHEN P. MILLER, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 11, 2016

FILED WITH LRC: March 14, 2016 at 3 p.m.

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: The amended after comments administrative regulation clarifies that current procedural terminology coding guidelines and healthcare common procedure coding system guidelines apply when determining the unit amount of a service.

(b) The necessity of the amendment to this administrative regulation: The amendment after comments is necessary for clarity and to synchronize unit amounts with the national industry standard as well as Medicare and other payers. Reimbursement in this administrative regulation is based on Medicare's reimbursement and Medicare, as well as commercial payers, applies current procedural terminology coding guidelines and healthcare common procedure coding system guidelines in determining unit amounts.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment after comments conforms to the content of the authorizing statutes by clarifying policy and synchronizing unit amounts of services with the industry standard for such and Medicare.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation. The amendment after comments conforms to the content of the authorizing statutes by clarifying policy and synchronizing unit amounts of services with the industry standard and Medicare.

(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. Providers will have to using the current procedural terminology coding guidelines when determining the units to enter on a claim.

(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
(Amended After Comments)

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.

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.

WENDY MORRIS, Acting Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 11, 2016

FILED WITH LRC: March 14, 2016 at 3 p.m.

CONTACT PERSON: Tricia Orme, email tri-cia.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: Justin Dearinger

(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.

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.

Revenues: (+/-)

Expenditures: (+/-)

Other Explanation:

PROPOSED AMENDMENTS

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 4:080. Student aid applications.

RELATES TO: KRS 164.518, 164.744(2), 164.748(4), (7), (8), 164.753(3), (4), (6), 164.7535, 164.769, 164.780, 164.785, 164.7890, 164.7894, 34 C.F.R. 654.1-654.5, 654.30-654.52, 20 U.S.C. 1070d-31 - 1070d-41

STATUTORY AUTHORITY: KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3), (6), 164.7535, 164.769(5), (6)(f), 164.7894(6), 34 C.F.R. 654.30, 654.41, 20 U.S.C. 1070d-37, 1070d-38

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) authorizes the Authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.7894(6) requires the authority to promulgate administrative regulations as may be needed for the administration of the Kentucky Coal County College Completion Program. This administrative regulation designates and incorporates the applications to be utilized under the grant, scholarship, and work-study programs administered by KHEAA.

Section 1. Applications. In order to participate in a specified grant, scholarship, or work-study program administered by the Kentucky Higher Education Assistance Authority, the following application forms shall be completed in accordance with their instructions:

(1) For the KHEAA Grant Program as set forth in 11 KAR 5:130, the Free Application for Federal Student Aid (FAFSA);

(2) For the KHEAA Work-Study Program as set forth in 11 KAR 6:010, the KHEAA Work-Study Program Student Application;

(3) For the Teacher Scholarship Program as set forth in 11 KAR 8:030, the Teacher Scholarship Application;

(4) For the Early Childhood Development Scholarship Program as set forth in 11 KAR 16:010:

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Early Childhood Development Scholarship Application;

(5) For the Robert C. Byrd Honors Scholarship Program as set forth in 11 KAR 18:010:

(a) For high school and home school students, the Robert C. Byrd Honors Scholarship Program; and

(b) For GED recipients, the Robert C. Byrd Honors Scholarship Program GED Recipients;

(6) For the Go Higher Grant Program as set forth in 11 KAR 5:200;

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Go Higher Grant Program Application;

(7) For the Coal County Scholarship Program for Pharmacy Students as set forth in 11 KAR 19:010, the Coal County Scholarship Program for Pharmacy Students Application; and

(8) For the Kentucky Coal County College Completion Scholarship Program as set forth in 11 KAR 20:020:

(a) The Free Application for Federal Student Aid (FAFSA); and

(b) The Kentucky Coal County College Completion Scholarship Application.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Free Application for Federal Student Aid July 1, 2016[~~2015~~] – June 30, 2017[~~2016~~]" (FAFSA), December 2016[~~2014~~];

(b) The "KHEAA Work-Study Program Student Application", July 2001;

(c) The "Teacher Scholarship Application", June 2006;

(d) The "Early Childhood Development Scholarship Application", April 2006;

(e) The "Robert C. Byrd Honors Scholarship Program", June 2009;

(f) The "Robert C. Byrd Honors Scholarship Program-GED Recipients", June 2009;

(g) The "Go Higher Grant Program Application", January 2008;

(h) The "Coal County Scholarship Program for Pharmacy Students Application", February 2011; and

(i) The "Kentucky Coal County College Completion Scholarship Application", October 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Higher Education Assistance Authority, 100 Airport Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material may also be obtained at www.kheaa.com.

ERICA L. HORN, Chair

APPROVED BY AGENCY: March 10, 2016

FILED WITH LRC: March 11, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 26, 2016, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through close of business May 2, 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: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates and incorporates the applications to be utilized under the grant, scholarship, and work-study programs administered by the Authority.

(b) The necessity of this administrative regulation: The Authority is required to promulgate administrative regulations pertaining to the administration of the Early Childhood Development Scholarship Program, KHEAA Work-study Program, Teacher Scholarship Program, College Access Program (CAP), Kentucky Tuition Grant (KTG), and Go Higher Grant Programs as well as the Robert C. Byrd Scholarship Program pursuant to KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3), (6), 164.7535, 164.769(5), (6)(f), 164.7890, 164.7894, 34 C.F.R. 654.30, 654.41, and 20 U.S.C. 1070d-36, 1070d-37, 1070d-38.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by prescribing the applications to be utilized under the grant, scholarship and work-study programs administered by the Authority.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by prescribing and incorporating the various application forms to be used by students to apply for the financial aid programs administered by the authority.

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

(a) How the amendment will change this existing administrative regulation: The amendment changes the existing regulation by

specifying the latest version of the Free Application for Federal Student Aid (FAFSA) for the 2016-2017 academic year that is to be completed by applicants for participation in the student aid programs administered by the Authority.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to require student recipients to complete the most recent version of the FAFSA.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by updating one of the applications required for participation in the student aid programs administered by the Authority.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the state student aid programs by requiring completion of the most recent version of the FAFSA in order to participate in said programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment to this administrative regulation will affect all those individuals who seek to apply for student financial aid through the Authority.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Those individuals who seek to participate in the various student financial aid programs administered by KHEAA will be required to complete the most recent version of the FAFSA application as specified in this regulation in order to be considered for an award.

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

(a) Initially: There is no cost to implement this administrative regulation.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding source is required in order to implement this administrative regulation since it merely updates the required version of the FAFSA.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3), (6), 164.7535, 164.769(5), (6)(f), 164.7890, 167.7894, 34 C.F.R. §654.30, §654.41, 20 U.S.C. §1070d-36, 37, 38.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 5:145. CAP grant award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535, 164.7889(3)

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), 164.7889(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7889(3) requires the authority to promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs if sufficient funds are available. This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

Section 1. Each application submitted pursuant to 11 KAR 4:080 and 11 KAR 5:130 shall be reviewed for determination that all eligibility requirements established in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant's expected family contribution shall be $5,234[~~$5,198~~] or less.

Section 2. CAP Grant Award. (1) Except as provided in subsection (2) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment on a full-time basis as determined by the educational institution in an eligible program shall be the lesser of:

(a) $950; or

(b) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

(2) The maximum CAP grant in any semester for an applicant accepted for enrollment on less than a full-time basis as determined by the educational institution in an eligible program shall be:

(a) The amount specified in subsection (1)(a) of this section:

1. Divided by twelve (12); and

2. Multiplied by the number of credit hours in which the applicant is accepted for enrollment; and

(b) Not in excess of the maximum specified in subsection (1)(b) of this section.

(3) For any academic year, a student shall not receive more

than $1,900 for an aggregate CAP grant award.

Section 3. (1) A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books.

(2) A KHEAA grant award shall not be made for a summer academic term.

Section 4. (1) A KHEAA grant award shall not exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance.

(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the determination of financial need for that student.

(3) The KHEAA Grant Program Officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

(4) If the applicant's expected family contribution, disbursed KHEAA grant amount, plus other student financial assistance exceeds his need, the excess shall be considered to be an overaward. If an overaward occurs, this amount shall be returned to the authority immediately.

Section 5. (1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.

(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 6. If the educational institution receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant, and:

(1) If the grant has not yet been disbursed for the fall academic term, the reduction shall be made to both the fall and spring disbursements, and the educational institution shall notify the student of the reduction;

(2) If the grant for the fall academic term has already been disbursed and the student enrolls for the spring academic term, the reduction shall be made to the spring disbursement, and the educational institution shall notify the student of the reduction;

(3) If the grant for the fall academic term has already been disbursed and the student does not enroll for the spring academic term, the educational institution shall notify the student of the fall overaward and the student shall repay the overaward to the authority; or

(4) If both the fall and spring disbursements have been made, the educational institution shall notify the student of the overaward and the student shall repay the overaward to the authority.

Section 7. (1) Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant.

(2) Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

ERICA L. HORN, Chair

APPROVED BY AGENCY: March 10, 2016

FILED WITH LRC: March 11, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 26, 2016, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through close of business May 2, 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: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(b) The necessity of this administrative regulation: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that students applying for a CAP grant meet the required financial need criteria and those students receive the maximum CAP grant allowed for any academic period.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation merely increases the maximum expected family contribution level necessary to demonstrate financial need for eligibility for the CAP grant program.

(b) The necessity of the amendment to this administrative regulation: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit for participation in the CAP grant program.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit under the CAP grant program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment merely establishes the maximum expected family contribution level for eligibility for participation in the CAP grant program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Students at a total of fifty-nine (59) Kentucky postsecondary institutions currently participate in the CAP grant program. In the academic year ending June 30, 2015, there were 277,750 applicants for CAP grant awards. A total of 38,602 students received KHEAA grant awards during that period.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Those individuals who seek to participate in the CAP grant program will benefit by the increase in the expected family contribution (EFC) limit. Specifically, students with a higher EFC will be eligible to participate in the program up to the maximum limit established in the amendment.

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

(a) Initially: The amendment to this administrative regulation

increases the maximum expected family contribution level necessary to demonstrate financial need, making grants potentially available to more students. However, the amount of the grant, the funds available for grants, and, in general, the overall cost of administering the program will neither increase nor decrease.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Grants for students under the College Access Program are funded from net lottery revenues transferred to the authority for grant and scholarship programs, while administrative costs are borne by the authority through agency receipts.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.748(4), 164.753(4), 164.7889(3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Sales and Excise Tax
(Amendment)

103 KAR 3:050. Miscellaneous Taxes Forms manual.

RELATES TO: KRS 42.470, 61.870-61.884, 131.020-131.130, 131.155, 131.170, 131.181, 131.183, 131.190, 131.340, 131.500, 131.510, 131.540, 132.020, 132.130-132.180, 132.190, 132.200, 132.220-132.270, 132.290-132.320, 132.450, 132.487, 132.510, 132.820, 132.990, 133.045, 133.110, 133.120, 133.130, 133.240, 134.420, 134.580, 134.590, 134.800-134.830, 135.010, 135.020, 135.050, 136.020, 136.050, 136.070, 136.071, 136.0704, 136.090, 136.100, 136.115-136.180, 136.1873, 136.310-136.335, 136.377, 136.392, 136.545, 136.575, 136.600-136.660, 137.130, 137.160, 138.165, 138.195, 138.210-138.885, 140.010-140.360, 142.010-142.404, 143.030, 143.037, 143.040, 143.050, 143.060, 143.085, 143.990, 143A.010, 143A.030, 143A.035, 143A.037, 143A.080, 143A.090, 143A.100, 143A.991, 154.22-50-154.22-070, 154.23-010, 154.24-110, 154.24-130, 154.26-090, 154.28-090, 154.34-010, 155.170, 160.613-160.617, 209.160, 224.01-310, 224.60, 234.321, 234.370, 243.710-243.884, 248.756, 299.530, 304.4-030, 304.11-050, 304.49-220, 351.175, 395.470, 413.120

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 miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Taxes, Telecommunications Excise and Gross Revenues Tax, Severance Taxes, and Property Taxes.

Section 1. Alcoholic Beverage Tax. (1) Revenue Form 73A504, Acknowledgment of Tax Liability on Imported Alcoholic Beverages, shall be used by persons importing distilled spirits, wine and malt beverages into Kentucky through the United States Bureau of Customs for personal consumption in this state to acknowledge liability for the alcoholic beverage excise tax.

(2) Revenue Form 73A525, Monthly Report of Distillers, Rectifiers or Bottlers, shall be used by distillers, rectifiers, or bottlers of distilled spirits to report liability for distilled spirits excise tax and wholesale sales tax.

(3) Revenue Form 73A526, Wholesaler's Monthly Distilled Spirits Tax Report, shall be used by wholesalers of distilled spirits to report liability for distilled spirits excise tax, wholesale sales tax, and case sales tax.

(4) Revenue Form 73A527, Wholesaler's List of Individual Spirits Shipments Acquired, shall be used by wholesalers of distilled spirits to itemize monthly receipts of distilled spirits from all sources.

(5) Revenue Form 73A529, Consignor's Report of Alcoholic Beverages Shipped, shall be used by consignors of distilled spirits and wine to report trafficking in alcoholic beverages during the previous month.

(6) Revenue Form 73A530, Consignor's Report of Alcoholic Beverages Shipped, shall be used by consignors of distilled spirits and wine to report trafficking in alcoholic beverages during the previous month.

(7) Revenue Form 73A531, Transporter's Report of Alcoholic Beverages Delivered, shall be used by transporters of distilled spirits, wine, and malt beverages to report shipments of alcoholic beverages delivered into the state during the previous month.

(8) Revenue Form 73A535, Report of Destruction of Alcoholic Beverages, shall be used by governmental officials to certify quantities of tax-paid alcoholic beverages no longer suitable for consumption that are destroyed in the official's presence.

(9) Revenue Form 73A575, Wholesaler's Monthly Wine Tax Report, shall be used by wine wholesalers to report liability for wine excise tax and wine wholesale sales tax.

(10) Revenue Form 73A576, Vintner's Wine Report, shall be

used by vintners to report liability for wine excise tax and wine wholesale sales tax.

(11) Revenue Form 73A577, Wholesaler's List of Individual Wine Shipments Acquired, shall be used by wine wholesalers to report shipments of wine received during the previous month.

(12) Revenue Form 73A626, Brewer's Monthly Report Schedule, shall be used by brewers of malt beverages to report sales and distribution of malt beverages into Kentucky.

(13) Revenue Form 73A627, Beer Distributor's Monthly Report, shall be used by beer distributors to report shipments of malt beverages received during the previous month.

(14) Revenue Form 73A628, Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax[~~and Wholesale Sales Tax~~] Report, shall be used by distributors of malt beverages to report liability for malt beverage excise tax and malt beverage wholesale sales tax. Microbreweries shall use the form to report malt beverage excise tax.

(15) Revenue Form 73A628(I), Instructions for Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax Report, shall be used by distributors and microbrewers of malt beverages to file Revenue Form 73A628.

(16) Revenue Form 73A629, Beer Distributor's Sales to Federal Agencies, shall be used by beer distributors to report shipments of malt beverages to federal military agencies.

(17) Revenue Form 73A630, ABC Microbrewer's Retail Gross Receipts Report to Distributor, shall be used by microbreweries to report liability for malt beverage wholesales tax.

Section 2. Bank Franchise Tax - Required Forms. (1) Revenue Form 73A800, Kentucky Registration Application for Bank Franchise Tax, shall be used by financial institutions which are regularly engaged in business in Kentucky to register for the Kentucky Bank Franchise Tax.

(2) Revenue Form 73A801(P), 2015[~~2009~~] Kentucky Bank Franchise Tax Forms and Instructions, shall be the packet used by financial institutions to register for the Kentucky Bank Franchise Tax, to determine the net capital and annual tax due, and to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

(3) Revenue Form 73A801, Bank Franchise Tax Return, shall be used by financial institutions to determine the net capital and Kentucky Bank Franchise Tax due for the calendar year 2015[~~2009~~].

(4) Revenue Form 73A802, Application for 90-Day Extension of Time to File Kentucky Bank Franchise Tax Return, shall be used by financial institutions to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

Section 3. Cigarette and Tobacco Tax - Required Forms. (1) Revenue Form 73A181, Application for Cigarette and Tobacco Products Licenses[~~Cigarette Licenses and Other Tobacco Product Account Number Application~~], shall be used by persons interested in acting as a cigarette wholesaler, subjobber, vending machine operator, transporter,[~~or~~] unclassified acquirer, tobacco products distributor, or retail distributor to apply for the necessary license.

(2) Revenue Form 73A190, Cigarette and Tobacco Products License, shall be used by the Department of Revenue to give evidence to cigarette wholesalers, subjobbers, vending machine operators, transporters,[~~and~~] unclassified acquirers, tobacco products distributors, and retail distributors that they have been granted the appropriate license.

(3) Revenue Form 73A404, Cigarette Tax Stamps Order Form, shall be used by licensed cigarette wholesalers or unclassified acquirers to order cigarette tax stamps.

(4) Revenue Form 73A406, Cigarette Tax Credit Certificate, shall be used by the Department of Revenue to give credit to a licensed cigarette wholesaler or unclassified acquirer for cigarette tax stamps returned or destroyed.

(5) Revenue Form 73A409, Cigarette Evidence/Property Receipt, shall be used by compliance officers and the property owner to acknowledge custody of seized goods.

(6) Revenue Form 73A420, Monthly Report of Cigarette Wholesaler, shall be used by a licensed cigarette wholesaler to report cigarette inventory, tax stamp reconciliation, and liability for cigarette administration and enforcement fee and to report cigarettes that were purchased from manufacturers and importers of cigarettes who did not sign the Master Settlement Agreement (nonparticipating manufacturers).

(7) Revenue Form 73A420(I), Instructions for Monthly Report of Cigarette Wholesaler, shall be used by cigarette wholesalers[~~and nonparticipating manufacturers~~] to file Revenue Form 73A420.

(8) Revenue Form 73A421, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff for Inventories as of March 31, 2009, shall be used by cigarette retailers or licensees to report cigarette inventories and the one-time inventory floor tax.

(9) Revenue Form 73A421A, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff, shall be used by cigarette retailers or licensees to report and pay installment two (2) of the one-time inventory floor tax.

(10) Revenue Form 73A421B, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff, shall be used by cigarette retailers or licensees to report and pay installment three (3) of the one-time inventory floor tax.

(11) Revenue Form 73A421W, 2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff, shall be used by cigarette licensees to report cigarette and stamp inventories and the one-time inventory floor tax.

(12) Revenue Form 73A422, Monthly Report of[~~Other~~] Tobacco Products,[~~and~~] Snuff, and Chewing Tobacco, shall be used by tobacco[~~cigarette~~] licensees to report liability for tobacco products tax, snuff tax, and chewing tobacco tax[~~gross receipts from other tobacco products, total units of snuff sold, and tax liability~~].

(13) Revenue Form 73A422(I), Instructions for Monthly Report of Tobacco Products, Snuff, and Chewing Tobacco, shall be used by tobacco products distributors and retail distributors to file Revenue Form 73A422[~~Revenue Form 73A423, Monthly Report of Cigarette Papers, shall be used by vendors or wholesalers to file the tax owed on rolling papers sold~~].

(14) Revenue Form 73A450, Retail Tobacco Inspection Report, shall be used to document information obtained during retail tobacco inspections.

(15) Revenue Form 73B401, Cigarette Tax Credit Claim Wholesaler's Affidavit, shall be signed by a licensed cigarette wholesaler attesting that the reported tax evidence did or did not have the thirty (30)[~~twenty-seven (27)~~] cents surtax paid on it.

Section 4. Health Care Provider Tax. (1) Revenue Form 73A060, Health Care Provider Tax Return, shall be used by taxpayers to file the gross revenues and compute the tax for the health care provider tax.

(2) Revenue Form 73A060(I), Instructions - Kentucky Health Care Provider Tax Return, shall be used by the taxpayers to determine if the service they provide is taxable, what tax rate is applicable, and which line to use for reporting.

(3) Revenue Form 73A061, Kentucky Health Care Provider Application for Certificate of Registration, shall be completed by the taxpayer to register for the health care provider tax.

Section 5. Inheritance Tax - Required Forms. (1)[~~Revenue Form 92A101, Kentucky Nonresident Inheritance and Estate Tax Return, shall be used by the personal representative or beneficiary of a nonresident estate to establish the inheritance and estate tax due the Commonwealth for dates of death on or after July 1995.~~

~~(2) Revenue Form 92A110, Real Estate Data Report, shall be used by the personal representative or beneficiary of an estate on each piece of real estate to provide a description and valuation of the property for dates of death on July 1, 1995 through June 30, 1998.~~

~~(3) Revenue Form 92A120, Kentucky Resident Inheritance and Estate Tax Return, shall be used by the personal representative or beneficiary of a resident estate to establish the inheritance and estate tax due the Commonwealth for dates of death on or after July 1995.~~

~~(4) Revenue Form 92A120-S, Inheritance and Estate Tax Return - Short Form shall be used by the personal representative or beneficiary of a resident estate to establish the appropriate inheritance and estate tax due the Commonwealth.~~

~~(5) Revenue Form 92A120-X, Kentucky Spousal Inheritance Tax Return, shall be used by the personal representative or beneficiary of a resident estate to establish there is no inheritance and estate tax due the Commonwealth.~~

~~(6)~~] Revenue Form 92A121, Acceptance of Inheritance and Estate Tax Return, shall be sent by the inheritance and estate tax section to the personal representative or beneficiary of an estate to certify that all death taxes due the Commonwealth have been paid.

(2)[~~(7)~~] Revenue Form 92A200, Kentucky Inheritance[~~and Estate~~] Tax Return, shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the inheritance[~~and estate~~] tax due the Commonwealth.

(3)[~~(8)~~] Revenue Form 92A200P[~~KT~~], Kentucky Inheritance and Estate Tax Forms and Instructions, shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the inheritance[~~and estate~~] tax due the Commonwealth for deaths occurring on or after January 1, 2005[~~July 1, 1998~~].

(4)[~~(9)~~] Revenue Form 92A201, Kentucky Inheritance Tax Return No Tax Due, shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish that there is no inheritance[~~and estate~~] tax due the Commonwealth.

(5)[~~(10) Revenue Form 92A202, Kentucky Estate Tax Return shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the estate tax due the Commonwealth.~~

~~(11)~~] Revenue Form 92A204, Real Estate Valuation Information Form, shall be used by the personal representative or beneficiary of an estate to establish the taxable value of real estate for inheritance tax purposes.

(6)[~~(12)~~] Revenue Form 92A205, Kentucky Inheritance Tax Return (Short Form[~~Simplified Format~~]), shall be used by the personal representative or beneficiary of a small or uncomplicated resident or nonresident estate to establish the inheritance[~~and estate~~] tax due the Commonwealth.

(7) Revenue Form 92A300, Affidavit of Exemption, shall be used by the fiduciary or beneficiary of the estate stating that all assets of the estate passed to exempt beneficiaries pursuant to KRS 140.080 or exempt organizations pursuant to KRS 140.060.

(8)[~~(13)~~] Revenue Form 92A928, Election to Defer the Payment of Inheritance Tax through Installments, shall be used by the beneficiary or beneficiaries of an estate to defer the payment of inheritance tax through installments.

(9)[~~(14)~~] Revenue Form 92A929, Notice of Agricultural and Horticultural Inheritance Tax Lien, shall be used to request the county clerk to place a lien on a particular piece of real estate due to the personal representative, on behalf of an estate, electing the use of agricultural or horticultural value.

(10)[~~(15)~~] Revenue Form 92A930, Certificate of Release of Agricultural and Horticultural Inheritance Tax Lien, shall be used by the inheritance and estate tax section to request the county clerk to release the five (5) year lien that guaranteed collection of tax if the terms of the agreement are not met or if the five (5) years have expired.

(11)[~~(16)~~] Revenue Form 92A931, Certificate of Partial Discharge of the Agricultural and Horticultural Inheritance Tax Lien, shall be used by the inheritance and estate tax section to request the county clerk to do a partial release of the five (5) year lien that guaranteed collection of tax if the terms of the agreement are not met or if the five (5) years have expired.

(12)[~~(17)~~] Revenue Form 92A932, Receipt of Inheritance and Estate Taxes, shall be given to the taxpayer when tax payment is received in the office.

(13)[~~(18)~~] Revenue Form 92A936, Election to Qualify Terminable Interest Property and/or Power of Appointment Property, shall be used by a personal representative or beneficiary to elect to qualify terminable interest property or power of appointment property if proper criteria exists.

(14)[~~(19)~~] Revenue Form 92F001, Inheritance Tax Lien Releases and Inventory of Safe Deposit Boxes, shall be used to access lock boxes without requiring written consent or presence of the Department of Revenue or local PVA official and shall provide a blanket lien release on all property owned by any decedent.

(15)[~~(20)~~] Revenue Form 92F101, A Guide to Kentucky Inheritance and Estate Taxes, shall be used by the general public for information purposes concerning Kentucky inheritance and estate tax.

Section 6. Insurance Tax - Required Forms. (1) Revenue Form 74A100, Insurance Premiums Tax Return, shall be used by domestic and foreign life insurance companies, stock insurance companies other than life, and foreign mutual companies other than life to report liability for domestic and foreign life insurance tax, other than life insurance tax, fire insurance tax and retaliatory taxes and fees.

(2) Revenue Form 74A101, Insurance Premiums Tax Return - Domestic Mutual, Domestic Mutual Fire, or Cooperative and Assessment Fire Insurance Companies, shall be used by domestic mutual, domestic mutual fire or cooperative and assessment fire insurance companies to report liability for premiums tax on amounts paid to authorized and unauthorized reinsurance companies.

(3) Revenue Form 74A105, Unauthorized Insurance Tax Return, shall be used by insurers not authorized to conduct business in the Commonwealth of Kentucky by the Department of Insurance to report liability for insurance premiums tax.

(4) Revenue Form 74A106, Insurance Premiums Tax Return - Captive Insurer, shall be completed by domestic and foreign insurance companies to report captive insurance tax.

(5) Revenue Form 74A110, Kentucky Estimated Insurance Premiums Tax for Calendar Year 2015[~~2009~~], shall be used by insurance companies to remit estimated premiums tax payments.

(6) Revenue Form 74A116, Tax Election for Domestic Life Insurance Companies, shall be used by domestic life insurance companies to make an irrevocable election to pay state capital and reserves tax, premiums tax, and the county and city capital and reserves tax or to pay state premiums tax and local government premiums tax.

(7) Revenue Form 74A117, Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer, shall be used by domestic mutual, cooperative and assessment fire insurers to report liability for insurance premium surcharge.

(8) Revenue Form 74A117A, Annual Insurance Surcharge Report – Domestic Mutual, Cooperative and Assessment Fire Insurer, shall be used by domestic mutual, cooperative and assessment fire insurers to report liability for insurance premium surcharge.

(9) Revenue Form 74A118, Monthly Insurance Surcharge Report, shall be used by domestic, foreign and alien insurers, other than life and health insurers, to report liability for an insurance premium surcharge.

(10) Revenue Form 74A118A, Annual Insurance Surcharge Report, shall be used by domestic, foreign and alien insurers, other than life and death insurers, to report liability for an insurance premium surcharge.

Section 7. Legal Process - Required Forms. (1) Revenue Form 73A200, County Clerk's Monthly Report of Legal Process Tax Receipts, shall be used by the county clerks to report the county's liability for the legal process tax and spouse abuse shelter fund.

(2) Revenue Form 73A201, Quarterly Report of Affordable Housing Trust Fund Fee, shall be used by the county clerks to report the county's liability for the affordable housing trust fund fee.

Section 8. Marijuana and Controlled Substance - Required Forms. (1) Revenue Form 73A701, Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp), shall be used by the Kentucky Department of Revenue to provide persons ordering marijuana and controlled substance tax stamps with the appropriate instructions on affixing the stamps.

(2) Revenue Form 73A702, Notice of Tax Lien KRS 138.870 Marijuana and Controlled Substance Tax, shall be used by law

enforcement officials to notify the Kentucky Department of Revenue and county clerks of the seizure of marijuana and other controlled substances.

(3) Revenue Form 73A703, Marijuana or Controlled Substance Stamp Order Form, shall be used by taxpayers to order stamps for marijuana or controlled substances.

Section 9. Motor Fuels - Required Forms. (1) Revenue Form 72A004, Motor Fuels Tax Watercraft Refund Bond, shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the public boat dock refund applicant was not entitled.

(2) Revenue Form 72A005, Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock, shall be used by a public boat dock owner to apply for approval to sell watercraft refund motor fuels.

(3) Revenue Form 72A006, Motor Fuel Tax Refund Application - Public Boat Dock, shall be used by a public boat dock refund applicant to make application for refund of liquid fuel tax on purchases of liquid fuel delivered directly to the fuel tanks attached to the watercraft and used exclusively in watercraft motors.

(4) Revenue Form 72A010, Motor Fuel Tax Refund Permit Holder's Bond, shall be used by an approved surety to establish surety obligation upon the payment of all taxes, penalties, and fines for which the designated refund applicant may become liable under KRS 138.344 to 138.355.

(5) Revenue Form 72A011, Petroleum Storage Tank Environmental Assurance Fee Monthly Report, shall be used by licensed gasoline or special fuels dealers to report and remit monthly petroleum storage tank environmental assurance fee amounts due.

(6) Revenue Form 72A052, Kentucky Motor Fuels Tax Refund Permit, shall be used by the Department of Revenue to issue Kentucky Motor Fuels Tax Refund Permits.

(7) Revenue Form 72A053-A, Application for Refund of Kentucky Motor Fuel Tax Paid on Nonhighway Motor Fuels, shall be used by Kentucky Motor Fuels Tax Refund Permit holders to apply for refund of Kentucky motor fuel tax paid on nonhighway motor fuel.

(8) Revenue Form 72A065, Aviation Gasoline Tax Refund Bond, shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the aviation gasoline refund applicant was not entitled.

(9) Revenue Form 72A066, Application for Refund of Kentucky Tax Paid on Gasoline Used in Operation of Aircraft, shall be used by an aviation gasoline refund applicant to make application for refund of Kentucky tax paid on gasoline used in operation of aircraft.

(10) Revenue Form 72A067, Application for Approval to Receive a Refund of Aviation Motor Fuels, shall be used by aviation gasoline tax refund applicants seeking approval to receive a refund of aviation gasoline tax.

(11) Revenue Form 72A071, Motor Fuels Tax Refund Bond (City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs), shall be used by a surety company authorized to do business in Kentucky to establish surety obligation upon the payment to the Commonwealth of any refunds to which a city and suburban bus, nonprofit bus, senior citizen transportation or taxicab refund applicant was not entitled.

(12) Revenue Form 72A072, Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation, and Taxicab Companies, shall be used by refund applicants to make application for refund of Kentucky tax paid on fuel used in the operation of city and suburban bus companies, nonprofit bus companies, senior citizen transportation, and taxicab companies.

(13) Revenue Form 72A073, Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation and Taxicabs, shall be used by qualifying applicants to make application for approval to receive a refund of tax on motor fuels consumed by city and suburban buses, nonprofit buses, senior citizen transportation, and taxicabs.

(14) Revenue Form 72A078, Statement of Claim for Accountable Loss of Motor Fuel, shall be used by licensed gasoline or special fuels dealers to make claim for accountable loss of motor fuel.

(15) Revenue Form 72A089, Licensed Gasoline Dealer's Monthly Report, shall be used by licensed gasoline dealers to report and remit monthly gasoline tax.

(16) Revenue Form 72A098, Transporter's Report of Motor Fuel Delivered, shall be used by licensed transporters to report a summation of monthly motor fuel deliveries.

(17) Revenue Form 72A099, Transporter's Report, shall be used by licensed transporters to report monthly motor fuel deliveries.

(18) Revenue Form 72A110, Certification of Motor Fuels Nonhighway Use, shall be used by qualifying entities to certify the nonhighway use of special fuels. The certification shall be maintained by the licensed special fuels dealer.

(19) Revenue Form 72A135, Application for Kentucky Motor Fuels Tax Refund Permit, shall be used by a person desiring to qualify for a refund of motor fuel excise tax paid for nonhighway use.

(20) Revenue Form 72A138, Licensed Special Fuels Dealer's Monthly Report, shall be used by a licensed special fuels dealer to report the total special fuels gallons received and distributed for a specific monthly period.

(21) Revenue Form 72A161, Monthly Report Liquefied Petroleum Gas Dealer, shall be used by a licensed liquefied petroleum gas dealer to report all gallons of liquefied petroleum gas dispensed into the fuel tanks of licensed motor vehicles for a specific monthly period.

(22) Revenue Form 72A170, Monthly Terminal Report, shall be used by a licensed motor fuels dealers to summarize all Kentucky terminal receipt and disbursement activity for a specific monthly period.

(23) Revenue Form 72A178, Distributor's Schedule of Disbursements, shall be used by motor fuels dealers to report all disbursements for a specific monthly period.

(24) Revenue Form 72A179, Distributor's Schedule of Receipts, shall be used by gasoline and special fuels dealers to report all receipts for a specific monthly period.

(25) Revenue Form 72A180, Schedule 15A-Terminal Operator Schedule of Receipts, shall be used by gasoline and special fuels terminal operators to report all receipts for a specific monthly period.

(26) Revenue Form 72A181, Schedule 15B-Terminal Operator Schedule of Disbursement, shall be used by gasoline and special fuels terminal operators to report all disbursements for a specific monthly period.

(27) Revenue Form 72A300, Tax Registration Application for Motor Fuels License, shall be used by an applicant to register for a gasoline dealer's, special fuels dealer's, liquefied petroleum gas dealer's, motor fuel transporter's, or terminal owner-operator's license.

(28) Revenue Form 72A301, Motor Fuels License Bond, shall be executed by a corporation authorized to transact surety business in Kentucky on behalf of a licensee to insure payment of taxes, penalties, and interest for which a dealer or transporter may become liable.

(29) Revenue Form 72A302, Motor Fuels License, shall be used by the Department of Revenue to issue a license to the qualified applicant in gasoline, special fuels, motor fuels transporter, or liquefied petroleum gas dealer.

(30) Revenue Form 72A303, Election Application/Cancellation Form, shall be used by gasoline and special fuels dealers to elect to pledge a financial instrument other than a corporate surety bond.

(31) Revenue Form 72A304, Motor Fuel Tax Electronic Filing Application, shall be used by motor fuels dealers to choose an electronic filing method.

Section 10. Motor Vehicle Usage Tax - Required Forms. (1) Revenue Form 71A010, Motor Vehicle Usage Tax - Vehicle Condition Refund Application, shall be used by a taxpayer to apply for a refund of motor vehicle usage tax paid under KRS

138.450(16)[~~138.150(16)~~] based on the condition of the vehicle.

(2) Revenue Form 71A100, Affidavit of Total Consideration Given for a Motor Vehicle, shall be presented to the county clerk to establish taxable value upon the first registration or transfer of a motor vehicle for motor vehicle usage tax purposes.

(3) Revenue Form 71A101, Motor Vehicle Usage Tax Multi-Purpose Form, shall be presented to the county clerk by a vehicle owner to:

(a) Claim one (1) of several exemptions;

(b) Establish retail price if prescribed by the department; or

(c) Establish retail price of new vehicles with equipment or adaptive devices added to facilitate or accommodate handicapped persons.

(4) Revenue Form 71A102, Questionnaire, shall be completed by selected motor vehicle buyers and sellers providing specific information regarding a vehicle transaction.

(5) Revenue Form 71A174, County Clerk's Adjusted Recapitulation of Motor Vehicle Usage Tax - Weekly Report, shall be submitted to the Department of Revenue by a county clerk as a recapitulation form to list all motor vehicle usage tax receipts, adjusted for corrections and commissions for a given week.

(6) Revenue Form 71A174-A, County Clerk's Recapitulation of Motor Vehicle Usage Tax - Interim Report, shall be submitted to the Department of Revenue by a county clerk to report motor vehicle usage tax collections if an extension of time to file the computer generated weekly recapitulation report is requested.

(7) Revenue Form 71F004, Motor Vehicle Usage Tax - Loaner-Rental Program, shall be used by motor vehicle dealers for instructions on how to register for the Loaner-Rental Program and file monthly reports.

(8)[~~Revenue Form 72A007, Affidavit of Nonhighway Use, shall be used by taxpayers attesting that a motor vehicle will not be operated upon Kentucky's public highways.~~

~~(9)~~] Revenue Form 73A054, Kentucky Application For Dealer Loaner/Rental Vehicle Tax, shall be used by motor vehicle dealers to register to participate in the Loaner/Rental Vehicle Tax program.

(9)[~~(10)~~] Revenue Form 73A055, Monthly Report For Dealer Loaner/Rental Vehicle Tax, shall be used by motor vehicle dealers to report tax due on vehicles dedicated for use in the Loaner/Rental Vehicle Tax program.

(10)[~~(11)~~] Revenue Form 73A070, Motor Vehicle Usage Tax Request for Extension of Reports, Deposit and/or ACH Call-in, shall be used by county clerks for extension of daily deposits, daily ACH call-ins or weekly reports.

Section 11. Racing Taxes - Required Form. (1) Revenue Form 73A100, Race Track Pari-Mutuel and Admissions Report, shall be used by race tracks licensed by the Kentucky Horse Racing Commission to report liability for the pari-mutuel tax and to report admissions to the race track.

(2) Revenue Form 73A101, Historical Pari-Mutuel Report, shall be used by race tracks licensed by the Kentucky Horse Racing Commission to report tax liability for pari-mutuel wagering on historical racing.

(3) Revenue Form 73A102, Advanced Deposit Wagering Excise Tax Report, shall be used by all advanced deposit account wagering licensees to report tax liability of amounts wagered through the licensee by Kentucky residents.

Section 12. Transient Room Tax - Required Form. Revenue Form 73A850, Transient Room Tax Monthly Return, shall be used by all persons, companies, corporations, groups or organizations doing business as motor courts, motels, hotels, inns, tourist camps, or like or similar accommodations businesses (excluding campgrounds) to report the taxable rent amount and transient room tax liability.

Section 13. Utility Gross Receipts License Tax - Required Forms. (1) Revenue Form 73A901, Utility Gross Receipts License Tax Return, shall be used by UGRLT account number holders to report total gross receipts, school district allocation, and tax liability.

(2) Revenue Form 73A901(I), Instructions for Utility Gross Receipts License Tax Return, shall be used by UGRLT account number holders to complete the Utility Gross Receipts License Tax Return.

(3) Revenue Form 73A902, Utility Gross Receipts License Tax (UGRLT) Energy Exemption Annual Return, shall be used by UGRLT account number holders to apply for an exemption from the utility gross receipts license tax.

(4) Revenue Form 73F010, Utility Gross Receipts License Tax, shall be used by utility providers, Energy Direct Pay (EDP) holders, and consumers for instruction on how to register and file monthly reports.

Section 14. Waste Tire Tax - Required Form. Revenue Form 73A051, Motor Vehicle Tire Fee Report, shall be used by businesses making retail sales of new motor vehicle tires to report liability for motor vehicle tire fees and to report the number of waste tires received from customers.

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

(a) Alcoholic beverage tax - referenced material:

1. Revenue Form 73A504, "Acknowledgment of Tax Liability on Imported Alcoholic Beverages", July 2015[~~November 2006~~];

2. Revenue Form 73A525, "Monthly Report of Distillers, Rectifiers or Bottlers", November 2007;

3. Revenue Form 73A526, "Wholesaler's Monthly Distilled Spirits Tax Report", January 2007;

4. Revenue Form 73A527, "Wholesaler's List of Individual Spirits Shipments Acquired", February 2011[~~November 2006~~];

5. Revenue Form 73A529, "Consignor's Report of Alcoholic Beverages Shipped", January 2007;

6. Revenue Form 73A530, "Consignor's Report of Alcoholic Beverages Shipped", August 2014[~~November 2006~~];

7. Revenue Form 73A531, "Transporter's Report of Alcoholic Beverages Delivered", January 2007;

8. Revenue Form 73A535, "Report of Destruction of Alcoholic Beverages", February 2011[~~December 2006~~];

9. Revenue Form 73A575, "Wholesaler's Monthly Wine Tax Report", July 2015[~~January 2007~~];

10. Revenue Form 73A576, "Vintner's Wine Report", July 2015[~~April 2007~~];

11. Revenue Form 73A577, "Wholesaler's List of Individual Wine Shipments Acquired", February 2011[~~November 2006~~];

12. Revenue Form 73A626, "Brewer's Monthly Report Schedule", February 2011[~~November 2006~~];

13. Revenue Form 73A627, "Beer Distributor's Monthly Report", February 2011[~~December 2006~~];

14. Revenue Form 73A628, "Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax[~~and Wholesale Sales Tax~~] Report", July 2015[~~November 2006~~];[~~and~~]

15. Revenue Form 73A628(I), "Instructions for Distributor's Monthly Malt Beverage Wholesale Sales Tax and Excise Tax Report", July 2015;

16. Revenue Form 73A629, "Beer Distributor's Sales to Federal Agencies", November 2006; and

17. Revenue Form 73A630, "ABC Microbrewer's Retail Gross Receipts Report to Distributor", July 2015;

(b) Bank franchise tax - referenced material:

1. Revenue Form 73A800, "Kentucky Registration Application for Bank Franchise Tax", January 2015[~~2010~~];

2. Revenue Form 73A801(P), "2015[~~2009~~] Kentucky Bank Franchise Tax Forms and Instructions", January 2015[~~2010~~];

3. Revenue Form 73A801, "Bank Franchise Tax Return", January 2015[~~2010~~]; and

4. Revenue Form 73A802, "Application for 90-Day Extension of Time to File Kentucky Bank Franchise Tax Return", January 2015[~~2010~~];

(c) Cigarettes and Tobacco tax - referenced material:

1. Revenue Form 73A181, "Application for Cigarette and Tobacco Products Licenses[~~Cigarette Licenses and Other Tobacco Product Account Number Application~~]", June 2013[~~2010~~];

2. Revenue Form 73A190, "Cigarette and Tobacco Products License", July 2015[~~December 2006~~];

3. Revenue Form 73A404, "Cigarette Tax Stamps Order Form", September 2014[~~April 2009~~];

4. Revenue Form 73A406, "Cigarette Tax Credit Certificate", March 2009;

5. Revenue Form 73A409, "Cigarette Evidence/Property Receipt", November 2003;

6. Revenue Form 73A420, "Monthly Report of Cigarette Wholesaler", February 2012[~~August 2006~~];

7. Revenue Form 73A420(I), "Instructions for Monthly Report of Cigarette Wholesaler", February 2012[~~June 2002~~];

8. Revenue Form 73A421, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff for Inventories as of March 31, 2009", March 2009;

9. Revenue Form 73A421A, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff", March 2009;

10. Revenue Form 73A421B, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff", March 2009;

11. Revenue Form 73A421W, "2009 Inventory Floor Tax for Cigarettes, Other Tobacco Products (OTP), and Snuff", March 2009;

12. Revenue Form 73A422, "Monthly Report of[~~Other~~] Tobacco Products,[~~and~~] Snuff, and Chewing Tobacco", August 2013[~~April 2009~~];

13. Revenue Form 73A422(I), "Instructions for Monthly Report of Tobacco Products, Snuff, and Chewing Tobacco", August 2013;[~~Revenue Form 73A423, "Monthly Report of Cigarette Papers", June 2006; and~~]

14. Revenue Form 73A450, "Retail Tobacco Inspection Report", August 2014; and

15. Revenue Form 73B401, "Cigarette Tax Credit Claim Wholesaler's Affidavit", March 2009;

(d) Health care provider tax - referenced material:

1. Revenue Form 73A060, "Health Care Provider Tax Return", November 2008[~~July 2005~~];

2. Revenue Form 73A060(I), "Instructions - Kentucky Health Care Provider Tax Return", August 2014[~~July 2005~~]; and

3. Revenue Form 73A061, "Kentucky Health Care Provider Application for Certificate of Registration", December 2006;

(e) Inheritance tax - referenced material:

1.[~~Revenue Form 92A101, "Kentucky Nonresident Inheritance and Estate Tax Return", May 1995;~~

~~2. Revenue Form 92A110, "Real Estate Data Report", May 1995;~~

~~3. Revenue Form 92A120, "Kentucky Resident Inheritance and Estate Tax Return", May 1995;~~

~~4. Revenue Form 92A120-S, "Inheritance and Estate Tax Return-Short Form", May 1995;~~

~~5. Revenue Form 92A120-X, "Kentucky Spousal Inheritance Tax Return", October 1992;~~

~~6.~~] Revenue Form 92A121, "Acceptance of Inheritance and Estate Tax Return", July 2010;

2.[~~7.~~] Revenue Form 92A200, "Kentucky Inheritance[~~and Estate~~] Tax Return", June 2015[~~July 2003~~];

3.[~~8.~~] Revenue Form 92A200P[~~KT~~], "Kentucky Inheritance and Estate Tax Forms and Instructions", June 2015[~~August 2010~~];

4.[~~9.~~] Revenue Form 92A201, "Kentucky Inheritance Tax Return No Tax Due", March 2012[~~July 2003~~];

5.[~~10. Revenue Form 92A202, "Kentucky Estate Tax Return", July 2003;~~

~~11.~~] Revenue Form 92A204, "Real Estate Valuation Information Form", March 2012[~~July 2003~~];

6.[~~12.~~] Revenue Form 92A205, "Kentucky Inheritance Tax Return (Short Form[~~Simplified Format~~])", June 2015[~~July 2003~~];

7. Revenue Form 92A300, "Affidavit of Exemption", September 2013;

8.[~~13.~~] Revenue Form 92A928, "Election to Defer the Payment of Inheritance Tax Through Installments", June 2015[~~July 2003~~];

9.[~~14.~~] Revenue Form 92A929, "Notice of Agricultural and Horticultural Inheritance Tax Lien", March 1991;

10.[~~15.~~] Revenue Form 92A930, "Certificate of Release of Agricultural and Horticultural Inheritance Tax Lien", March 1990;

11.[~~16.~~] Revenue Form 92A931, "Certificate of Partial Discharge of the Agricultural and Horticultural Inheritance Tax Lien", July 1983;

12.[~~17.~~] Revenue Form 92A932, "Receipt of Inheritance and Estate Taxes", March 2008;

13.[~~18.~~] Revenue Form 92A936, "Election to Qualify Terminable Interest Property and/or Power of Appointment Property", March 2012[~~May 1995~~];

14.[~~19.~~] Revenue Form 92F001, "Inheritance Tax Lien Releases and Inventory of Safe Deposit Boxes", March 2012[~~July 2010~~]; and

15.[~~20.~~] Revenue Form 92F101, "A Guide to Kentucky Inheritance and Estate Taxes", July 2014[~~March 2003~~];

(f) Insurance tax - referenced material:

1. Revenue Form 74A100, "Insurance Premiums Tax Return", January 2016[~~December 2008~~];

2. Revenue Form 74A101, "Insurance Premiums Tax Return - Domestic Mutual, Domestic Mutual Fire or Cooperative and Assessment Fire Insurance Companies", January 2014[~~2008~~];

3. Revenue Form 74A105, "Unauthorized Insurance Tax Return", January 2016[~~2008~~];

4. Revenue Form 74A106, "Insurance Premiums Tax Return - Captive Insurer", January 2015[~~2008~~];

5. Revenue Form 74A110, "Kentucky Estimated Insurance Premiums Tax for Calendar year 2015[~~2009~~]", January 2016[~~December 2008~~];

6. Revenue Form 74A116, "Tax Election for Domestic Life Insurance Companies", December 1998;

7. Revenue Form 74A117, "Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer", January 2015[~~2008~~];[~~and~~]

8. Revenue Form 74A117A, "Annual Insurance Surcharge Report – Domestic Mutual, Cooperative and Assessment Fire Insurer", January 2016;

9. Revenue Form 74A118, "Monthly Insurance Surcharge Report", January 2015[~~March 2010~~]; and

10. Revenue Form 74A118A, "Annual Insurance Surcharge Report", January 2016;

(g) Legal process - referenced material:

1. Revenue Form 73A200, "County Clerk's Monthly Report of Legal Process Tax Receipts", November 2006; and

2. Revenue Form 73A201, "Quarterly Report of Affordable Housing Trust Fund Fee", June 2006;

(h) Marijuana and controlled substance - referenced material:

1. Revenue Form 73A701, "Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp)", April 2011[~~November 2006~~];

2. Revenue Form 73A702, "Notice of Tax Lien KRS 138.870 Marijuana and Controlled Substance Tax", April 2011[~~November 2006~~]; and

3. Revenue Form 73A703, "Marijuana or Controlled Substance Stamp Order Form", November 2006;

(i) Motor fuels - referenced material:

1. Revenue Form 72A004, "Motor Fuels Tax Watercraft Refund Bond", August 2006;

2. Revenue Form 72A005, "Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock", April 2009;

3. Revenue Form 72A006, "Motor Fuel Tax Refund Application - Public Boat Dock", December 2009;

4. Revenue Form 72A010, "Motor Fuel Tax Refund Permit Holder's Bond", October 2006;

5. Revenue Form 72A011, "Petroleum Storage Tank Environmental Assurance Fee Monthly Report", October 2006;

6. Revenue Form 72A052, "Kentucky Motor Fuels Tax Refund Permit", July 2007;

7. Revenue Form 72A053-A, "Application for Refund of Kentucky Motor Fuel Tax Paid on Nonhighway Motor Fuels", July 2007;

8. Revenue Form 72A065, "Aviation Gasoline Tax Refund Bond", October 2006;

9. Revenue Form 72A066, "Application for Refund of Kentucky Tax Paid on Gasoline Used in Operation of Aircraft", April 2009;

10. Revenue Form 72A067, "Application for Approval to

Receive a Refund of Aviation Motor Fuels", April 2009;

11. Revenue Form 72A071, "Motor Fuels Tax Refund Bond (City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs)", October 2006;

12. Revenue Form 72A072, "Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation, and Taxicab Companies", August 2005;

13. Revenue Form 72A073, "Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation, and Taxicabs", April 2009;

14. Revenue Form 72A078, "Statement of Claim for Accountable Loss of Motor Fuel", April 2011[~~October 2006~~];

15. Revenue Form 72A089, "Licensed Gasoline Dealer's Monthly Report", July 2007;

16. Revenue Form 72A098, "Transporter's Report of Motor Fuel Delivered", July 2007;

17. Revenue Form 72A099, "Transporter's Report", July 2007;

18. Revenue Form 72A110, "Certification of Motor Fuels Nonhighway Use", April 2011[~~December 2005~~];

19. Revenue Form 72A135, "Application for Kentucky Motor Fuels Tax Refund Permit", April 2009;

20. Revenue Form 72A138, "Licensed Special Fuels Dealer's Monthly Report", July 2007;

21. Revenue Form 72A161, "Monthly Report Liquefied Petroleum Gas Dealer", July 2007;

22. Revenue Form 72A170, "Monthly Terminal Report", July 2007;

23. Revenue Form 72A178, "Distributor's Schedule of Disbursements", July 2007;

24. Revenue Form 72A179, "Distributor's Schedule of Receipts" July 2007;

25. Revenue Form 72A180, "Schedule 15A-Terminal Operator Schedule of Receipts", July 2007;

26. Revenue Form 72A181, "Schedule 15B-Terminal Operator Schedule of Disbursement", July 2007;

27. Revenue Form 72A300, "Tax Registration Application for Motor Fuels License", April 2011[~~December 2009~~];

28. Revenue Form 72A301, "Motor Fuels License Bond", October 2006;

29. Revenue Form 72A302, "Motor Fuels License", July 2007;

30. Revenue Form 72A303, "Election Application/Cancellation Form", September 2006; and

31. Revenue Form 72A304, "Motor Fuel Tax Electronic Filing Application", December 2007.

(j) Motor vehicle usage tax - referenced material:

1. Revenue Form 71A010, "Motor Vehicle Usage Tax - Vehicle Condition Refund Application" April 2011[~~August 2006~~];

2. Revenue Form 71A100, "Affidavit of Total Consideration Given for a Motor Vehicle", July 2014[~~August 2006~~];

3. Revenue Form 71A101, "Motor Vehicle Usage Tax Multi-Purpose Form", April 2005;

4. Revenue Form 71A102, "Questionnaire", August 2000;

5. Revenue Form 71A174, "County Clerk's Adjusted Recapitulation of Motor Vehicle Usage Tax - Weekly Report", June 1991;

6. Revenue Form 71A174-A, "County Clerk's Recapitulation of Motor Vehicle Usage Tax - Interim Report", June 1991;

7. Revenue Form 71F004, "Motor Vehicle Usage Tax - Loaner-Rental Program", March 2006;

8.[~~Revenue Form 72A007, "Affidavit of Nonhighway Use", July 2009;~~

~~9.~~] Revenue Form 73A054, "Kentucky Application for Dealer Loaner/Rental Vehicle Tax", August 2006;

9.[~~10.~~] Revenue Form 73A055, "Monthly Report for Dealer Loaner/Rental Vehicle Tax", January 2010; and

10.[~~11.~~] Revenue Form 73A070, "Motor Vehicle Usage Tax Request for Extension of Reports, Deposit and/or ACH Call-in", January 2009;

(k) Racing taxes - referenced material:

1. Revenue Form 73A100, "Race Track Pari-Mutuel and Admissions Report", July 2010;

2. Revenue Form 73A101, "Historical Pari-Mutuel Report", June 2014;

3. Revenue Form 73A102, "Advanced Deposit Wagering Excise Tax Report", August 2014;

(l) Transient room tax - referenced material: Revenue Form 73A850, "Transient Room Tax Monthly Return", January 2012[~~April 2005~~];

(m) Utility gross receipts license tax - referenced material:

1. Revenue Form 73A901, "Utility Gross Receipts License Tax Return", August 2005;

2. Revenue Form 73A901(I), "Instructions for Utility Gross Receipts License Tax Return", January 2006;

3. Revenue Form 73A902, "Utility Gross Receipts License Tax (UGRLT) Energy Exemption Annual Return", December 2008; and

4. Revenue Form 73F010, "Utility Gross Receipts License Tax", June 2011[~~March 2005~~]; and

(n) Waste tire tax - referenced material: Revenue Form 73A051, "Motor Vehicle Tire Fee Report", May 2011[~~March 2005~~].

(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, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: March 14, 2016

FILED WITH LRC: March 15, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 22, 2016 at 10:00 a.m. in Room 182, 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 May 2, 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) 564-9526, fax (502) 564-2541, email lisa.swiger@ky.gov.

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 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 Miscellaneous and excise 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 the Miscellaneous and Excise 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 revenue forms used in the administration of the Miscellaneous and Excise 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 provides updated form information.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that the most recent versions of forms are referenced.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment incorporates the most recent forms by reference as authorized by KRS 131.130(3).

(d) How the amendment will assist in the effective administration of the statutes: This amendment informs taxpayers of the most recent versions of forms that should be used to file their tax returns.

(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: No actions will have to be taken by the taxpayers or local governments to comply with this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no anticipated cost incurred by the taxpayer or local government.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Taxpayers will be able to reference all sales and use and telecommunications excise and gross revenues tax forms in one location.

(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 costs 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 Department of Revenue will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 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. There will be no effect on expenditures or revenue of a state or local government agency as a result of this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? N/A

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Office of Occupations and Professions
Kentucky Board of Licensure for Ophthalmic Dispensers
(Amendment)

201 KAR 13:040. Licensing; application, examination; experience; renewal; and inactive status.

RELATES TO: KRS 326.020, 326.035, 326.040, 326.080

STATUTORY AUTHORITY: KRS 326.020(3), 326.035, 326.040, 326.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3) authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS Chapter 326. KRS 326.040 establishes the requirements for the issuance of a license including experience and passage of an examination. KRS 326.080 requires the annual renewal of licensure. This administrative regulation prescribes the forms, required examinations, experience, renewal requirements, and provisions for inactive status required for licensees.

Section 1. Application for License. (1) A person wishing to obtain a license to practice as an ophthalmic dispenser, pursuant to KRS Chapter 326, shall make application to the Kentucky Board of Ophthalmic Dispensers on the form, Application for Ophthalmic Dispenser License.

(2) An applicant for licensure as an apprentice shall complete the form, Application for Apprentice License.

(3) The board shall admit to the practical examination a candidate who pays the required examination fee of seventy-five (75)[~~fifty (50)~~] dollars and who meets the requirements of KRS 326.040, under oath, that he qualifies pursuant to KRS 326.040 and 201 KAR Chapter 13.

Section 2. Required Examinations. (1) The examination required pursuant to KRS 326.040(4) shall consist of passage of each of the following:

(a) The American Board of Opticians (ABO) Basic Examination;

(b) The National Contact Lens Examiners (NCLE) Basic Examination; and

(c) The National Commission of State Opticianry Regulatory Boards (NCSORB)[~~NCSORB~~] National Practical Examination.

(2)(a) For an applicant who holds an apprentice ophthalmic dispenser license issued by the board, the ABO and the NCLE shall be:

1.[(a)] Taken before the expiration of thirty (30) months from the date of the original receipt of the apprentice license; and

2.[(b)] Passed within five (5) years of the date of the original receipt of the apprentice license.

(b) An apprentice ophthalmic dispenser licensed by the board shall not take the NCSORB National Practical Examination until all other licensure requirements have been completed.

(3) For an applicant who is applying for licensure based on credentials and experience, the candidate shall have the following:

(a) An active license as a dispensing optician issued by any state or territory of the United States or the District of Columbia that has standards at least as stringent as those required by KRS 326.040; or

(b) An active certification as a dispensing optician under the ABO and the NCLE, and at least two (2) years of experience as a dispensing optician, as verified under oath by both the applicant and by a sponsor with personal knowledge of the applicant's work history.

1. The verifying sponsor shall be licensed either as an ophthalmologist, an optometrist, or an optician.

2. An applicant for licensure based on credentials and experience under this paragraph shall have passed the NCSORB National Optician's Practical Examination before application[The practical examination shall not be taken until all other licensure requirements have been completed].

Section 3. Experience. In addition to the experience requirement established in KRS 326.035[326.040(3)], the board shall also count as qualifying experience for an applicant for licensure as an ophthalmic dispenser apprentice any time spent:

(1) Attending a recognized school for ophthalmic dispensing; or

(2) Working in an optical laboratory as an ophthalmic technician.

Section 4. Licensure Renewal. (1) Each license shall be renewed each year on or before December 31.

(2) Each licensee shall complete and submit one (1) of the following:

(a) Application for Renewal for a licensed ophthalmic dispenser; or

(b) Application for Apprentice Renewal for a licensed apprentice ophthalmic dispenser.

(3) For a renewal postmarked on or before December 31, the renewal fee shall be:

(a) Seventy-five (75)[Fifty (50)] dollars for a licensed ophthalmic dispenser; or

(b) Fifty (50)[Twenty-five (25)] dollars for an apprentice ophthalmic dispenser.

(4) In addition to the renewal fee, a thirty-five (35) dollar administrative late fee[ten (10) dollar penalty] shall be paid on a renewal postmarked after December 31. A license that has not been renewed by close of business on March 1[At the end of a thirty (30) day grace period, January 31, a license that has not been renewed] shall expire[be revoked]. Applicants may request an extension of time to renew of up to sixty (60) days for reasons related to medical issues, military service, or family emergencies. The applicant shall submit the request for an extension of time in writing, and send the request to the board by certified mail on or before the March 1 expiration date.

(5) In order to qualify for reinstatement of a license that has expired by operation of subsection (4) of this section, either an Application for Reinstatement or an Application for Apprentice Reinstatement shall be submitted to the board. In addition, a reinstatement fee shall be submitted with the application. The reinstatement requirements shall be:

(a) $300 reinstatement fee and twelve (12) additional hours of continuing education to be completed before the end of the current licensure year for reinstatement as an active status or inactive status ophthalmic dispenser; or

(b) Sixty (60) dollars for reinstatement as an apprentice ophthalmic dispenser.

(6) In order to qualify for licensure renewal, a licensee shall comply with the continuing education requirements of KRS 326.020(3)(b) and 201 KAR 13:055.

(7) All revoked and expired licenses shall be reinstated by the licensee to resume the practice of ophthalmic dispensing.

Section 5. Temporary Permit Application. (1) The board shall, if requested by the applicant, issue a temporary permit to a qualified ophthalmic dispenser, who otherwise would qualify for a license but is in the state on a temporary basis or who has not yet had an opportunity to take an examination to procure a license and whose immediate employment depends upon being licensed by the board.

(2) The permit shall be valid only until the next regular examination date and in no case shall exceed six (6) months following date of issuance.

(3) The fee for a temporary permit shall be fifty (50) dollars, which amount shall accompany the application.

Section 6. Board Action, Notification. (1) The board shall act only upon those applications that are complete.

(2) Each applicant shall enclose the prescribed license fee in the form of a check or money order made payable to the Commonwealth of Kentucky State Treasurer.

(3) Each applicant shall be notified of the action of the board; and, if favorable, when and where the examination will be held.

Section 7. Inactive Status. (1) Upon application, the board shall grant inactive status to a qualified licensee. While on inactive status, the licensee shall not engage in the practice of ophthalmic dispensing.

(2) The fee for licensure on inactive status shall be thirty-five (35)[ten (10)] dollars per year.

(3)(a) Continuing education requirements shall be waived for a licensee on inactive status during the inactive period.

(b) If the inactive licensee applies to the board to return to active status, the licensee shall submit proof that he has completed six (6) hours of continuing education for ophthalmic dispenser licensees and four (4) hours of continuing education for apprentice ophthalmic dispenser licensees within the last twelve (12) month period immediately preceding the date on which the application is submitted.

(c) The licensee may request that he be allowed to return to active status immediately, with the provision that he shall receive the appropriate number of continuing education hours within six (6) months of the date on which he returns to active status.

(d) Additionally, the licensee shall be responsible for meeting the requirements established in 201 KAR 13:055 in order to qualify for renewal.

(4) To change from inactive status to active status, the ophthalmic dispenser licensee shall:

(a) Pay a[The] reactivation fee of[for changing from inactive status to active status shall be] forty (40) dollars; and

(b) Complete six (6) additional hours of continuing education before the end of the current licensure year[for an ophthalmic dispenser licensee].

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

(a) "Application for Ophthalmic Dispenser License", February 2016[June 2012];

(b) "Application for Apprentice License", February 2016[June 2012];

(c) "Application for Renewal", February 2016[June 2012];[and]

(d) "Application for Apprentice Renewal", February 2016;

(e) "Application for Reinstatement", February 2016; and

(f) "Application for Apprentice Reinstatement", February 2016[June 2012].

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

GRANVILLE SMITH, Board Chair

APPROVED BY AGENCY: March 11, 2016

FILED WITH LRC: March 11, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, April 25, 2016, at 2:00 p.m., local time, at the Kentucky Board of Ophthalmic Dispensers, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. 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 Monday, May 2, 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: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the requirements to obtain a license as an ophthalmic dispenser. Establishes the examination, continuing education and fee requirements for: licensure; renewal of license; and reinstatement of a license.

(a) What this administrative regulation does: This administrative regulation establishes the procedures for the licensure of persons who wish to practice in the state as an ophthalmic dispenser. The regulation also establishes the criteria for renewal and reinstatement of a license. The regulation establishes the examination, continuing education, and fee requirements for: licensure; renewal of license; and reinstatement of a license.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the minimum certification and licensure requirements and the application process for licensure. This administrative regulation establishes the fee amounts for licensure, renewal, and reinstatement of the different license classifications.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 326.020(3)(a) requires the board to promulgate regulations that carry out the provisions of KRS Chapter 326. KRS 326.035 establishes the maximum amount for the Apprentice Ophthalmic Dispenser licensure and renewal fees. KRS 326.040 establishes the maximum amount for Ophthalmic Dispenser licensure fee. KRS 326.080 establishes the maximum amount for Ophthalmic Dispenser renewal fees. This administrative regulation establishes the minimum qualifications and requirements for licensure. This regulation also establishes the procedure for renewal and reinstatement of licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the examinations required, continuing education requirements, and the application process for obtaining a license from the board. The fee increases with this amendment will allow the Kentucky Board of Licensure for Ophthalmic Dispensers to continue operating and providing services at the level expected by licensees and applicants.

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

(a) How the amendment will change this existing administrative regulation: The amendment will establish a procedure for renewing a license that has been revoked for untimely renewal. This amendment increases the fees required for application and renewal in the following amounts: Practical Examination fee - $50.00 to $75.00; Inactive Status fee - $10.00 to $35.00; Late Renewal fee - $10.00 to $35.00; Ophthalmic Dispenser Renewal fee - $50.00 to $75.00; Ophthalmic Dispenser Apprentice Renewal fee - $25.00 to $50.00. This amendment creates reinstatement fees for licensees that allow their license to expire in the following amounts: Ophthalmic Dispenser Reinstatement fee - $300; Ophthalmic Dispenser Apprentice Reinstatement fee - $60.00.

(b) The necessity of the amendment to this administrative regulation: The amendment will notify applicants of the application process for renewing and reinstating a license. The fee increases are necessary to allow the Kentucky Board of Ophthalmic Dispensers to continue operating and providing services at the level expected by licensees and applicants.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 326.020(3)(a) requires the board to promulgate administrative regulations that carry out the provisions of the chapter relating to licensure of ophthalmic dispensers. KRS 326.080 requires licensed ophthalmic dispensers and apprentices to renew licenses and show proof of continuing education and payment of a renewal fee not to exceed seventy five dollars for each licensure year. KRS 326.040 requires Ophthalmic Dispenser licensees to pay a licensure fee in a maximum amount of fifty dollars. KRS 326.035 requires Ophthalmic Dispenser Apprentice licensees to pay a licensure fee in a maximum amount of fifty dollars.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will inform licensees to the renewal and reinstatement process and the continuing education requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to show proof of compliance with continuing education requirements to obtain license renewal or reinstatement. This amendment increases the fees required for application and renewal in the following amounts: Practical Examination fee - $50.00 to $75.00; Inactive Status fee - $10.00 to $35.00; Late Renewal fee - $10.00 to $35.00; Ophthalmic Dispenser Renewal fee - $50.00 to $75.00; Ophthalmic Dispenser Apprentice Renewal fee - $25.00 to $50.00. This amendment creates reinstatement fees for licensees that allow their license to expire in the following amounts: Ophthalmic Dispenser Reinstatement fee - $300; Ophthalmic Dispenser Apprentice Reinstatement fee - $60.00.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment increases the fees required for application and renewal in the following amounts: Practical Examination fee - $50.00 to $75.00; Inactive Status fee - $10.00 to $35.00; Late Renewal fee - $10.00 to $35.00; Ophthalmic Dispenser Renewal fee - $50.00 to $75.00; Ophthalmic Dispenser Apprentice Renewal fee - $25.00 to $50.00. Licensees that allow their license to expire without renewal will have to pay a reinstatement fee in the following amounts: Ophthalmic Dispenser Reinstatement fee - $300; Ophthalmic Dispenser Apprentice Reinstatement fee - $60.00. Applicants and licensees will have to pay the increased fee pertinent to their license level.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will know the continuing education requirements for license renewal and reinstatement. The increase in fees will allow the board to continue operating and providing services at the level expected by licensees

and applicants.

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

(a) Initially: The budget for the Board is $55,200 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is $55,200 annual. It will not cost the administrative body any additional funds to implement this administrative regulation. The fee increases in the amendment will increase the budget and allow the Board to operate without a deficit.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment increases the fees required of application and renewal in the following amounts: Practical Examination fee - $50.00 to $75.00; Inactive Status fee - $10.00 to $35.00; Late Renewal fee - $10.00 to $35.00; Ophthalmic Dispenser Renewal fee - $50.00 to $75.00; Ophthalmic Dispenser Apprentice Renewal fee - $25.00 to $50.00. This amendment creates fees for licensees that allow their license to expire in the following amounts: Ophthalmic Dispenser Reinstatement fee - $300; Ophthalmic Dispenser Apprentice Reinstatement fee - $60.00. There will be no cost to the Commonwealth to implement these increases in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes the fees permitted by statute. KRS 326.035 establishes the maximum amount for the Apprentice Ophthalmic Dispenser licensure and renewal fees. KRS 326.040 establishes the maximum amount for Ophthalmic Dispenser licensure fee. KRS 326.080 establishes the maximum amount for Ophthalmic Dispenser renewal fees. This amendment will create reinstatement fees for licensees that allow their license to expire without renewal.

(9) Tiering: Is tiering applied? No. Tiering is not needed because the requirements established in this regulation will apply equally to all licensees and applicants. Licensees and applicants will be expected to pay the fees pertinent to their license 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? Kentucky Board of Ophthalmic Dispensers is an administrative body created by KRS 326.020. No other units, parts, or divisions of state or local government will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020; KRS 326.035; KRS 326.040; and KRS 326.080.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of licensees and applicants for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants and licensees for the subsequent years.

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

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

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

GENERAL GOVERNMENT CABINET
Office of Occupations and Professions
Kentucky Board of Licensure for Ophthalmic Dispensers
(Amendment)

201 KAR 13:050. Apprentices.

RELATES TO: KRS 326.020, 326.035

STATUTORY AUTHORITY: KRS 326.020(3), 326.035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.035 authorizes the board to issue an apprentice license to any person in training to be an ophthalmic dispenser. This administrative regulation establishes the requirements for an apprentice ophthalmic dispenser.

Section 1. Definitions. (1) "Apprentice ophthalmic dispenser" means a person who is in training for the vocation of ophthalmic dispenser and who dispenses ophthalmic lenses, frames and appurtenances thereto to the intended wearer only under the supervision of a physician, osteopath, optometrist or licensed ophthalmic dispenser.

(2) "Ophthalmic dispenser" means a physician, osteopath, optometrist or licensed ophthalmic dispenser licensed pursuant to KRS 326.040 who is sponsoring an apprentice ophthalmic dispenser.

Section 2. (1) An apprentice license shall be required of any person:

(a) Who is not a licensed ophthalmic dispenser, but is in training to be an ophthalmic dispenser;

(b) While in training works under the supervision of a licensed ophthalmic dispenser; and

(c) Whose duties require that he perform the services as would be normally performed by a licensed ophthalmic dispenser.

(2) The board shall[~~may~~] revoke the apprentice license at any time if either the employer, the apprentice sponsor, or the apprentice fail to carry out the provisions of this administrative regulation.

(3) A licensed apprentice ophthalmic dispenser shall at all times work under the supervision of, and in the same establishment with, an ophthalmic dispenser, and the ophthalmic dispenser shall be responsible for the actions of the apprentice[~~his acts~~].

(4) The board shall issue an apprentice license for a period ending December 31 of the current year, upon receipt and board approval of the required application and a fee of fifty (50) dollars. In the event the apprentice's employment under the sponsoring ophthalmic dispenser is terminated for any reason, the board shall be notified immediately in writing and within thirty (30) days of the last day of employment. An apprentice ophthalmic dispenser that fails to timely notify the board of termination of employment shall be subject to disciplinary action under KRS 326.090(1)(i).

(5) The board shall supply, upon request, a list of approved textbooks covering the subjects on which the examination is based.

(6) The board may reject the application for an apprentice license or to rescind a license already issued if, upon inspection, it is found that any of the requirements for an apprentice license, as outlined in KRS 326.035 or the administrative regulations, are being violated.

(7) All administrative regulations regarding conduct, paying of fees, suspensions, or revocations and all other administrative regulations not specifically excluding apprentice licenses shall

apply to the licensed apprentice ophthalmic dispenser.

Section 3. (1) An apprentice ophthalmic dispenser shall train for the vocation of ophthalmic dispenser license and demonstrate progress toward an ophthalmic dispenser license to the board by complying with the educational timeline established in this section.

(a) An apprentice ophthalmic dispenser shall submit a complete training schedule to the board for approval within twelve (12) months from the date that the apprentice ophthalmic dispenser license is issued.

(b) An apprentice ophthalmic dispenser shall submit proof to the board of a passing grade on the American Board of Opticians (ABO) Basic Examination and the National Contact Lens Examiners (NCLE) Basic Examination within thirty-six (36) months from the date that the apprentice ophthalmic dispenser license is issued.

(c) An apprentice ophthalmic dispenser shall submit proof to the board of a passing grade on the National Commission of State Opticianry Regulatory Boards (NCSORB) National Practical Examination within five (5) years of the date that the apprentice ophthalmic dispenser license is issued.

(2) An apprentice ophthalmic dispenser that fails to meet the educational timelines established in subsection (1) of this section shall not have the apprentice license renewed by the board.

(3) A licensee shall request an extension of the time in which to complete the educational timeline listed in subsection (1) of this section by submitting a request to the board, in writing, within sixty (60) days before expiration of the applicable due date. The board shall allow an extension of time for any applicant demonstrating a need based on medical necessity, family related health emergency, or military service. The licensee shall submit with the request for extension documents that support the need for the extension.

GRANVILLE SMITH, Board Chair

APPROVED BY AGENCY: March 11, 2016

FILED WITH LRC: March 11, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, April 25, 2016, at 2:00 p.m., local time, at the Kentucky Board of Ophthalmic Dispensers, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. 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 Monday, May 2, 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: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the requirements to obtain a license as an ophthalmic dispenser. Establishes the requirements for an apprentice ophthalmic dispenser to show progress toward becoming a licensed ophthalmic dispenser.

(a) What this administrative regulation does: This administrative regulation establishes the procedures for the licensure of persons who wish to practice in the state as an ophthalmic dispenser apprentice. The regulation also establishes the criteria for an apprentice to demonstrate progress toward becoming a licensed ophthalmic dispenser.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the minimum certification and licensure requirements and the application process for apprentice licensure.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS Chapter 326 requires the board to verify the qualifications of and establish a procedure for the licensure of persons who wish to practice in the state as apprentice ophthalmic dispensers. This administrative regulation establishes the minimum qualifications and requirements for licensure. This regulation also establishes the procedure for demonstrating an apprentices progress toward an ophthalmic dispenser license.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the education and training expected for apprentices.

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

(a) How the amendment will change this existing administrative regulation: The amendment will establish a procedure for demonstrating that an apprentice is making progress toward becoming an ophthalmic dispenser.

(b) The necessity of the amendment to this administrative regulation: The amendment will notify applicants of the application process for demonstrating their progress and training.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 326.035(1) requires the board to promulgate administrative regulations that carry out the provisions of the chapter relating to licensure of apprentice ophthalmic dispensers. KRS 326.035(1) requires apprentice ophthalmic dispensers to make progress toward licensure as an ophthalmic dispenser.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will inform licensees to the criteria for demonstrating progress toward an ophthalmic dispenser license.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek licensure within the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to show proof of compliance with education requirements and the requirement for progressing toward an ophthalmic dispenser license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not anticipate any cost to the applicants affected by the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will know the criteria for demonstrating progress toward licensure.

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

(a) Initially: The budget for the Board is $55,200 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: The budget for the Board is estimated to continue to have a budget of $55,200 annual. It will not cost the administrative body any additional funds to implement this administrative regulation.

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

applicants.

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish the fees. This regulation only sets the procedure for obtaining, renewing, and reinstating a license.

(9) Tiering: Is tiering applied? No. Tiering is not needed because the requirements established in this regulation will apply equally to all licensees and applicants for apprentice licenses.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
Kentucky Board of Ophthalmic Dispensers is an administrative body created by KRS 326.020.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 326.020; KRS 326.035; and KRS 326.090.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of applicants for the year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of applicants for the subsequent years.

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

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

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

Revenues (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.874(3), 314.027(2), 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), 314.073(8), 314.075(1), 314.101(4), 314.142(1)(b), 314.161, 314.171(4)

STATUTORY AUTHORITY: KRS 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), 314.073(8), 314.131(1), 314.142(1)(b), 314.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131 authorizes the board to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 314. KRS 314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(8), (10)(c), 314.042(3), (6), 314.051(2), (10)(c), 314.071(1), (2), and 314.073(8) require the board to establish fees for licensure, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.

Section 1. Fees for Licensure Applications. (1) The board shall collect a fee for:

(a) An application for licensure; and

(b) Licensure renewal or reinstatement.

(2) The fee for an application shall be:

(a) Licensure by endorsement as a registered nurse - $165;

(b) Licensure by endorsement as a licensed practical nurse - $165;

(c) Licensure by examination as a registered nurse - $125;

(d) Licensure by examination as a licensed practical nurse - $125;

(e) Renewal of license - fifty-five (55) dollars;

(f) Retired status - twenty-five (25) dollars;

(g) Reinstatement of license - $135;

(h) Paper copy of an application - forty (40) dollars;

(i) Full verification of licensure, credential or registration history - fifty (50) dollars;

(j) Licensure as an advanced practice registered nurse - $165;

(k) Renewal of licensure as an advanced practice registered nurse - fifty-five (55) dollars;

(l) Reinstatement of licensure as an advanced practice registered nurse - $135;

(m) Name change - twenty-five (25) dollars;

(n) Application to establish a registered nurse or licensed practical nurse prelicensure program of nursing pursuant to 201 KAR 20:280 or 201 KAR 20:290 - $2,000; or

(o)[~~Information submitted to establish a doctor of nursing practice program pursuant to 201 KAR 20:061, Section 1 - $250;~~

~~(p) Information submitted to establish a doctor of nursing practice program pursuant to 201 KAR 20:061, Section 2 - $2,000; or~~

~~(q)~~] Information submitted to establish an advanced practice registered nurse program pursuant to 201 KAR 20:062[~~, Section 3~~] - $2,000.

(3) An application or information submitted under this section shall not be evaluated by the board unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider of continuing education or for a renewal or reinstatement of the approval shall be:

(1) Initial provider approval - $400;

(2) Reinstatement of provider approval - $400;

(3) Renewal of approval - $100; or

(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) The fee for a service shall be:

(a) Validation of the current status of a temporary work permit, provisional license, license, or credential:

1. If requested in writing in individual nurse format - fifty (50) dollars; or

2. If requested in writing in list format - fifty (50) dollars for the first name and twenty (20) dollars for each additional name;

(b) Copy of an examination result or transcript - twenty-five (25) dollars;

(c) Nursing certificate - thirty (30) dollars; or

(d) Release of NCLEX results to another state board of nursing - seventy-five (75) dollars.

(2) An applicant for licensure who takes or retakes the licensure examination shall pay:

(a) The current examination fee required by the national council of state boards of nursing; and

(b) Application for licensure fee pursuant to Section 1 of this administrative regulation.

(3) A graduate of a foreign school of nursing shall be responsible for:

(a) Costs incurred to submit credentials translated into English;

(b) Immigration documents; and

(c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

(4) A program of nursing that requires a site visit pursuant to 201 KAR 20:270, Section 2(4), shall pay the cost of the site visit to the board.

Section 4. An application shall lapse and the fee shall be forfeited if the application is not completed as follows:

(1) For an application for licensure by endorsement, within six (6) months from the date the application form is filed with the board office;

(2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office; or

(3) For all other applications, except for renewal of license applications, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, or credential shall be issued the appropriate approval, license, or credential without additional fee.

Section 6. Fees for Sexual Assault Nurse Examiners. (1) The application fee shall be $120.

(2) The credential renewal fee shall be fifty (50) dollars.

(3) The credential reinstatement fee shall be $120.

Section 7. A payment for an application fee that is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

Section 8. Bad Transaction Fee. Any transaction, including paper or electronic, submitted to the board for payment of a fee which is returned for nonpayment shall be assessed a bad transaction fee of thirty-five (35) dollars.

GAIL WISE, President

APPROVED BY AGENCY: February 18, 2016

FILED WITH LRC: March 2, 2016 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2016 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing 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 May 2, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251
email nathan.goldman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets fees.

(b) The necessity of this administrative regulation: It is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting fees.

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

(a) How the amendment will change this existing administrative regulation: Two fees are being deleted due to changes in the statute.

(b) The necessity of the amendment to this administrative regulation: Since the statute authorizing the fees was changed, the fees may no longer be charged.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to make these changes.

(d) How the amendment will assist in the effective administration of the statutes: By deleting the two fees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: applicants for DNP programs, number unknown.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
No action is necessary.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Not applicable.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131

(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. 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 additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Respiratory Care
(Amendment)

201 KAR 29:015. Fees.

RELATES TO: KRS 164.772, 314A.110, 314A.220

STATUTORY AUTHORITY: KRS 314A.205, 314A.220, 325.230(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.230(2) requires the board to establish appropriate and reasonable fees and to periodically review and modify those fees. This administrative regulation establishes all fees charged by the board.

Section 1. Application and Certification Fees Schedule.[~~The following fees shall be paid in connection with all types of respiratory care applications:~~] (1) The application and certification fee for mandatory certification shall be $150[~~fifty (50) dollars~~].

(2) The application and certification fee for temporary mandatory certification shall be $102[~~fifty (50) dollars~~].

(3) The application and certification fee for limited mandatory certification shall be sixty (60)[~~ten (10)~~] dollars.

Section 2.[~~Certification Fees. The following fees shall be paid in connection with all types of respiratory care credentials and in addition to the application fees listed in Section 1 of this administrative regulation.~~

~~(1) The mandatory certification fee shall be seventy-five (75) dollars.~~

~~(2) The temporary mandatory certification fee shall be thirty-five (35) dollars.~~

~~(3) The limited mandatory certification fee shall be forty (40) dollars.~~

~~Section 3.~~] Renewal Fees and Penalties. A[~~No~~] person holding a mandatory certificate[~~certification~~] shall not practice in this state after January 30 of the year in which the[~~his~~] certificate is to be renewed unless the[~~his~~] certification has been renewed as established[~~provided~~] by KRS 314A.220 and 201 KAR Chapter 29[~~law~~] and payment of the established renewal[~~prescribed~~] fee has been made.

(1) All mandatory certificates not renewed by January 30 shall be deemed expired[~~and no person holding an expired certificate shall engage in the practice of respiratory care~~].

(2) A person holding an expired mandatory certificate shall not engage in the practice of respiratory care.

(3)[~~(1)~~] The[~~following~~] fees established in this subsection[~~and penalties~~] shall be paid in connection with mandatory certification renewals.[~~and penalties:~~]

(a) The renewal fee for mandatory certification shall be ninety (90)[~~seventy-five (75)~~] dollars.

(b) The reinstatement fee for mandatory certification after January 30 shall be $180[~~$150~~].

(c) The renewal fee for inactive mandatory certification shall be thirty (30)[~~twenty-five (25)~~] dollars.

(4)[~~(2)~~] Temporary mandatory certificates[~~certification~~] and limited mandatory certificates shall not be renewed[~~certification are not subject to renewal~~].

Section 3. Reinstatement and Reactivation. (1) A certificate holder wishing to reactivate an inactive certificate shall submit:

(a) A completed Application for Reactivation; and

(b) The ninety (90) dollar reactivation fee.

(2) A certificate holder wishing to reinstate an expired certificate shall submit:

(a) A completed Application for Reinstatement; and

(b) The $180 reinstatement fee.

Section 4. All fees shall be[~~are~~] nonrefundable.

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

(a) "Application for Reactivation", February 2016; and

(b) "Application for Reinstatement", February 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Respiratory Care, Southcreek Park, 2365 Harrodsburg Road, B350, Lexington, Kentucky 40504-3335, Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

TAMARA G. McDANIEL, Vice chair

For JEFF SMITHERN, RRT, Chair

APPROVED BY AGENCY: February 11, 2016

FILED WITH LRC: March 9, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Friday, April 29, 2016 at 2:00 p.m., at the Kentucky Board of Respiratory Care, Southcreek Park, 2365 Harrodsburg Road, B350, Lexington, Kentucky 40504-3335. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through the close of business Monday, May 2, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Peggy Lacy Moore, Executive Director, Kentucky Board of Respiratory Care, Southcreek Park, 2365 Harrodsburg Road, B350, Lexington, Kentucky 40504-3335, phone (859) 246-2747, fax (859) 246-2747, email peggyl.moore@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Peggy Lacy Moore

(1) Provide a brief summary of: This regulation establishes the application and fees schedule for a mandatory certificate allowing the practice of respiratory care therapy.

(a) What this administrative regulation does: This administrative regulation establishes the fees for Mandatory, Mandatory Limited, Renewals, Reinstatement and Reactivation.

(b) The necessity of this administrative regulation: This regulation is necessary to establish fees for licensure certification of respiratory therapists.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 314A.205 (6) authorizes the Kentucky Board of Respiratory Care to establish the licensure fees for the application and certification for respiratory therapists to obtain a license to practice respiratory care therapy 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 application and certification fees for those wishing to work in the Commonwealth as a respiratory therapist and renewal every two years.

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

(a) How the amendment will change this existing administrative regulation: This amendment increases the fees required to obtain a Mandatory application, Mandatory Temporary, Mandatory Limited,

Renewal for active and inactive, reinstatement, and reactivation. The increase in fees will be: Mandatory certification - $50.00 to $150.00; Temporary Mandatory certification - $50.00 to $102.00; Limited Mandatory certification - $10.00 to $60.00; Renewal fee - $75.00 to $90.00; Reinstatement fee - $150.00 to $180.00; and Inactive Renewal fee - $25.00 to $30.00.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to keep the Board operating and to continue services to over 7,600 licensees registered with the Board.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 314A.205 (6) authorizes the Kentucky Board of Respiratory Care to establish the licensure fees for the application and certification for respiratory therapists to obtain a license to practice respiratory care therapy in the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing application and certification fees for those wishing to work in the Commonwealth as a respiratory therapist and renewal every two years.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals who are attending a respiratory school and upon completion of their passage of a respiratory course, providing a National Board of Respiratory Care certificate and applying to work as a certified, registered, temporary, student, reinstatement or reactivating their application certification will be affected by this amendment. In 2015 we have 3,590 active respiratory therapists in the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each application certificate holder will incur an increase to obtain their application certificate to practice respiratory care in the Commonwealth. The increase in fees will be: Mandatory certification - $50.00 to $150.00; Temporary Mandatory certification - $50.00 to $102.00; Limited Mandatory certification - $10.00 to $60.00; Renewal fee - $75.00 to $90.00; Reinstatement fee - $150.00 to $180.00; and Inactive Renewal fee - $25.00 to $30.00. One other fee increase requested in 2006 and from that small increase of $12.50 per year on a two-year renewal was swept or reduced by the Kentucky Legislature.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The application certification fee will increase by $12.50 per year for each applicant. The increase in fees for other certifications will be: Mandatory certification - $50.00 to $150.00; Temporary Mandatory certification - $50.00 to $102.00; Limited Mandatory certification - $10.00 to $60.00; Renewal fee - $75.00 to $90.00; Reinstatement fee - $150.00 to $180.00; and Inactive Renewal fee - $25.00 to $30.00.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The increase in revenue will allow the Kentucky Board of Respiratory Care to continue operating and providing service at the level expected by licensees. Each applicant will incur cost for initial application, renewal and or reinstatement if their licensure lapses or reactivation when ready to reactivate an application certificate to practice in the Commonwealth.

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

(a) Initially: This administrative regulation change will result in the cost of time for the Executive Director and legal counsel in getting the changes completed. The cost of correcting forms and posting them on the website will be nominal administrative cost to the Board.

(b) On a continuing basis: There will be a slight additional administrative cost in preparing and producing new forms and posting to our website the corrected forms and fees.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding for the Respiratory Care Board is the fees paid by respiratory care therapists 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 change if it is an amendment: It will be necessary to increase the fees for application certification of a Mandatory, Temporary, Limited Mandatory, Renewal, Reinstatement and Reactivation due to offset operation and services provided to the respiratory profession in the Commonwealth. The Governor's Office of Policy and Management provided a forecasted Assent Projections from FY 2016 through FY 2019 as well as a Two Year Revenue Actual from FY 2008 through FY 2015. This information shows the Board is eating into its balance since FY 2010-2011 when our office rental space cost doubled due to having to give up office space at Spindletop on Iron Works Pike and the increasing fees to operate and increased retirement factor are all contributors. The Board staff of two (2) serves over 7,600 applicants, hospitals, respiratory schools and the Commonwealth agencies.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fee: Yes. The Kentucky Board of Respiratory Care is authorized to establish the amount of fees in connection with a mandatory certificate pursuant to KRS 314A.220 (1) and (2). This amendment will increase fees in the following amounts: Mandatory certification - $50.00 to $150.00; Temporary Mandatory certification - $50.00 to $102.00; Limited Mandatory certification - $10.00 to $60.00; Renewal fee - $75.00 to $90.00; Reinstatement fee - $150.00 to $180.00; and Inactive Renewal fee - $25.00 to $30.00.

(9) TIERING: Is tiering applied? Tiering was not applied because all individuals applying for certification and holding certificates to practice respiratory care in the Commonwealth are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
Kentucky Board of Respiratory Care is an administrative body created by KRS 314A.200.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314A.110, KRS 314A.220, and KRS 314A.205.

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 increase the revenues of the Kentucky Board of Respiratory Care.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of mandatory certification and temporary mandatory certification applicants for the year. The board currently processes up to 7,600 applicants per licensure year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of mandatory certification and temporary mandatory certification applicants for the year. The board currently processes up to 7,600 applicants per licensure year.

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

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

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

regulation.
Revenues (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) "Department of Corrections Policies and Procedures," February 26, 2016[~~June 9, 2015~~], are incorporated by reference. Department of Corrections Policies and Procedures include:

1.2 News Media (Amended 6/10/14)
1.4 The Monitoring and Operation of Private Prisons (Amended 5/15/08)
2.1 Inmate Canteen (Amended 2/26/16[~~10/12/12~~])
2.12 Abandoned Inmate Funds (Amended 2/26/16[~~3/14/14~~])
3.1 Code of Ethics (Amended 12/10/13)
3.5 Sexual Harassment and Anti-Harassment (Amended 12/10/13)
3.9 Student Intern Placement Program (Added 9/13/2010)
3.10 Appearance and Dress for Nonuniformed Staff (Amended 9/13/10)
3.11 Drug Free Workplace Employee Drug Testing (Amended 12/10/13)
3.14 Employee Time and Attendance Requirements (Amended 2/26/16[~~6/9/15~~])
3.17 Uniformed Employee Dress Code (Amended 2/26/16[~~8/20/13~~])
3.22 Staff Sexual Offenses (Amended 12/10/13)
3.23 Internal Affairs Investigation (Added 8/25/09)
5.1 Research and Survey Projects (Amended 12/10/13)
5.3 Program Evaluation and Measurement (Amended 6/9/15)
6.1 Open Records Law (Amended 5/14/07)
8.2 Fire Safety (Amended 3/14/14)
8.7 Notification of Extraordinary Occurrence (Amended 3/14/14)
9.4 Transportation of Inmates to Funerals or Bedside Visits (Amended 6/9/15)
9.6 Contraband (Amended 2/26/16[~~3/14/14~~])
9.8 Search Policy (Amended 5/13/14)
9.13 Transport to Court - Civil Action (Amended 07/09/07)
9.18 Informants (Amended 9/13/10)
9.19 Found Lost or Abandoned Property (Amended 10/14/05)
[~~9.22 Control and Use of Caustic/Toxic Materials (Added 3/14/14)~~]
10.2 Special Management Inmates (Amended 2/26/16[~~6/9/15~~])
10.3 Safekeepers and Contract Prisoners (Amended 9/15/04)
11.2 Dietary Procedures and Compliance (Amended 3/14/14)
11.4 Alternative Dietary Patterns (Amended 3/14/14)
13.1 Pharmacy Policy and Formulary (Amended 1/15/15)
13.2 Health Maintenance Services (Amended 2/26/16[~~1/15/15~~])
13.3 Medical Alert System (Amended 3/14/14)
13.5 Advance Healthcare Directives (Amended 2/26/16[~~Added 4/12/05~~])
13.6 Sex Offender Treatment Program (Amended 5/15/08)
13.7 Involuntary Psychotropic Medication (Amended 10/14/05)
13.8 Substance Abuse Program (Amended 10/12/12)
13.9 Dental Services (Amended 10/14/05)
13.10 Serious Infectious Disease (Amended 3/14/14)
13.11 Do Not Resuscitate Order (Amended 8/9/05)
13.12 Suicide Prevention and Intervention Program (Added 8/25/09)
13.13 Mental Health Services (Amended 6/9/15)
14.1 Investigation of Missing Inmate Property (Amended 10/14/05)
14.2 Personal Hygiene Items (Amended 8/20/13)
14.3 Marriage of Inmates (Amended 2/26/16[~~10/14/05~~])
14.4 Legal Services Program (Amended 3/14/14)
14.5 Board of Claims (Amended 10/14/05)
14.6 Inmate Grievance Procedure (Amended 2/26/16[~~6/9/15~~])
14.7 Sexual Abuse Prevention and Intervention Programs (Amended 2/26/16[~~12/10/13~~])
15.1 Hair, Grooming and ID Card Standards (Amended 1/15/15)
15.2 Rule Violations and Penalties (Amended 2/26/16[~~3/14/14~~])
15.3 Meritorious Good Time (Amended 12/13/05)
15.4 Program Credit (Amended 6/12/12)
15.5 Restoration of Forfeited Good Time (Amended 2/26/16[~~5/14/07~~])
15.6 Adjustment Procedures and Programs (Amended 3/14/14)
15.7 Inmate Accounts (Amended 1/15/15)
15.8 Unauthorized Substance Abuse Testing (Amended 10/14/05)
16.1 Inmate Visits (Amended 10/12/12)
16.2 Inmate Correspondence (Amended 1/15/15)
16.3 Inmate Access to Telephones (Amended 10/12/12)
16.4 Inmate Packages (Amended 1/15/15)
17.1 Inmate Personal Property (Amended 2/26/16[~~6/9/15~~])
17.2 Assessment Center Operations (Amended 6/9/15)
17.3 Controlled Intake of Inmates (Amended 3/14/14)
17.4 Administrative Remedies: Sentence Calculations (Amended 4/10/06)
18.1 Classification of the Inmate (Amended 1/15/15)
18.2 Central Office Classification Committee (Amended 8/20/13)
18.3 Confinement of Youthful Offenders (Added 6/9/15)
18.5 Custody and Security Guidelines (Amended 2/26/16[~~3/14/14~~])
18.7 Transfers (Amended 2/26/16[~~07/09/07~~])
18.9 Out-of-state Transfers (Amended 2/26/16[~~2/15/06~~])
18.11 Placement for Mental Health Treatment in CPTU or PCU[~~, KCIW-PCU, or KCPC~~] (Amended 2/26/16[~~1/9/07~~])
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)
18.13 Population Categories (Amended 2/26/16[~~07/09/07~~])
18.15 Protective Custody (Amended 2/26/16[~~1/15/15~~])
18.16 Information to the Parole Board (Effective 3/14/14)
18.17 Interstate Agreement on Detainers (Amended 07/09/07)
18.18 International Transfer of Inmates (Amended 5/14/07)
19.1 Governmental Services Program (Amended 10/12/12)
19.2 Sentence Credit for Work (Amended 2/26/16[~~Added 2/13/04~~])
19.3 Inmate Wage/Time Credit Program (Amended 1/15/15)
20.1 Educational Programs and Educational Good Time (Amended 8/25/09)
21.1 Library Services (Added 3/14/14)
22.1 Privilege Trips (Amended 10/14/05)
22.2 Recreation and Inmate Activities (Added 3/14/14)
23.1 Religious Programs (Amended 8/20/13)
25.2 Public Official Notification of Release of an Inmate (Amended 10/14/05)
25.3 Prerelease Program (Effective 11/15/06)

25.4 Institutional Inmate Furloughs (Amended 07/09/07)
25.6 Community Center Program (Amended 07/09/07)
25.10 Administrative Release of Inmates (Amended 11/9/10)
25.11 Victim Services Notification (Amended 8/25/09)
26.1 Citizen Involvement and Volunteer Service Program (Amended 10/12/12)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: February 24, 2016

FILED WITH LRC: February 26, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD**:** A public hearing on this administrative regulation shall be held on April 21, 2016 at 9:00 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five 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 May 2, 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 Kentucky Department of Corrections including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020 and to meet American Correctional Association (ACA) standards requirements.

(c) How this administrative regulation conforms to the content of the authorizing statues: The regulation governs the operations of the Kentucky Department of Corrections.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions. It provides direction and information to Corrections employees and inmates concerning the operations of the department.

(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 maintains the Kentucky Department of Corrections compliance with ACA standards and updates practices for the department and its institutions.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit the Secretary of the Cabinet or his delegate and the Commissioner to implement or amend practices or procedures to ensure the safe and efficient operation of the Kentucky Department of Corrections.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning the effective and orderly management of the state correctional institutions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Department of Corrections, 3,252 employees, 22,425 inmates, visitors, volunteers, and others who enter state correctional institutions.

(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 institutional employees and inmates of the Department of Corrections will have to change their actions to comply with any operational changes made by this regulation. Others who enter correctional institutions will have to comply with policies and procedures concerning entry, search, contraband and others when they enter an institution.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the amendment to this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the state correctional institutions.

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

(a) Initially: No increase in funding is anticipated.

(b) On a continuing basis: No increase in funding is anticipated.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Corrections budgeted funds for the biennium.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The regulation establishes fees for inmates, e.g. health services co-pays. The amendments to the regulation do not establish additional fees or change any existing fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendments to this regulation impact the operation of the Kentucky Department of Corrections and each state correctional institution.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035 and 197.020

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendments to this regulation do not create any additional revenue for the Kentucky Department of Corrections or other

government entity.

(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 additional revenue for the Kentucky Department of Corrections or other government entity.

(c) How much will it cost to administer this program for the first year? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operate. The costs for the amendments are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operate. The costs for the amendments are not expected to increase costs for the Kentucky Department of Corrections budgeted funds for the biennium.

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 6:170. Green River Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Incorporation by Reference. (1) "Green River Correctional Complex Policies and Procedures", February 26, 2016[~~April 14, 2014~~], is incorporated by reference. Green River Correctional Complex Policies and Procedures include:

GRCC 01-06-01	Inmate Access to and Communication with GRCC Staff (Amended 11/15/07)
GRCC 01-07-01	Institutional Tours of GRCC (Amended 11/15/07)
GRCC 01-08-01	GRCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive, and Community Agencies (Amended 11/15/07)
GRCC 01-12-01	Public Information and Media Communication (Amended 11/15/07)
GRCC 01-13-01	Tobacco Free (Amended 4/14/14)
GRCC 02-01-02	Fiscal Management: Accounting Procedures (Amended 11/15/07)
GRCC 02-01-03	Fiscal Management: Agency Funds (Amended 11/15/07)
GRCC 02-06-01	Inmate Canteen (Amended 11/15/07)
GRCC 02-06-02	Inmate Canteen Committee (Amended 11/15/07)
GRCC 02-07-01	Inmate Personal Funds (Amended 11/15/07)
GRCC 03-12-01	Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, Volunteers, and Student Interns (Amended 11/15/07)
GRCC 05-02-01	Outside Consultation and Research (Amended 11/15/07)
GRCC 06-01-01	Offender Records (Amended 4/14/14)
GRCC 08-02-01	Fire Safety (Amended 4/14/14)
GRCC 09-01-01	Inmate Counts (Amended 4/14/14)
GRCC 09-02-01	Inmate Unauthorized Substance Abuse Testing (Amended 2/13/14)
GRCC 09-04-01	Inmate Death (Amended 2/13/14)
GRCC 10-01-01	Special Management Unit (Amended 2/26/16[~~11/15/07~~])
GRCC 11-01-01	Food Service: General Guidelines (Amended 4/14/14)
GRCC 11-02-01	Food Service: Security (Amended 2/13/14)
GRCC 11-03-01	Dining Room Guidelines (Amended 2/13/14)
GRCC 11-04-01	Food Service: Meals (Amended 2/13/14)
GRCC 11-04-02	Food Service: Menu, Nutrition and Restricted Diets (Amended 2/13/14)
GRCC 11-06-01	Health Requirements of Food Handlers (Amended 11/15/07)
GRCC 11-07-01	Food Service: Inspections and Sanitation (Amended 2/13/14)
GRCC 12-01-01	Clothing, Bedding, Hygiene Supplies, and Barber Shop (Amended 4/14/14)
GRCC 13-02-01	Medical Services: Sick Call, Physician's Clinics and Pill Call (Amended 9/14/2005)
GRCC 13-02-02	Medical Services: Copayment (Amended 9/14/2005)
GRCC 13-02-03	Continuing of Care: Health Evaluations, Intrasystem Transfer, Individual Treatment Plans (Amended 9/14/2005)
GRCC 13-03-01	Use of Pharmaceutical Products (Amended 9/14/2005)
GRCC 13-04-01	Health Records (Amended 9/14/2005)
GRCC 13-04-02	Psychological and Psychiatric Reports (Amended 11/8/2005)
GRCC 13-05-01	Management of Serious and Infectious Diseases (Amended 9/14/2005)
GRCC 13-06-01	Mental Health Services (Amended 2/26/16[~~9/14/2005~~])
[~~GRCC 13-07-01~~	~~Medical Restraints (Amended 9/14/2005)~~]
GRCC 13-08-01	Eye Care (Amended 2/26/16[~~9/14/2005~~])
GRCC 13-09-01	Dental Care (Amended 9/14/2005)
GRCC 13-10-01	Transfers and Medical Profiles (Amended 2/26/16[~~9/14/2005~~])
GRCC 13-11-01	Informed Consent (Amended 2/26/16[~~9/14/2005~~])
GRCC 13-12-01	Infirmary Care (Amended 9/14/2005)
GRCC 13-13-01	Inmate Self-administration of Medication (Amended 2/26/16[~~9/14/2005~~])
GRCC 13-15-01	Health Education Program and Detoxification (Amended 9/14/2005)
GRCC 14-01-01	Inmate Rights and Responsibilities (Amended 11/15/07)
GRCC 14-02-01	Legal Services Program (Amended 11/15/07)
GRCC 16-01-01	Inmate Visiting (Amended 4/14/14)
GRCC 16-02-02	Inmate Correspondence and Privileged Mail (Amended 2/13/14)
GRCC 16-03-01	Inmate Telephone Communications (Amended 11/15/07)
GRCC 16-04-01	Inmate Packages (Amended 11/15/07)
GRCC 17-01-01	Inmate Property Control (Amended 2/13/14)
GRCC 17-02-01	GRCC Inmate Receiving and Orientation Process (Amended 11/15/07)
GRCC 17-03-01	Procedure for Sending Televisions to Outside Dealer for Repair (Amended 11/15/07)
GRCC 18-01-01	Inmate Classification (Amended 11/15/07)
GRCC 18-02-01	Meritorious Housing (Amended 2/13/14)
GRCC 18-02-02	Meritorious Visitation Program (Amended 2/13/14)
GRCC 18-03-01	Minimum Security Unit: Operating Procedures and Living Conditions (Added 11/15/07)
GRCC 18-04-01	Lesbian, Gay, Bisexual, Transgender, and

	Intersex (LGBTI) (Added 2/26/16)
GRCC 19-01-01	Inmate Work Program (Amended 11/15/07)
GRCC 19-01-02	90-Day Unassigned Status (Amended 2/13/14)
GRCC 20-01-01	Educational Programs (Amended 2/26/16[~~11/15/07~~])
GRCC 21-01-01	Library Services (Amended 2/13/14)
GRCC 22-01-01	Recreation Programs (Amended 11/15/07)
GRCC 22-02-01	Inmate Clubs and Organizations (Amended 2/13/14)
GRCC 22-04-01	Arts and Crafts Projects (Amended 11/15/07)
GRCC 22-05-01	Inmate Photo Project (Amended 2/13/14)
GRCC 23-01-01	Religious Programs (Amended 11/15/07)
GRCC 23-02-01	Death or Hospitalization of an Inmate's Family Member and Notification of Inmates (Amended 2/13/14)
GRCC 24-01-01	Social Services and Counseling Program (Amended 11/15/07)
GRCC 25-01-01	Prerelease Program (Amended 11/15/07)
GRCC 25-01-02	Inmate Release Process (Amended 2/26/16[~~11/15/07~~])
GRCC 25-02-01	Parole Hearing Procedure (Amended 2/26/16[~~11/15/07~~])
GRCC 26-01-01	Citizen Involvement and Volunteer Services Program (Amended 2/13/14)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Office, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686 Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: February 24, 2016

FILED WITH LRC: February 26, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2016 at 9:00 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five 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 May 2, 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 Green River Correctional Complex including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020, to meet ACA requirements, and to meet federal PREA standards.

(c) How this administrative regulation conforms to the content of the authorizing statues: The regulation governs the operations of the Green River Correctional Complex.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to employees concerning employee duties, inmate responsibilities, and the procedures that govern operations of the institution.

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

(a) How the amendment will change this existing administrative regulation: The amendment brings the Green River Correctional Complex into compliance with ACA Standards and PREA standards and updates current practices for the institution.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or her authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Green River Correctional Complex.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning the effective and orderly management of the institution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Green River Correctional Complex, 225 employees, 969 inmates, and all volunteers and visitors to the institution.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to follow the changes made in the policies and procedures. The institution, employees, and inmates will have to change their actions to comply with any operational changes made by this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An increase in cost is not anticipated to the entities from the changes in operations made in the amendments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of this institution.

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

(a) Initially: No additional cost is anticipated.

(b) On a continuing basis: No additional cost is anticipated.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Green River Correctional Complex budgeted funds

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not increase or decrease any fee.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendments to this regulation impact the operation of Green River Correctional Complex.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 28 C.F.R. § 115.15, 28 C.F.R. § 115.42

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendments to this regulation will not create any revenue for Green River Correctional Complex.

(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 will not create any revenue for Green River Correctional Complex.

(c) How much will it cost to administer this program for the first year? The amendments to this regulation impact how GRCC operates but do not increase cost from what was previously budgeted.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how GRCC operates but do not increase cost from what was previously budgeted.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

LABOR CABINET
Department of Workers' Claims
(Amendment)

803 KAR 25:010. Procedure for adjustments of claims.

RELATES TO: KRS 342.0011, 342.125, 342.260, 342.265, 342.270, 342.300, 342.310, 342.315, 342.710, 342.715, 342.732, 342.760

STATUTORY AUTHORITY: KRS 342.033, 342.260(1), 342.270(3), 342.285(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260(1) requires the commissioner[~~executive director~~] to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 342. KRS 342.270(3) requires the commissioner[~~executive director~~] to promulgate an administrative regulation establishing procedures for the resolution of claims. KRS 342.033 requires the commissioner[~~executive director~~] to prescribe the format and content of written medical reports. KRS 342.285(1) requires the commissioner[~~executive director~~] to promulgate an administrative regulation governing appeals to the Workers' Compensation Board. This administrative regulation establishes the procedure for the resolution of claims before an administrative law judge or Workers' Compensation Board.

Section 1. Definitions. (1) "Administrative law judge" or "ALJ" means an individual appointed pursuant to KRS 342.230(3).

(2) "Board" is defined by KRS 342.0011(10).

(3) "Civil Rule" or "CR" means the Kentucky Rules of Civil Procedure.

(4) "Claim" means any claims including injury, hearing loss, or occupational disease.

(5) "Commissioner" is defined by KRS 342.0011(9).

(6) "Date of filing" means the date that:

(a) A pleading, motion, or other document is electronically filed with the commissioner at the Department of Workers' Claims (DWC) in Frankfort, Kentucky;

(b) A pleading, motion, order, opinion, or other document is received by the commissioner[~~Executive Director~~] at the Department[~~Office~~] of Workers' Claims in Frankfort, Kentucky, except:

1.[~~Final orders and opinions of administrative law judges, which shall be deemed "filed" three (3) days after the date set forth on the final order or opinion; and~~

~~2.~~] Documents delivered to the offices of the Department[~~Office~~] of Workers' Claims after the office is closed at 4:30 p.m. or on the weekend, which shall be deemed filed the following business day; or

2. Documents[~~(b) A document is~~] transmitted by United States registered (not certified) or express mail, or by other recognized mail carriers shall be deemed filed on[~~, and~~] the date the transmitting agency receives the document from the sender as noted by the transmitting agency on the outside of the container used for transmitting, within the time allowed for filing.

(7)[~~(5)~~] "Employer" is defined by KRS 342.630[~~means individuals, partnerships, voluntary associations and corporations~~].

(8)[~~(6)~~] "Employer who has not secured payment of compensation" means any employer who employs an employee as defined by KRS 342.640 but has not complied with KRS 342.340.

(9)[~~(7) "Executive director" is defined by KRS 342.00111(9).~~

~~(8)"Latest available edition" means that edition of the~~] "Guides to the Evaluation of Permanent Impairment" is defined by KRS 342.0011(37)[~~which the executive director has certified as being generally available to the office, attorneys, and medical practitioners, by posting prominently at the office's hearing sites the date upon which a particular edition of the "Guides to the Evaluation of Permanent Impairment" is applicable for purposes of KRS Chapter 342~~].

(10) "Jurisdictional deadline" means a deadline set by statute or administrative regulation that the Department of Workers' Claims shall not extend or change.

(11) "Litigation Management System" or "LMS" means the electronic filing and document management system utilized in the filing and processing of workers' compensation claims in the Commonwealth of Kentucky. All pleadings, notices, orders and other documents pertaining to a claim for workers' compensation benefits shall be filed utilizing the LMS.

(12) "Notice of Filing" means the notice issued by the commissioner stating that a claim has been filed, scheduling the date and time of the benefit review conference (BRC), and stating the week during which a hearing is to be held.

(13) "Signature" means actual personal handwritten signatures, and incorporates electronic signatures, which shall be treated as a personal signature for purposes of CR 11.

(14)[~~(9)~~] "Special defenses" means defenses that shall be raised by "special answer" filed in accordance with Section 7[~~5~~](2)(d) of this administrative regulation.

(15) "Technical failure":

(a) Means a failure of the Department of Workers' Claims' hardware, software, and telecommunications facility that results in the impossibility for an external user to submit a filing electronically; and

(b) Does not include malfunctioning of an external user's equipment.

Section 2. Parties. (1) Any interested[~~The~~] party may file an[~~making the~~] original application for resolution of claim pursuant to KRS 342.270 or 342.316. The injured workers, or survivors, shall be designated as "plaintiff". Adverse parties shall be designated as "defendants".

(2) All persons shall be joined as plaintiffs in whom any right to any relief pursuant to KRS Chapter 342, arising out of the same transaction and occurrence, is alleged to exist. If a person refuses to join as a plaintiff, that person shall be joined as a defendant, and the fact of refusal to join as a plaintiff shall be pleaded.

(3)(a) All persons shall be joined as defendants against whom the ultimate right to relief pursuant to KRS Chapter 342 may exist, whether jointly, severally, or in the alternative. An administrative law judge shall order, upon a proper showing, that a party be joined or dismissed.

(b)[~~The Special Fund may be joined as a defendant in accordance with the appropriate statutory provisions for claims in which the injury date or date of last exposure occurred before December 12, 1996.~~

~~(c)~~] Joinder shall be sought by motion as soon as practicable after legal grounds for joinder are known. Notice of joinder and a

copy of the claim file shall be served in the manner ordered by the administrative law judge.

Section 3. LMS Filings. (1) A document submitted electronically shall be deemed filed on the date filing is completed within the time frames set forth in paragraph (a) of this subsection. The filing party shall receive an electronic notification of the time and date filed.

(a) Pleadings, motions, orders or other documents may be filed utilizing the LMS at any time the LMS is available. Periods of unavailability shall be pre-announced by the department. Inability to file during periods that were previously announced shall not constitute an excuse for a failure to file during a period.

(b) On or after July 1, 2017, paper or written pleadings, motions, or orders shall not be accepted for filing except for parties representing themselves. Any documents filed on paper after the effective date of this administrative regulation and through June 30, 2017, may be mailed consistent with paragraph (d) of this subsection.

(2) An electronically filed document using LMS shall bear the electronic signature of the filing party, if the party is representing himself or herself, or the filing party's attorney, as more fully described in paragraphs (a) and (b) of this subsection. The electronic signature of the filing party, if the party is representing himself or herself, or the filing party's attorney shall be treated as a personal signature and shall serve as a signature for purposes of CR 11, and all other purposes pursuant to the Kentucky Rules of Civil Procedure, and for any purpose for which a signature is required pursuant to this administrative regulation.

(a) An electronically filed document shall include a signature block setting forth the name, mailing address, phone number, fax number, and email address of the filing party, if the party is representing himself or herself, or the filing party's attorney.

(b) In addition, the name of the filing party, if the party is representing himself or herself, or of the filing party's attorney shall be preceded by an "/s/" and typed in the space where the signature would otherwise appear. A handwritten signature is required for any paper or written filing.

(c) Affidavits and exhibits to pleadings with original handwritten signatures shall be scanned and filed in PDF or PDF/A format.

(3) Signatures of more than one (1) party required. A document requiring signatures of more than one (1) party shall be filed either by:

(a) Representing the consent of the other parties on the document by inserting in the location where each handwritten signature would otherwise appear the typed signature of each person, other than the filing party, preceded by an "/s/" and followed by the words "by permission" (e.g., "/s/ Jane Doe by permission"); or

(b) Electronically filing a scanned document containing all necessary signatures.

(4) Signatures of judges, board members, and designees of the commissioner. If the signature of a judge, board member, or designee of the commissioner is required on a document, an electronic signature may be used. The electronic signature shall be treated as the judge's, board member's, or designee's personal signature for purposes of CR 11, all other Kentucky Rules of Civil Procedure, and for any purpose required by this administrative regulation.

(5) Documents required to be notarized, acknowledged, verified, or made under oath. The signature on any document required to be notarized, acknowledged, verified, or made under oath shall be handwritten and scanned into the LMS. The scanned document shall be maintained as the official record, and the filing party shall retain the originally executed copy. The original paper copy may be required to be produced if the validity of the signature is challenged.

(6) Challenging or disputing authenticity.

(a) A non-filing signatory or party who disputes the authenticity of an electronically filed document with a non-attorney signature, or the authenticity of that document or the authenticity of an electronically filed document containing multiple signatures shall file an objection to the document within fourteen (14) days of service of the document. An objection to the document shall place the burden to respond on the non-objecting party and failure to do so shall result in the filing being stricken from the record.

(b) If a party wishes to challenge the authenticity of an electronically filed document or signature after the fourteen (14) day period, the party shall file a motion to seek a ruling, and show cause for the delayed challenge. If the challenge to authenticity is allowed, the non-moving party shall have the burden to prove authenticity. Failure to prove authenticity by the non-moving party shall result in the filing being stricken from the record.

(c) Challenges to authenticity filed without a valid basis shall be subject to sanctions pursuant to KRS 342.310 and Section 26 of this administrative regulation.

(7) Validity and enforceability of orders. All orders or opinions to be entered or issued may be filed electronically, and shall have the same force and effect as if the judge or board member had affixed a signature to a paper copy of the order in a conventional manner.

(8) Entry of orders or opinions. Immediately upon entry of an order or opinion, a notice shall be served electronically on all parties. A paper form of the order or opinion shall be served upon those parties not utilizing LMS.

Section 4. Technical Difficulty: Litigation Management System Unavailability. (1) Jurisdictional Deadlines. A jurisdictional deadline shall not be extended. A technical failure, including a failure of LMS, shall not excuse a failure to comply with a jurisdictional deadline. The filing party shall insure that a document is timely filed to comply with jurisdictional deadlines and, if necessary to comply with those deadlines, the filing party shall file the document conventionally accompanied by a certification of the necessity to do so in order to meet a jurisdictional deadline.

(2) Technical Failures.

(a) If a filing party experiences a technical failure, the filing party may file the document conventionally, if the document is accompanied by a certification, signed by the filing party, that the filing party has attempted to file the document electronically at least twice, with those unsuccessful attempts occurring at least one (1) hour apart. The commissioner may require the document to be accompanied by a disc or CD-ROM that contains the document in PDF format.

(b) A filing party who suffers prejudice as a result of a technical failure as defined by Section 1(15) of this administrative regulation, or a filing party who cannot file a time-sensitive document electronically due to unforeseen technical difficulties, other than a document filed under a jurisdictional deadline, may seek relief from an administrative law judge. Parties may also enter into an agreed order deeming a document, other than one (1) filed under a jurisdictional deadline, timely filed.

Section 5. Pleadings. (1) An application for resolution of claim and all other pleadings shall be signed or electronically signed when using LMS, and submitted in accordance with this administrative regulation.

(a) For each claim, an applicant shall submit a completed application for resolution of claim. If the claim involves a fatality, the applicant shall also submit an Appendix F within fifteen (15) days of the applicant's submission of the application.

(b) The applicant may include, if appropriate, a request for vocational rehabilitation, interlocutory relief, or a request for imposition of a safety penalty pursuant to KRS 342.165. The applicant shall also designate whether an interpreter will be required at the hearing, and shall specify the language and any specific dialect needed.

(2) The filing of an application and service through LMS shall satisfy all requirements for service pursuant to CR 5. All pleadings filed through the LMS shall be served upon all other parties electronically or by e-mail. If a party is represented, the pleading shall be served on that representative, at the party's or the representative's last known address. The parties, by agreement, may serve all pleadings upon each other by electronic means. A certificate of service indicating the date of service and electronically signed by the party shall appear on the face of the

pleading. Notices of deposition, notices of physical examination, requests for and responses to requests for production of documents, and exchange of reports or records shall be served by e-mail upon the parties and shall not be filed with the commissioner.

(3) Documents filed or served outside of LMS.

(a) A document filed or served outside of LMS shall comply with this subsection[~~Pleadings. (1) An application for resolution of claim and all other pleadings shall be typewritten and submitted in accordance with this administrative regulation.~~

~~(a) For an injury claim, an applicant shall submit a completed Form 101, Application for Resolution of Injury Claim.~~

~~(b) For an occupational disease claim other than coal workers' pneumoconiosis, an applicant shall submit a completed Form 102-0D, Application for Resolution of Occupational Disease Claim.~~

~~(c) For a hearing loss claim, an applicant shall submit a completed Form 103, Application for Resolution of Hearing Loss Claim~~].

(b)[~~(2)~~] An application for resolution of claim shall be filed with sufficient copies for service on all parties. The commissioner[~~executive director~~] shall make service by first class mail.

(c)[~~Incomplete applications may be rejected and returned to the applicant. If the application is refiled in proper form within twenty (20) days of the date it was returned, the filing shall relate back to the date the application was first received by the executive director. Otherwise, the date of second receipt shall be the filing date.~~

~~(3)~~] All pleadings shall be served upon the commissioner through LMS or, if a party is unrepresented, by paper[~~executive director~~] and shall be served upon all other parties by mailing a copy to the other parties or, if represented, to the parties'[~~that~~] representative, at the party's or representative's last known address or, if agreed to, by electronic means. A certificate of service indicating the method and date of service and signed by the party shall appear on the face of the pleading. Notices of deposition and physical examination shall be served upon the parties and shall not be filed with the commissioner[~~executive director~~].

(d)[~~(4)~~] After the application for resolution has been assigned to an administrative law judge, subsequent pleadings shall include, within the style of the claim and immediately before the claim number, "Before Administrative Law Judge (name)". Upon consolidation of claims, the most recent claim number shall be listed first.

(e) 1.[~~(5)(a)~~] All documents involved in an appeal to the Workers' Compensation Board shall include the language "Before Workers' Compensation Board" before the claim number within the style of the claim.

2.[~~(b)~~] Parties shall insert the language "Appeals Branch" or "Workers' Compensation Board" on the outside of the envelope containing documents involved in an appeal.

Section 6.[~~4.~~] Motions. (1)[~~The party filing a motion shall tender a proposed order granting the relief requested.~~

~~(2)~~] The party filing a motion may file a brief memorandum supporting the motion and opposing parties may file brief memoranda in reply. Further memoranda (for example, reply to response) shall not be filed.

(2)[~~(3)~~] Every motion and response, the grounds of which depend upon the existence of facts not in evidence, shall be supported by affidavits demonstrating the facts.

(3)[~~(4)~~] Every motion, the grounds of which depend upon the existence of facts that[~~which~~] the moving party believes are shown in the evidence or are admitted by the pleadings, shall make reference to the place in the record where that evidence or admission is found.

(4)[~~(5)~~] A response to a motion, other than to reopen pursuant to KRS 342.125 or for interlocutory relief, shall be filed within[~~be considered~~] ten (10) days after the date of the filing of a motion. The administrative law judge shall rule on the motion no later than ten (10) days after the date for the filing of the response has passed[~~A response shall be considered if filed on or before the tenth day after the filing of the motion~~].

(5)[~~(6)~~](a) A motion to reopen shall be accompanied by as many of the following items as may be applicable:

1. A current medical release Form 106 executed by the plaintiff;

2. An affidavit evidencing the grounds to support reopening;

3. A current medical report showing a change in disability established by objective medical findings;

4. A copy of the opinion and award, settlement, voluntary agreed order, or agreed resolution sought to be reopened;

5. An affidavit certifying that a previous motion to reopen has not been made by the moving party, or if one (1) has previously been made, the date on which the previous motion was filed; or

6. A designation of evidence from the original record specifically identifying the relevant items of proof that[~~which~~] are to be considered as part of the record during reopening[~~; or~~

~~7. A certification of service that the motion was served on all parties as well as counsel for the parties~~].

(b)1. The[~~A~~] designation of evidence made by a party shall list only those items of evidence from the original record that are relevant to the matters raised on reopening.

2. The burden of completeness of the record shall rest with the parties to include so much of the original record, up to and including the award or order on reopening, as is necessary to permit the administrative law judge to compare the relevant evidence that existed in the original record with all subsequent evidence submitted by the parties.

3. Except for good cause shown at the time of the filing of the designation of evidence, a party shall not designate the entire original record from the claim for which reopening is being sought.

(6)(a) The motion to reopen shall be served on all other parties consistent with the Kentucky Rules of Civil Procedure regarding service as provided under CR 4.01(a) or (b), by:

1. Registered mail or certified mail return receipt requested with instructions to the delivery postal employee to deliver to the addressee only and show the address where delivered and the date of delivery; or

2. Causing the motion to be transferred for service by any person authorized, other than as in subparagraph 1. of this paragraph, to deliver the document, who shall serve it and whose return endorsed thereon shall be proof of the time and manner of service.

(b) The motion to reopen shall contain a certification of the method of service.

1.[~~(c)1. A motion to reopen shall not be considered until twenty-five (25) days after the date of filing.~~

~~2.~~] Any response shall be filed within twenty (20) days of filing the motion to reopen.

2.[~~3.~~] A response may contain a designation of evidence specifically identifying evidence from the original record not already listed by the moving party that is relevant to matters raised in a response.

3. An administrative law judge shall rule on the motion no sooner than five (5) days and no later than fifteen (15) days after the date for the filing of the response has passed[~~(d) Any party may use the following forms provided by the office for motions to reopen:~~

~~1. Form MTR-1, Motion to Reopen by Employee;~~

~~2. Form MTR-3, Motion to Reopen by Defendant; and~~

~~3. Form MTR-2, Motion to Reopen KRS 342.732 Benefits~~].

(7) A motion for allowance of a plaintiff's attorney fee shall:

(a) Be made within thirty (30) days following the finality of the award, settlement, or agreed resolution upon which the fee request is based;

(b) Be served upon the adverse parties and the attorney's client;

(c) Set forth the fee requested and mathematical computations establishing that the request is within the limits set forth in KRS 342.320; and

(d) Be accompanied by:

1. An affidavit of counsel detailing the extent of the services rendered[~~and the time expended~~];

2. A signed and dated Form 109 as required by KRS

342.320(5); and

3. A copy of the signed and dated contingency fee contract.

(8) A motion for allowance of defendant's attorney's fee shall be:

(a) Filed within thirty (30) days following the finality of the decision; and

(b) Accompanied by an affidavit of counsel detailing:

1. The extent of the services rendered; and[~~the time expended;~~]

2. The[~~hourly rate and~~] total amount to be charged[~~; and~~

~~3. The date upon which agreement was reached for providing the legal services~~].

(9) Vocational rehabilitation benefits may be requested in the initial claim filing or by subsequent motion[~~The following motions relating to vocational rehabilitation training provided by the office may be used by all parties:~~

~~(a) Form VRT, Petition for Vocational Rehabilitation Training; and~~

~~(b) Form WVR, Joint Motion and Agreement to Waive Vocational Rehabilitation Evaluation~~].

(10) If a plaintiff is deceased, a motion to substitute party and continue benefits shall be filed[~~on Form 11~~].

Section 7.[~~5.~~] Application for Resolution of a[~~an Injury~~] Claim and Response. (1) The applicant shall file an application for resolution of a claim through the LMS. At the time of, or within fifteen (15) days after the filing of the application, the following shall be filed[~~To apply for resolution of an injury claim, the applicant shall file Form 101 with the following completed documents~~]:

(a) Form 104, Plaintiff's Employment History[~~Work history (Form 104)~~], to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the date of injury;

(b) Form 105, Plaintiff's Chronological Medical History[~~(Form 105)~~], to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for the same body part claimed to have been injured;

(c) Medical release (Form 106);

(d) One (1) medical report, which may consist of legible, hand-written notes of the treating physician, and which shall include the following:

1. A description of the injury that[~~which~~] is the basis of the claim;

2. A medical opinion establishing a causal relationship between the work-related events or the medical condition that[~~which~~] is the subject of the claim; and

3. If a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder;

(e) Documentation substantiating the plaintiff's preinjury and postinjury wages; and

(f) Documentation establishing additional periods for which temporary total disability benefits are sought.

(2)(a) Following the filing of an application for resolution of claim, or the sustaining of a motion to reopen, the commissioner shall issue a notice of filing. Within forty-five (45) days of the date of the notice of filing, each defendant shall file a notice of claim denial or acceptance. A notice of claim denial shall not be required to be filed by any party in a claim reopened pursuant to KRS 342.125[~~The defendant shall file a Notice of Claim Denial or Acceptance on a Form 111 - Injury and Hearing Loss within forty-five (45) days after the notice of the scheduling order or within forty-five (45) days following an order sustaining a motion to reopen a claim~~].

(b) If a notice of claim denial[~~Form 111~~] is not filed, all allegations of the application shall be deemed admitted.

(c) The notice of claim denial[~~Form 111~~] shall set forth the following:

1. All pertinent matters that[~~which~~] are admitted and those that[~~which~~] are denied; and

2. If a claim is denied in whole or in part, a detailed summary of the basis for denial[~~;~~

~~3. The name of each witness whose testimony may be relevant to that denial; and~~

~~4. A description of the physical requirements of the plaintiff's job at the time of the alleged injury and the name, address and telephone number of the individual responsible for gathering this information for the employer and its insurer~~].

(d) In the notice of claim denial[~~addition to the Form 111~~], a defendant shall if appropriate file a special answer to raise any special defenses in accordance with this paragraph. If a defendant raises the special defense under KRS 342.165, failure to comply with a safety law, regulation, or rule, the defendant shall also file a completed Form SVE with the special answer and a copy of the law, regulation, or rule supporting the allegation.

1.[~~A defendant may incorporate special defenses that have been timely raised in the Form 111.~~

~~2.~~] A "special answer" shall be filed within:

a. Forty-five (45) days of the initial order scheduling a BRC and hearing[~~order~~]; or forty-five (45) days of the date of the order joining the defendant as a party, if joinder occurs after the filing of the application for the resolution of the claim; or

b. Ten (10) days after discovery of facts supporting the defense if discovery could not have been had earlier in the exercise of due diligence.

2.[~~3.~~] A special defense shall be waived if not timely raised.

3.[~~4.~~] A special defense shall be pleaded if the defense arises under:

a. KRS 342.035(3), unreasonable failure to follow medical advice;

b. KRS 342.165, failure to comply with safety laws;

c. KRS 342.316(7) or 342.335, false statement on employment application;

d. KRS 342.395, voluntary rejection of KRS Chapter 342;

e. KRS 342.610(3), voluntary intoxication or self-infliction of injury;

f. KRS 342.710(5), refusal to accept rehabilitation services;[~~or~~]

g. Running of periods of limitations or repose under KRS 342.185, 342.270, 342.316, or other applicable statute; or

h. "Horseplay".

(e) Within forty-five (45) days of the issuance of the notice of filing, the parties shall file a notice of disclosure, which shall contain:

1. The names of all known witnesses upon whom the party intends to rely except those already submitted into evidence;

2. For plaintiff, wage information for all wages earned by the plaintiff, if any, subsequent to the injury, including any wages earned as of the date of service of the notice of disclosure while employed for any employer other than the one (1) for whom he or she was employed at the time of the injury;

3. For plaintiff, a listing of each employer, address, and dates of any employment, subsequent to the injury, as well as the nature of the employment, including a description of any physical requirements of the subsequent employment;

4. For plaintiff, wage information for all wages earned, if any, for any employment for which the plaintiff was engaged concurrent to the time of the injury on a Form AWW-CON;

5. For all parties, a list, with specificity, of all known and anticipated contested issues. Any subsequent addition of contested issues shall only be allowed upon motion to the ALJ establishing good cause as to why the issue could not have been listed earlier;

6. For plaintiff, all known unpaid bills to the parties, including travel for medical treatment, co-pays, or direct payments by plaintiff for medical expenses for which plaintiff seeks payment or reimbursement. Actual copies of the bills and requests for reimbursement shall not be filed but shall be served upon opposing parties if requested;

7. For each defendant, a completed Form AWW-1, Average Weekly Wage Certification, and itemization of any medical bills or medical expenses known to be disputed by the defendant, any submitted bills being considered but unpaid, and a total for all medical expenses paid as of the date application for resolution of the claim or motion to reopen is filed. Actual copies of the bills and

requests for reimbursement shall not be filed but shall be served upon opposing parties if requested. If the plaintiff has earned wages for a defendant after the injury that is the subject of the litigation, the defendant shall provide post-injury wage information records on a Form AWW-POST. In a reopened claim, a Form AWW-1 shall not be required to be filed if an ALJ made a finding establishing the average weekly wage in a previous decision or if the pre-injury average weekly wage was previously stipulated by the parties unless a party seeks and is relieved from the original stipulation; and

8. For a newly joined party, except for a medical provider whose treatment or bills have been contested, within forty-five (45) days of the date of the order joining the new party, a notice of disclosure in accordance with the requirements in this subsection.

(f) All parties shall amend the notice of disclosure within ten (10) days after the identification of any additional witness, or receipt of information or documents that would have been disclosed at the time of the original filing had it then been known or available. Failure to comply may result in the exclusion of the witness[~~Section 6. Application for Resolution of an Occupational Disease Claim and Response. (1) To apply for resolution of an occupational disease claim, the applicant shall file Form 102-0D with the following completed attachments:~~

~~(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the date of last exposure and all jobs in which plaintiff alleges exposure to the hazards of the occupational disease;~~

~~(b) Medical history (Form 105), to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for the same body part claimed to have been injured;~~

~~(c) Medical release (Form 106);~~

~~(d) One (1) medical report supporting the existence of occupational disease; and~~

~~(e) Social Security Release Form (Form 115).~~

~~(2)(a) The defendant shall file a Notice of Claim Denial or Acceptance on a Form 111-OD:~~

~~1. Within forty-five (45) days after the notice of the scheduling order; and~~

~~2. In accordance with Section 5(2)(b), (c), and (d) of this administrative regulation.~~

~~(b) In addition to the Form 111-OD, a defendant shall file a special answer to raise any special defenses in accordance with Section 5(2)(d) of this administrative regulation.~~

~~(3) For all occupational disease and hearing loss claims, the executive director shall promptly schedule an examination pursuant to KRS 342.315 and 342.316.~~

~~Section 7. Application for Resolution of a Hearing Loss Claim and Response. (1) To apply for resolution of a hearing loss claim, the applicant shall file Form 103 with the following completed documents:~~

~~(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the last date of noise exposure;~~

~~(b) Medical history (Form 105), to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for hearing loss or ear complaints;~~

~~(c) Medical release (Form 106);~~

~~(d) One (1) medical report describing the hearing loss which is the basis of the claim and, if a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder. Medical reports required under this paragraph may consist of legible, hand-written notes of a treating physician; and~~

~~(e) Social Security Release Form (Form 115).~~

~~(2)(a) The defendant shall file a Notice of Claim Denial or Acceptance on a Form 111 - Injury and Hearing Loss:~~

~~1. Within forty-five (45) days after the notice of the scheduling order; and~~

~~2. In accordance with Section 5(2)(b), (c), and (d) of this administrative regulation.~~

~~(b) In addition to the Form 111 - Injury and Hearing Loss, a defendant shall file a special answer to raise any special defenses in accordance with Section 5(2)(d) of this administrative regulation~~].

Section 8. Discovery, Evidence, and Exchange of Records. (1) Proof taking and discovery for all parties shall begin from the date of issuance by the commissioner[~~executive director~~] of the notice of filing[~~scheduling order~~].

(2)(a) Plaintiff and defendants shall take proof for a period of sixty (60) days from the date of the notice of filing[~~scheduling order~~];

(b) After the sixty (60) day period, defendants shall take proof for an additional thirty (30) days; and

(c) After the defendant's thirty (30) day period, the plaintiff shall take rebuttal proof for an additional fifteen (15) days.

(3) During the pendency of a claim, any party obtaining or possessing a medical or vocational report or records and relevant portions of hospital, educational, Office of Vital Statistics, Armed Forces, Social Security, and other public records shall serve a copy of the report or records upon all other parties within ten (10) days following receipt of those reports or records or within ten (10) days of receipt of notice if assigned to an administrative law judge. Failure to comply with this section may constitute grounds for exclusion of the reports or records as evidence.

(4) All medical reports filed with the application for resolution of a claim[~~Forms 101, 102-0D, or 103~~] shall be admitted into evidence without further order subject to the limitations of KRS 342.033 if:

(a) An objection is not filed prior to or with the filing of the notice of claim denial[~~Form 111~~]; and

(b) The medical reports comply with Section 10 of this administrative regulation.

Section 9. Vocational Reports. (1) One (1)[~~A~~] vocational report may be filed by notice and shall be admitted into evidence without further order and without the necessity of a deposition, if an objection is not filed.

(2) Vocational reports shall be signed by the individual making the report.

(3) Vocational reports shall include, within the body of the report or as an attachment, a statement of the qualifications of the person making the report.

(4) An objection to the filing of a vocational report shall:

(a) Be filed within ten (10) days of the filing of the notice or motion for admission; and

(b) State the grounds for the objection with particularity.

(5) The filing party may file a response to the objection within ten (10) days and the administrative law judge shall rule on the objection within ten (10)[~~fifteen (15)~~] days after the response is filed, or, if no response is filed, when the response was due to be filed.

(6) If a vocational report is admitted as direct testimony, an adverse party may depose the reporting vocational witness in a timely manner as if on cross-examination at its own expense.

Section 10. Medical Reports. (1) A party shall not introduce direct testimony from more than two (2) physicians by medical report except upon a showing of good cause and prior approval by an administrative law judge.

(2) Medical reports[~~shall be~~] submitted through the LMS shall utilize the web form for electronic filing[~~on Form 107-I (injury), Form 107-P (psychological), Form 108-OD (occupational disease), Form 108-CWP (coal workers' pneumoconiosis), or Form 108-HL (hearing loss), as appropriate~~], except[~~that~~] an administrative law judge may permit the introduction of other reports that substantially comply with this section and do not exceed twenty-five (25) pages.

(3) Medical reports shall be signed by the physician making the report, or the notice of filing shall be considered[~~be accompanied by~~] an affidavit from the physician or submitting party[~~or~~

~~representative verifying the authenticity of the report~~].

(4) Medical reports shall include, within the body of the report or as an attachment, a statement of qualifications of the person making the report. If the qualifications of the physician who prepared the written medical report have been filed with the commissioner[~~executive director~~] and the physician has been assigned a medical qualifications index number, reference may be made to the physicians index number in lieu of attaching qualifications along with a listing of the physician's specialty of practice.

(5) Narratives in medical reports shall be typewritten. Other portions, including spirometric tracings, shall be clearly legible.

(6) Notices of filing or motions to file medical reports shall list the impairment rating assigned in the medical report or record in the body of the notice or motion.

(a) Upon notice, a party may file evidence from[~~the testimony of~~] two (2) physicians in accordance with KRS 342.033, either by deposition or medical report, which shall be admitted into evidence without further order if an objection is not filed.

(b) An objection to the filing of a medical report shall be filed within ten (10) days of the filing of the notice or the motion for admission.

(c) Grounds for the objection shall be stated with particularity.

(d) The party seeking introduction of the medical report may file a response within ten (10) days after the filing of the objection.

(e) The administrative law judge shall rule on the objection within ten (10)[~~fifteen (15)~~] days of the response or the date the response is due[~~filing~~].

(7) Medical records that are not submitted on the appropriate web form or in a format designated by the commissioner may be submitted by notice that identifies the records, the person or medical facility that produced the records, and the relevance of the records to the claim. Records submitted in excess of twenty (20) pages shall provide an indexed table of contents generally identifying the contents of each page. Failure to provide an indexed table of contents shall result in rejection of the records, which shall not be filed or considered as evidence.

(8) If a medical report is admitted as direct testimony, an adverse party may depose the reporting physician in a timely manner as if on cross-examination at its own expense.

Section 11. Medical Evaluations Pursuant to KRS 342.315. (1) All persons claiming benefits for hearing loss or occupational disease[~~other than coal workers' pneumoconiosis~~] shall be referred by the commissioner for a medical evaluation in accordance with contracts entered into between the commissioner[~~executive director~~] and the University of Kentucky and University of Louisville medical schools or other facility designated by the commissioner.

(2) In[~~Upon~~] all other claims[~~except coal workers' pneumoconiosis claims~~], the commissioner[~~executive director~~] or an administrative law judge may direct appointment by the commissioner[~~executive director~~] of a university medical evaluator or, if no university evaluator is available for an evaluation, the commissioner shall direct the appointment of an independent physician.

(3) Upon referral for medical evaluation under this section, a party may tender additional relevant medical treatment records and diagnostic studies[~~information~~] to the administrative law judge or to the commissioner for determination of relevancy and submission to the evaluator[~~university medical school to whom the evaluation is assigned~~]. The administrative law judge or the commissioner shall provide notice to the parties of the material submitted to the evaluator. This additional information shall not be filed of record. The additional medical information shall be:

(a) Submitted to the administrative law judge or to the commissioner[~~university~~] within fourteen (14) days following an order for medical evaluation pursuant to KRS 342.315 or KRS 342.316;

(b)[~~Submitted by way of medical reports, notes, or depositions;~~

~~(c)~~] Clearly legible;

(c)[~~(d)~~] Indexed;

(d)[~~(e)~~] Furnished in chronological order;

(e)[~~(f)~~] Timely furnished to all other parties within ten (10) days following receipt of the medical information; and

(f)[~~(g)~~] Accompanied by a summary that is filed of record and served upon all parties. The summary shall:

1. Identify the medical provider;
2. Include the date of medical services; and
3. Include the nature of medical services provided.

(4) Upon the scheduling of an evaluation, the commissioner[~~executive director~~] shall provide notice to all parties and the employer shall forward to the plaintiff necessary travel expenses as required by KRS 342.315(4). Upon completion of the evaluation, the commissioner[~~executive director~~] shall provide copies of the report to all parties and shall file the original report in the claim record to be considered as evidence.

(5) The administrative law judge shall allow timely cross-examination of a medical evaluator appointed by the commissioner[~~executive director~~] at the expense of the moving party.

(6) Unjustified failure by the plaintiff to attend the scheduled medical evaluation may be grounds for dismissal, payment of a no-show fee, suspension of the claim pursuant to KRS 342.205(3), sanctions, or any combination of these penalties, unless good cause is shown for the failure[~~all of the above~~].

(7) Failure by the employer or its insurance carrier to pay travel expenses within seven (7) working days prior to the[~~of notification of a~~] scheduled medical evaluation or to pay the cost of the exam within thirty (30) days of the receipt of a statement of charges for the exam may result in[~~be grounds for imposition of~~] sanctions, payment of failure to appear charges, or unfair claims practice penalties unless good cause is shown for the failure or delay.

Section 12. Interlocutory Relief. (1) A party may seek interlocutory relief at the time of the initial claim application or by motion requesting:

(a) Interim payment of income benefits for total disability pursuant to KRS 342.730(1)(a);

(b) Medical benefits pursuant to KRS 342.020; or

(c) Rehabilitation services pursuant to KRS 342.710.

(2) If interlocutory relief is requested prior to or at the time the application for resolution of claim is filed, the commissioner shall issue an order allowing the responding party twenty (20) days to respond to the request.

(a) Upon receipt of the response, the commissioner shall assign the claim to an ALJ for resolution of the request for interlocutory relief.

(b) The ALJ to whom the interlocutory relief request is assigned may schedule a hearing to be held within thirty-five (35) days of the order assigning the claim for resolution.

(c) The ALJ shall issue a decision regarding interlocutory relief within twenty (20) days after the date of the hearing.

(d) If no hearing is held, the ALJ shall issue a decision within twenty (20) days after the date the response is filed, or twenty (20) days after the date the response is due if no response is filed.

(e) If the request for interlocutory relief is denied, the claim shall be referred to the commissioner for reassignment of the claim for resolution by another ALJ.

(f) If the request for interlocutory relief for income benefits is granted, the claim shall be placed in abeyance. The plaintiff shall provide a status report every sixty (60) days, or sooner if circumstances warrant or upon order by the ALJ, updating his or her current status. Upon motion and a showing of cause, or upon the ALJ's own motion, interlocutory relief shall be terminated and the claim removed from abeyance. Failure to file a timely status report shall constitute cause to terminate interlocutory relief. The order terminating interlocutory relief shall also contain a provision for referral to the commissioner for reassignment of the claim for resolution by another ALJ.

(3)(a) If a motion for interlocutory relief is filed after the claim is assigned to an ALJ, he or she shall within ten (10) days issue an order:

1. Requiring a response to the request for interlocutory relief be served within twenty (20) days from the date of the order, and refer it to the commissioner for assignment to an ALJ for the sole purpose of considering the request for interlocutory relief; and

2. If necessary, setting a hearing within thirty-five (35) days of the order. The hearing may be held telephonically, by video, or by other electronic means, if the parties agree or a party demonstrates good cause as to why the party cannot appear at the hearing in person. The hearing may be waived by agreement.

(b) Upon completion of the hearing, an ALJ shall issue a decision within twenty (20) days.

(c) If the hearing is waived, an ALJ shall issue a decision within twenty (20) days after the date of agreed waiver.

(4)(a) Entitlement to interlocutory relief shall be established by means of affidavit, deposition, hearing testimony, or other means of record demonstrating the requesting party:

1. Is eligible under KRS Chapter 342;

2. Will suffer immediate and irreparable injury, loss, or damage pending a final decision on the application; and

3. Is likely to succeed on the merits based upon the evidence introduced by the parties.

(b) Rehabilitation services may be ordered while the claim is pending upon a showing that immediate provision of services will substantially increase the probability that the plaintiff will return to work.

(5) Benefits awarded pursuant to an interlocutory order shall not be terminated except upon entry of an order issued by an administrative law judge. Failure to pay benefits under an interlocutory order or termination of benefits ordered pursuant to an interlocutory order without prior approval of the ALJ shall constitute grounds for a violation of the Unfair Claims Settlement Practices Act at KRS 342.267, and for sanctions pursuant to KRS 342.310 and Section 26 of this administrative regulation, unless good cause is shown for failure to do so.

(6) If a claimant is successful in his or her request for interlocutory relief, and if payment of benefits pursuant to the interlocutory relief order results in an overpayment of benefits, the party making the overpayment shall be entitled to a dollar-for-dollar credit for the overpayment against past due or future awarded income benefits.

(7) If interlocutory relief is requested in the application for benefits, an assignment to an ALJ shall not be made on other issues and a scheduling order shall not be issued until a ruling has been made on the interlocutory relief request, unless the requesting party shows that delay will result in irreparable harm.

(8)[~~During a claim, a party may seek interlocutory relief through:~~

~~(a) Interim payment of income benefits for total disability pursuant to KRS 342.730(1)(a);~~

~~(b) Medical benefits pursuant to KRS 342.020; or~~

~~(c) Rehabilitation services pursuant to KRS 342.710.~~

~~(2) Upon motion of any party, an informal conference:~~

~~(a) Shall be held to review the plaintiff's entitlement to interlocutory relief; and~~

~~(b) May be held telephonically.~~

~~(3) Any response to a request for interlocutory relief shall be served within twenty (20) days from the date of the request and thereafter, the request shall be ripe for a decision.~~

~~(4)(a) Entitlement to interlocutory relief shall be shown by means of affidavit, deposition, or other evidence of record demonstrating the requesting party:~~

~~1. Is eligible under KRS Chapter 342; and~~

~~2. Will suffer irreparable injury, loss or damage pending a final decision on the application.~~

~~(b) Rehabilitation services may be ordered while the claim is pending upon showing that immediate provision of services will substantially increase the probability that the plaintiff will return to work.~~

~~(5) If interlocutory relief is awarded in the form of income benefits, the application shall be placed in abeyance unless a party shows irreparable harm will result. The administrative law judge may require periodic reports as to the physical condition of the plaintiff. Upon motion and a showing of cause, or upon the administrative law judge's own motion, interlocutory relief shall be terminated and the claim removed from abeyance.~~

~~(6)~~] An attorney's fee in the amounts authorized by KRS 342.320 that does not exceed twenty (20) percent of the weekly income benefits awarded pursuant to a request for interlocutory relief may be granted. The approved fee shall be deducted in equal amounts from the weekly income benefits awarded and shall be paid directly to the attorney.

[~~(7) A party seeking interlocutory relief may use the following forms:~~

~~(a) Motion for Interlocutory Relief, Form MIR-1;~~

~~(b) Affidavit for Payment of Medical Expenses, Form MIR-2;~~

~~(c) Affidavit for Payment of Temporary Total Disability, Form MIR-3; and~~

~~(d) Affidavit Regarding Rehabilitation Services, Form MIR-4.~~]

Section 13. Benefit Review Conferences. (1) The purpose of the BRC[~~benefit review conference~~] shall be to expedite the processing of the claim and to avoid if possible the need for a hearing.

(2) The BRC[~~benefit review conference~~] shall be an informal proceeding.

(3) The date, time, and place for the BRC[~~benefit review conference~~] shall be stated on the notice of filing[~~scheduling order~~] issued by the commissioner[~~executive director~~].

(4) The plaintiff and his or her representative, the defendant or its representative, and the representatives of all other parties shall attend the BRC[~~benefit review conference~~].

(5) If the defendant is insured or a qualified self-insured, a representative of the carrier with settlement authority shall be present or available by telephone during the BRC[~~benefit review conference~~]. Failure to comply with this provision may result in the imposition of sanctions.

(6) The administrative law judge may upon motion waive the plaintiff's attendance at the BRC[~~benefit review conference~~] for good cause shown.

(7) A transcript of the BRC[~~benefit review conference~~] shall not be made.

(8) Representatives of all parties shall have authority to resolve disputed issues and settle the claim at the BRC[~~benefit review conference~~].

(9)(a)[~~The defendant shall provide a completed Form AWW-1, Average Weekly Wage Certification.~~

~~(b)~~] The plaintiff shall bring to the BRC copies of known unpaid medical bills not previously provided and documentation of out-of-pocket expenses including travel for medical treatments. Absent a showing of good cause, failure to do so may constitute a waiver to claim payment for those bills.

(b)[~~(c)~~] Each defendant shall bring copies of known[~~disputed~~] medical bills not previously provided and medical expenses presented to them, their insurer or representative known to be unpaid or disputed including travel expenses. Absent a showing of good cause, failure to do so may constitute a waiver to challenge those bills.

(10)[~~Ten (10) days before the benefit review conference, the parties shall exchange final stipulations and lists of known witnesses and exhibits that:~~

~~(a) Name each proposed witness;~~

~~(b) Summarize the anticipated testimony of each witness;~~

~~(c) For medical witnesses, include in the summary:~~

~~1. The diagnosis reached;~~

~~2. Clinical findings and results of diagnostic studies upon which the diagnosis is based;~~

~~3. The functional impairment rating assessed by the witness; and~~

~~4. A description of any work-related restrictions imposed; and~~

~~(d) Identify any exhibits.~~

~~(11) At the benefit review conference, the parties shall:~~

~~(a) Attempt to resolve controversies and disputed issues;~~

~~(b) Narrow and define disputed issues; and~~

~~(c) Facilitate a prompt settlement.~~

~~(12)~~] A party seeking postponement of a BRC[~~benefit review conference~~] shall file a motion at least fifteen (15) days prior to the date of the conference and shall demonstrate good cause for the postponement.

(11)[~~(13)~~] If at the conclusion of the BRC[~~benefit review conference~~] the parties have not reached agreement on all the

issues, the administrative law judge shall:

(a) Prepare a final BRC memorandum and order including stipulations and identification of all issues, which shall be signed by all parties or if represented, their counsel, and the administrative law judge[~~Prepare a summary stipulation of all contested and uncontested issues which shall be signed by representatives of the parties and by the administrative law judge~~]; and

(b) Schedule a final hearing.

(12)[~~(14)~~] Only contested issues shall be the subject of further proceedings.

(13)[~~(15)~~] Upon motion with good cause shown, the administrative law judge may order that additional discovery or proof be taken between the BRC[~~benefit review conference~~] and the date of the hearing and may limit the number of witnesses to be presented at the hearing.

Section 14. Evidence - Rules Applicable. (1) The Rules of Evidence prescribed by the Kentucky Supreme Court shall apply in all proceedings before an administrative law judge except as varied by specific statute and this administrative regulation.

(2) Any party may file as evidence before the administrative law judge pertinent material and relevant portions of hospital records limited to emergency room records, history, physical and discharge summary, operative notes, and reports of specialized testing, educational, Office of Vital Statistics, Armed Forces, Social Security, and other public records. An opinion of a physician that[~~which~~] is expressed in these records shall not be considered by an administrative law judge in violation of the limitation on the number of physician's opinions established in KRS 342.033. If the records or reports submitted exceed twenty-five (25) pages, the party attempting to file those records or reports into evidence shall include an indexed table of contents generally identifying the contents. An appropriate release shall be included to permit opposing parties the ability to obtain complete copies of the records.

Section 15. Extensions of Proof Time. (1) An extension of time for producing evidence may be granted upon showing of circumstances that prevent timely introduction.

(2) A motion for extension of time shall be filed no later than five (5) days before the deadline sought to be extended.

(3) The motion or supporting affidavits shall set forth:

(a) The efforts to produce the evidence in a timely manner;

(b) Facts which prevented timely production; and

(c) The date of availability of the evidence, the probability of its production, and the materiality of the evidence.

(4) In the absence of compelling circumstances, only one (1) extension of thirty (30) days shall be granted to each side for completion of discovery or proof by deposition.

(5) The granting of an extension of time for completion of discovery or proof shall:

(a) Enlarge the time to all:

1. Plaintiffs if the extension is granted to a plaintiff; and

2. Defendants if an extension is granted to a defendant;[~~and~~]

(b) Extend the time of the adverse party automatically except if the extension is for rebuttal proof; and

(c) Be limited to the introduction of evidence cited as the basis for the requested extension of time.

Section 16. Stipulation of Facts. (1) Refusal to stipulate facts that[~~which~~] are not genuinely in issue shall warrant imposition of sanctions as established in Section 26[~~24~~] of this administrative regulation. An assertion that a party has not had sufficient opportunity to ascertain relevant facts shall not be considered "good cause" in the absence of due diligence.

(2) Upon cause shown, a party may be relieved of a stipulation if the motion for relief is filed at least ten (10) days prior to the date of the hearing, or as soon as practicable after discovery that the stipulation was erroneous.

(3) Upon granting relief from a stipulation, the administrative law judge may grant a continuance of the hearing and additional proof time.

Section 17. Discovery and Depositions. (1) Discovery and the taking of depositions shall be in accordance with the provisions of Kentucky[~~Civil~~] Rules of Civil Procedure 26 to 37,[~~inclusive,~~] except for[~~Civil~~] Rules 27, 33, and 36, which shall not apply to practice before the administrative law judges or the board.

(2) Depositions may be taken by telephone if the reporter administering the oath to the witness and reporting the deposition is physically present with the witness at the time the deposition is given. Notice of a telephonic deposition shall relate the following information:

(a) That the deposition is to be taken by telephone;

(b) The address and telephone number from which the call will be placed to the witness;

(c) The address and telephone number of the place where the witness will answer the deposition call; and

(d) Whether opposing parties may participate in the deposition either at the place where the deposition is being given, at the place the telephone call is placed to the witness, or by conference call. If a party elects to participate by conference call, that party shall contribute proportionate costs of the conference call.

(3) A party seeking a subpoena from an ALJ shall prepare a subpoena or subpoena duces tecum, and provide it to the ALJ to whom the case is assigned, or if no assignment has been made then it shall be sent to the chief administrative law judge. Except for good cause shown, a subpoena shall be requested a minimum of ten (10) days prior to the date of the appearance being requested. A motion shall not be filed. A subpoena shall be served in accordance with Kentucky Rules of Civil Procedure 5.02, 45.03, or 45.05, whichever is applicable.

(4) The commissioner[~~executive director~~] shall establish a medical qualifications index.

(a) An index number shall be assigned to a physician upon the filing of the physician's qualifications.

(b) Any physician who has been assigned an index number may offer the assigned number in lieu of stating qualifications.

(c) Qualifications shall be revised or updated by submitting revisions to the commissioner[~~executive director~~].

(d) A party may inquire further into the qualifications of a physician.

(e) If the physician's qualifications have not previously been filed into the index maintained by the commissioner, the filing party shall provide sufficient information containing the physician's qualifications, and request the physician be included in the index and a number issued.

(5) Discovery requests and responses to the requests shall not be submitted into the record.

Section 18. Informal Conference. Prior to the hearing, the ALJ may conduct an informal conference either at a hearing site, telephonically, or by other electronic means to inquire about remaining contested issues, and who will testify at the hearing.

Section 19.[~~18.~~] Hearings. (1) At the hearing, the parties shall present proof concerning contested issues. If the plaintiff or plaintiff's counsel fails to appear, the administrative law judge may dismiss the case for want of prosecution, or if good cause is shown, the hearing may be continued.

(2) At the conclusion of the hearing, the administrative law judge may hold oral arguments, order, briefs, or proceed to final decision[~~claim shall be taken under submission immediately or briefs may be ordered~~].

(3) Briefs shall not exceed fifteen (15) pages in length. Reply briefs shall be limited to five (5) pages. Permission to increase the length of a brief shall be sought by motion.

(4) The administrative law judge may announce his decision at the conclusion of the hearing or shall defer decision until rendering a written opinion.

(5) A decision shall be rendered no later than sixty (60) days following the hearing.

(6) The time of filing a petition for reconsideration or notice of appeal shall not begin to run until after the ["]date of filing["] of the written opinion.

(7) An opinion or other final order of an administrative law

judge shall not be deemed final until the administrative law judge opinion is entered into LMS, or, if mailed, by certificate of service from the Office of the ALJ or Department of Workers' Claims with[~~has certified that~~] a certification that[~~of~~] mailing was sent to:

(a) An attorney who has entered an appearance for a party; or

(b) The party if an attorney has not entered an appearance.

(8) The parties with approval of the administrative law judge may waive a final hearing. Waiver of a final hearing shall require agreement of all parties and the administrative law judge. The claim shall be taken under submission as of the date of the order allowing the waiver of hearing. A decision shall be rendered no later than sixty (60) days following the date of the order allowing the waiver of hearing.

Section 20.[~~19.~~] Petitions for Reconsideration. (1) If applicable, a party shall file a petition for reconsideration within fourteen (14) days of the filing of a final order or award of an administrative law judge and[,] clearly state[~~stating~~] the patent error that[~~which~~] the petitioner seeks to have corrected and setting forth the authorities upon which petitioner relies. The party filing the petition for reconsideration shall tender a proposed order granting the relief requested.

(2) A response shall be served within ten (10) days after the date of filing of the petition.

(3) The administrative law judge shall act upon the petition within ten (10) days after the response is due.

Section 21. Settlements. (1) Unless the settlement agreement is completed and tendered to the ALJ for immediate approval at the BRC, informal conference, or hearing, or unless the ALJ orders otherwise, the party drafting the settlement agreement shall provide the signed original to the adverse party no later than fifteen (15) days after the date the parties agree to settle. The agreement shall be signed by all parties and tendered to the ALJ for approval no later than thirty (30) days after the date the parties agreed to settle absent a showing of good cause.

(2) Payment shall be made within thirty (30) days after the date of the order approving settlement.

(3) Failure to satisfy the time requirements in subsection (2) of this section unless solely the fault of the claimant or claimant's counsel may result in the addition of twelve (12) percent interest per annum on all benefits agreed upon in the settlement for any period of delay beyond the time prescribed in subsection (2) of this section.

(4) Parties who settle future periodic payments in a lump sum shall use the discount factor computed in accordance with KRS 342.265(3).

(5) Parties who reach an agreement pursuant to KRS 342.265 shall file the agreement on the applicable form as listed in this subsection and, if not filed electronically, that form shall include the original signatures of the parties:

(a) Form 110-F, Agreement as to Compensation and Order Approving Settlement- Fatality; or

(b) Form 110, Agreement as to Compensation and Order Approving Settlement.

(6) A settlement agreement that contains information or provisions that are outside the provisions and purview of KRS Chapter 342 shall not be approved and shall be returned to the parties[~~20. Benefit Calculations for Settlements. (1) For computing lump sum settlements, the employer shall utilize the prescribed discount rate for its weeks of liability only, not for the entire award period. A discount shall not be taken on past due benefits by the employer or Special Fund. Lump sum settlements shall be calculated as follows:~~

~~(a) Determine the entire lump sum liability:~~

~~1. Compute the remaining weeks of liability in the award by subtracting the number of weeks past due from the entire number of weeks in the award;~~

~~2. Discount the number of weeks remaining in the award at the prescribed discount rate;~~

~~3. Multiply the weekly benefit rate by the discounted number of weeks remaining (subparagraph 2 of this paragraph) in the award. This product shall equal the entire future lump sum liability for the award; and~~

~~4. Add the amount of past due benefits to the future lump sum liability award (subparagraph 3 of this paragraph). The sum shall represent the entire lump sum value of the award.~~

~~(b) Determine the employer's lump sum liability as follows:~~

~~1. The employer's future liability shall be computed by determining its total weeks of liability less the number of weeks of liability past due.~~

~~2. The number of weeks remaining shall be discounted at the prescribed discount rate and multiplied by the amount of the weekly benefit.~~

~~3. Multiply the number of past due weeks by the amount of the weekly benefit.~~

~~4. The employer's entire liability for a lump sum payment shall be determined by adding the results of subparagraphs 2 and 3 of this paragraph.~~

~~(c) Determine the Special Fund's portion of the lump sum liability by subtracting the value of the employer's liability in lump sum (paragraph (b) of this subsection) from the entire value of the lump sum settlement (paragraph (a) of this subsection). The remainder shall be the Special Fund's lump sum liability.~~

~~(2) If the employer settles its liability for income benefits with the employee for a lump sum payment and a determination is made of the Special Fund's liability, the Special Fund's portion of income benefits shall be paid commencing with the date of approval of the employer's settlement and continuing for the balance of the compensable period.~~

~~(3) In computing settlements involving periodic payments, the employer shall pay its liability over the initial portion of the award, based on the number of weeks its liability bears to the entire liability for the claim. The Special Fund shall make all remaining payments for the balance of the compensable period.~~

~~(4) Pursuant to KRS 342.265, election by the Special Fund to settle on the same terms as the employer shall mean the Special Fund agrees to settle in the same manner as the employer in either a discounted lump sum or in periodic payments based upon its proportionate share of the permanent disability percentage paid by the employer. "Same terms" shall not include any additional payments the employer included for buy out of medical expenses, temporary total disability, rehabilitation, or other benefits for which the Special Fund is not liable.~~

~~(5) Parties involved in a lump-sum settlement of future periodic payments shall use the discount factor computed in accordance with KRS 342.265(3).~~

~~(6) Parties who reach an agreement pursuant to KRS 342.265 shall file the agreement on the applicable form as listed below:~~

~~(a) Form 110-F, Agreement as to Compensation and Order Approving Settlement- Fatality;~~

~~(b) Form 110-I, Agreement as to Compensation and Order Approving Settlement- Injury;~~

~~(c) Form 110-O, Agreement as to Compensation and Order Approving Settlement - Occupational Disease; or~~

~~(d) Form 110-CWP, Agreement as to Compensation and Order Approving Settlement - Coal Workers' Pneumoconiosis~~].

Section 22.[~~21.~~] Review of Administrative Law Judge Decisions. (1) General.

(a) Pursuant to KRS 342.285(1), decisions of administrative law judges shall be subject to review by the Workers' Compensation Board in accordance with the procedures set out in this administrative regulation.

(b) Parties shall insert the language "Appeals Branch" or "Workers' Compensation Board" on the outside of an envelope containing documents filed in an appeal to the board.

(2) Time and format of notice of appeal.

(a) Within thirty (30) days of the date a final award, order, or decision rendered by an administrative law judge pursuant to KRS 342.275(2) is filed, any party aggrieved by that award, order, or decision may file a notice of appeal to the Workers' Compensation Board.

(b) As used in this section, a final award, order, or decision shall be determined in accordance with Civil Rule 54.02(1) and (2).

(c) The notice of appeal shall:

1. Denote the appealing party as the petitioner;

2. Denote all parties against whom the appeal is taken as respondents;

3. Name the administrative law judge who rendered the award, order, or decision appealed from as a respondent;

4. If appropriate pursuant to KRS 342.120 or 342.1242, name the director of the Division of Workers' Compensation Funds as a respondent;[~~and~~]

5. Include the claim number; and

6. State the date of the final award, order, or decision appealed.

(d) Cross-appeal.

1. Any party may file a cross-appeal through notice of cross-appeal filed within ten (10) days after the notice of appeal is served.

2. A cross-appeal shall designate the parties as stated in the notice of appeal.

(e) Failure to file the notice within the time allowed shall require dismissal of the appeal.

[~~(f) The executive director shall issue an acknowledgement to all parties of the filing of a notice of appeal or cross-appeal.~~]

(3)[~~Number of copies and~~] Format of petitioner's brief.

(a)[~~The~~] Petitioner's brief shall be filed within thirty (30) days of the filing of the notice of appeal.

(b)[~~An original and two (2) copies of the~~] Petitioner's brief shall be filed with the commissioner[~~Executive Director~~] of the Department[~~Office~~] of Workers' Claims.

(c) The petitioner's brief shall conform in all respects to Civil Rule 7.02(4).

(4) Petitioner's brief. The petitioner's brief shall designate the parties as petitioner (or petitioners) and respondent (or respondents) and shall be drafted in the[~~following~~] manner established in this subsection.[~~:~~]

(a)1. The name of each petitioner and each respondent shall be included in the brief.

2. The petitioner shall specifically designate as respondents all adverse parties.

3. The administrative law judge who rendered the award, order, or decision appealed from shall be named as a respondent.

(b) The workers' compensation claim number, or numbers, shall be set forth in all pleadings before the Workers' Compensation Board.

(c) The petitioner's brief shall state the date of entry of the final award, order, or decision by the administrative law judge.

(d) The petitioner's brief shall state whether any matters remain in litigation between the parties in any forum or court other than those for which an appeal is being sought.

(e) The petitioner's brief shall include a statement of the "Need for Oral Argument", designating whether the party requests an argument to be heard orally before the board and, if so, a brief statement setting out the reason or reasons for the request.

(f) The petitioner's brief shall include a "Statement of Benefits Pending Review", which shall set forth whether the benefits designated to be paid by the award, order, or decision for which review is being sought have been instituted pursuant to KRS 342.300.

(g) The organization and contents of the petitioner's brief for review shall be as established in this paragraph.[~~follows:~~]

1. A brief "Introduction" shall indicate the nature of the case.

2. A "Statement of Points and Authorities" shall set forth, succinctly and in the order in which they are discussed in the body of the argument, the petitioner's contentions with respect to each issue of law on which he relies for a reversal, listing under each the authority cited on that point and the respective pages of the brief on which the argument appears and on which the authorities are cited. This requirement may be eliminated for briefs of five (5) or less pages.

3. A "Statement of the Case" shall consist of a chronological summary of the facts and procedural events necessary to an understanding of the issues presented by the appeal, with ample reference to the specific pages of the record supporting each of the statements narrated in the summary.

4. An "Argument" shall:

a. Conform with the statement of points and authorities, with ample supportive references to the record and citations of authority pertinent to each issue of law; and

b. Contain, at the beginning of the argument, a statement with reference to the record showing whether the issue was properly preserved for review and, if so, in what manner.

5. A "Conclusion" shall set forth the specific relief sought from the board.

6. An "Appendix" shall contain:

a.[~~Copies of the final award, order, or decision of the administrative law judge from which review is being sought;~~

~~b. Any petitions for reconsideration filed by the parties pursuant to KRS 342.281;~~

~~c. The administrative law judge's order addressing any petitions for reconsideration;~~

~~d.~~] Copies of cases cited from federal courts and foreign jurisdictions, if any, upon which reliance is made; and

b.[~~c.~~] Copies of prior board opinions in accordance with subsection (10)[~~(9)~~] of this section.

7. Civil Rule 76.28(4)(c) shall govern the use of unpublished opinions of the Court of Appeals or Supreme Court.

(5) Respondent's brief, combined brief, or cross-petitioner's brief.

(a) Each respondent shall file an original[~~and two (2) copies of a~~] brief, or combined brief if cross-petition or cross-petitioner's brief, within thirty (30) days of the date on which the petitioner's brief was filed with the commissioner[~~Executive Director~~] of the Department[~~Office~~] of Workers' Claims.

(b)[~~The~~] Respondent's brief shall include a statement of the "Need for Oral Argument" similar to the statement required of the petitioner by subsection (4)(e) of this section.

(c) The respondent's brief shall include a "Statement of Benefits Pending Review" similar to the statement required of the petitioner by subsection (4)(f) of this section.

(d) Respondent's counter-argument shall follow the organization and content of the petitioner's brief as set forth in subsection (4)(g) of this section.

(6) Reply brief.

(a) If applicable, the petitioner may file a reply brief within ten (10) days after the date on which the respondent's brief was served or due, whichever is earlier.

(b) The organization and contents of the reply brief shall be as provided in Civil Rule 76.12(4)(e), except that an index or contents page shall not be required.

(c) If a cross-appeal has been filed, the cross-petitioner's reply brief may be served within ten (10) days after the date on which the last cross-respondent's brief was served or due, whichever is earlier.

(7) Certification. The petitioner's brief, respondent's brief, and reply brief shall be signed by each party or his counsel and that signature shall constitute a certification that the statements contained in the document are true and made in good faith, or if not filed through LMS, bear an original signature of each party or his counsel with a written certification the statements contained in the document are true and made in good faith, and that service has been made upon opposing parties with identification of the manner of service.

(8) Service of notice of appeal, cross-appeal, petitioner's brief, respondent's brief, and reply briefs on adverse parties.

(a) Before filing a notice of appeal, cross-appeal, or any brief with the commissioner[~~Executive Director~~] of the Department[~~Office~~] of Workers' Claims, a party shall serve, in the manner provided by Civil Rule 5.02, or electronically as set forth in this administrative regulation, a copy of the document on each adverse party.

(b) Every brief filed in an appeal to the Workers' Compensation Board shall bear, on the front cover, a signed statement, in accordance with Civil Rule 5.03 by the attorney or party that service has been made in conformity to this administrative regulation[~~as required by paragraph (a) of this subsection~~]. The statement shall identify by name each person served.

(c) The name of each attorney, or an unrepresented party, submitting a document to the Workers' Compensation Board along

with a current address, email address, and telephone number shall appear following its "conclusion".

(d) If the respondent is also a cross-petitioner, the respondent may file a combined brief or separate cross-petitioner's brief that[~~which~~] shall address issues raised by the cross-appeal.

(e) If a separate cross-petitioner's brief is filed, the format shall be the same as a respondent's brief.

(9) Except for good cause shown, any motion for extension of time to file a brief shall be filed not later than five (5) days prior to the date the brief is due.

(10) Form of citations.

(a) All citations to[~~of~~] Kentucky statutes and reported decisions of the Court of Appeals and Supreme Court shall conform to the requirements of Civil Rule 76.12(4)(g).

(b) All citations to[~~of~~] Kentucky unpublished decisions shall conform to the requirements of Civil Rule 76.28(4)(c).

(c) Citations to[~~for~~] prior decisions of the board shall include the style of the case, the appropriate claim or case number, and the date the decision was rendered.

(11)[~~(10)~~] Number of Pages.

(a) The petitioner's brief and the respondent's brief shall be limited to twenty (20) total pages, including those items required by this section[~~each~~]. The appendix shall not count against the page limit.

(b) Reply briefs shall be limited to five (5) pages.

(c) Combined briefs shall be limited to twenty-five (25) total pages, including those items required by this section. The appendix shall not count against the page limit.

(d) The parties shall make every effort to comply with the above page limitations.

(e) Permission to increase the length of a brief shall be sought by motion, but shall only be granted upon a showing of good cause.

(12)[~~(11)~~] Sanctions. Failure of a party to file a brief conforming to the requirements of this administrative regulation or failure of a party to timely file a response may be grounds for the imposition of one (1) or more of the following sanctions:

(a) Affirmation or reversal of the final order;

(b) Rejection of a brief that does not conform as to organization or content, with leave to refile in proper form within ten (10) days of the date returned. If timely refiling occurs, the filing shall date back to the date of the original filing;

(c) Striking of an untimely response;

(d) A fine of not more than $500; or

(e) Dismissal.

(13)[~~(12)~~] Motions.

(a) A[~~Except for a brief,~~] motion, response, or objection[~~pleading~~] shall[~~require the original to~~] be filed with the commissioner[~~Executive Director~~] of the Department[~~Office~~] of Workers' Claims in accordance with Section 3 of this administrative regulation, and shall bear the designation of Appeals Branch or Workers' Compensation Board.

(b) The style of the case, including the claim number and title of the motion or pleading, shall appear on the first page of the motion or pleading.

(c) The party filing a motion may file a brief memorandum supporting the motion and opposing parties may file brief memoranda in response. To be considered, a response shall be filed within ten (10) days of the motion. Further responses shall not be filed.

(d) Every motion and response, the grounds of which depend upon the existence of facts not in evidence, shall be supported by affidavits demonstrating those facts.

(e) Every motion and response, the grounds of which depend upon the existence of facts that[~~which~~] the moving or responding party believes are shown in the evidence or are admitted by the pleadings, shall make reference to the place in the record where that evidence or admission is found.

(f) Before filing a motion or pleading with the commissioner[~~executive director~~] of the Department[~~Office~~] of Workers' Claims, a party shall serve, in the manner provided by Civil Rule 5.02 or as set forth in this administrative regulation, a copy of the document on each adverse party.

(g) The filing of a motion to dismiss an appeal shall stay the remaining time for the filing of a responsive pleading. If the petitioner's brief has been previously filed and a motion to dismiss has been overruled, the respondent shall have fifteen (15) days from the order to file a respondent's brief.

(h) Except for motions that call for final disposition of an appeal, any board member designated by the chairman may dispose of a motion. An intermediate order may be issued on the signature of any board member.

(14)[~~(13)~~] Oral arguments.

(a) Upon motion of a party or within its discretion[~~upon the board's own motion~~], the board may order an oral argument on the merits in a case appealed from a decision, award, or order of an administrative law judge.

(b) Oral arguments shall occur on a date and at a time and location specified by the board.

(c) Appeals designated for oral argument shall be held in abeyance and all subsequent appeal time in the case shall be calculated from the date of the oral argument.

(15)[~~(14)~~] Continuation of benefits pending appeal.

(a) Benefits awarded by an administrative law judge that[~~which~~] are not contested shall be paid during the pendency of an appeal. A motion requesting the payment of these benefits shall not be required. Uncontested benefits shall include income benefits at an amount lesser than what was awarded if the issue on appeal addresses the amount of benefits to be awarded as opposed to the entitlement to income benefits.

(b) Upon the motion of a party pursuant to KRS 342.300, the board may order payment of benefits pending appeal in conformity with the award, decision, or order appealed from.

(c) Entitlement to relief pursuant to KRS 342.300 shall be granted upon motion establishing[~~that~~]:

1. The probability of the existence in fact of:

a. Financial loss;

b. Privation, suffering, or adversity resulting from insufficient income; or

c. Detriment to the moving party's property or health if payment of benefits is not instituted; and

2. That there exists a reasonable likelihood that the moving party will prevail on appeal.

(d) Any response to a motion for continuation of an award pending appeal shall be served within ten (10) days from the date of the request and, thereafter, the request shall be ripe for a decision.

(e) Entitlement to relief by the moving party and responses shall be shown by:

1. Affidavit if the grounds for the motion or response depend upon the existence of facts not in evidence; or

2. Supporting memorandum citing to evidence existing within the record and making reference to the place in the record where that evidence is found.

(16)[~~(15)~~] Decisions.

(a) The board shall:

1. Enter its decision affirming, modifying, or setting aside the order appealed from; or

2. Remand the claim to an administrative law judge for further proceedings.

(b) Motions for reconsideration shall not be permitted.

(c) The decision of the administrative law judge shall be affirmed if:

1. A board member is unable to sit on a decision; and

2. The remaining two (2) board members cannot reach an agreement on a final disposition.

(17)[~~(16)~~] Appeal from board decisions. If applicable, pursuant to KRS 342.290, the decision of the board shall be appealed to the Kentucky Court of Appeals as provided in Civil Rule 76.25.

(18) If the parties agree to settle a claim while it is on appeal to the board, the original agreement signed by all parties, along with a motion to place the appeal in abeyance and to remand to the ALJ, shall be filed. An action shall not be taken by an ALJ until an order is issued by the board holding the appeal in abeyance, and remanding the claim to the ALJ for approval of the settlement agreement. Once the settlement agreement is approved, the

appeal shall be removed from abeyance, and dismissed if all issues on appeal have been resolved. If issues remain for decision subsequent to the approval of the settlement agreement, the board shall remove the appeal from abeyance and establish a briefing schedule.

Section 23.[~~22.~~] Coverage - Insured Status. Upon the filing of an application for resolution of claim, the commissioner[~~executive director~~] shall ascertain whether the employer or any other person against whom a claim is filed and who is not exempted by KRS 342.650 has secured payment of compensation by obtaining insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. If an employer does not have insurance coverage or qualify as a self-insurer, the commissioner[~~executive director~~] shall notify the administrative law judge and all parties by service of a certification of no coverage.

Section 24.[~~23.~~] Withdrawal of Records and Disposition of Exhibits.

(1) A portion of any original record of the office shall not be withdrawn except upon an order of the commissioner[~~executive director~~], an administrative law judge, or a member of the board.

(2)(a) All physical exhibits, including x-rays, shall be disposed of sixty (60) days after the order resolving the claim has become final except x-rays filed in coal workers' pneumoconiosis claims, which shall be returned to the party who filed the x-ray.

(b) A party filing an exhibit may make arrangements to claim an exhibit prior to that time.

(c)1. If an unclaimed exhibit has no money value, it shall be destroyed.

2. If an unclaimed exhibit has a value of more than $100, it shall be sold as surplus property.

3. If an unclaimed exhibit has a value of less than $100, it shall be donated to the appropriate state agency.

4. If an unclaimed exhibit has historic value, it shall be sent to the state archives.

Section 25. Time for Payment of Benefits in Litigated Claims. (1) If a disputed claim is litigated and an opinion, order, or award is entered awarding benefits to a claimant and no appeal is taken that prevents finality of the opinion, order, or award:

(a) All past benefits due under the award shall be paid no later than twenty-one (21) days after expiration of the last appeal date unless otherwise ordered by an ALJ; and

(b) Any attorney fee shall be paid no later than thirty (30) days after the date of the administrative law judge's order approving the fee unless otherwise ordered by an ALJ.

(2) If an appeal is taken from an opinion, order, or award awarding benefits to a claimant, any benefits shall be paid no later than twenty-one (21) days after the decision becomes final and no further appeal can be taken. Any attorney fee shall be paid no later than thirty (30) days after the decision becomes final, or the date of the ALJ's order approving fee, whichever is later unless otherwise ordered by an ALJ.

(3) Failure to comply with this section may be grounds for sanctions pursuant to Section 26 of this administrative regulation, unless good cause is shown for the failure.

Section 26.[~~24.~~] Sanctions. (1) Pursuant to KRS 342.310, an administrative law judge or the board may assess costs upon a determination that the proceedings have been brought, prosecuted, or defended without reasonable grounds.

(2) A sanction may be assessed against an offending attorney or representative rather than against the party.

(3) If a party is a governmental agency and attorney's fees are assessed, the fees shall include fees for the services of an attorney in public employment, measured by the reasonable cost of similar services had a private attorney been retained.

(4) Failure of a party to timely file a pleading or document or failure to comply with the procedures required by this administrative regulation may be treated by an administrative law judge or the board as prosecuting or defending without reasonable grounds.

Section 27.[~~25.~~] Payment of Compensation from Uninsured Employers' Fund. (1) Payment from the Uninsured Employers' Fund of compensation shall be made upon the determination by an administrative law judge that the responsible employer failed to secure payment of compensation as provided by KRS 342.340; and

(a) Thirty (30) days have expired since the finality of an award or issuance of an interlocutory relief order and a party in interest certifies the responsible employer has failed to initiate payments in accordance with that award;

(b) Upon showing that the responsible employer has filed a petition under any section of the Federal Bankruptcy Code; or

(c) The plaintiff or any other party in interest has filed in the circuit court of the county where the injury occurred an action pursuant to KRS 342.305 to enforce payment of the award against the uninsured employer, and there has been default in payment of the judgment by the employer.

(2) The plaintiff may by motion and affidavit demonstrate compliance with this section and request an administrative law judge to order payment from the Uninsured Employers' Fund in accordance with KRS 342.760.

(3) This section shall not be construed to prohibit the voluntary payment of compensation by an employer, or any other person liable for the payment, who has failed to secure payment of compensation as provided by KRS Chapter 342, the compromise and settlement of a claim, or the payment of benefits by the Special Fund or Coal Workers' Pneumoconiosis Fund.

[~~(4) Form UEF-P, Motion for Payment from Uninsured Employers' Fund, provided by the office may be used by the employee.~~]

Section 28.[~~26.~~] Forms. The Department[~~Office~~] of Workers' Claims shall not accept applications or forms in use prior to the forms required by and incorporated by reference in this administrative regulation. Outdated applications or forms submitted may[~~shall~~] be rejected and returned to the applicant or person submitting the form. If the application or form is resubmitted on the proper form within twenty (20) days of the date it was returned, the filing shall date back to the date the application or form was first received by the commissioner[~~executive director~~]. Otherwise, the date of the second receipt shall be the filing date.

Section 29. Request for Participation by the Kentucky Coal Workers' Pneumoconiosis Fund. (1) Following a final award or order approving settlement of a claim for coal workers' pneumoconiosis benefits pursuant to KRS 342.732, the employer shall file a written request for participation with the Kentucky Coal Workers' Pneumoconiosis Fund within thirty (30) days and shall serve copies of the request on all other parties.

(2) A written request for participation with the Kentucky Coal Workers' Pneumoconiosis Fund shall be in writing and include the following documents:

(a) Plaintiff's application for resolution of claim;

(b) Defendant's notice of resistance, notice of claim denial or acceptance, and any special answer;

(c) All medical evidence upon which the award or settlement was based;

(d) The notice of consensus issued by the commissioner, if rendered;

(e) Final opinion or order of an administrative law judge determining liability for benefits or settlement agreement and order approving settlement agreement;

(f) If an administrative law judge's award was appealed, the appellate opinions; and

(g) If the request for participation includes retraining incentive benefits under KRS 342.732, a certification by the requesting party that the plaintiff meets the relevant statutory criteria.

(3) If the request for participation is based upon the settlement of a claim, the employer shall submit a settlement agreement that represents liability exclusively for coal workers' pneumoconiosis benefits, and does not include any sums for other claims that the plaintiff may have against the employer.

(4) In claims arising under KRS 342.792, if the employer fails to submit a request for participation within thirty (30) days of the final award or order approving settlement, the plaintiff or an administrative law judge may file a written request for participation with the Kentucky Coal Workers' Pneumoconiosis Fund within sixty (60) days of the final award or order approving settlement.

(5) Within thirty (30) days following receipt of a completed request for participation, the director of the Kentucky Coal Workers' Pneumoconiosis Fund shall notify the employer and all other parties of acceptance or denial of the request.

(6) A denial shall be in writing and based upon any of the following findings by the director:

(a) Failure to file a written request for participation within the time limits specified in this administrative regulation without good cause;

(b) The employer failed to defend the claim;

(c) The employer entered into a settlement agreement not supported by the medical evidence, or that includes sums for claims other than coal workers' pneumoconiosis or that was procured by fraud or mistake; or

(d) The award or settlement was for retraining incentive benefits and the request for participation did not include the training or education certification required by this administrative regulation.

(7) Denial of a request for participation may be appealed by any party to an administrative law judge within thirty (30) days following receipt of the denial.

(8) The administrative law judge shall:

(a) Determine if the denial was arbitrary, capricious, or in excess of the statutory authority of the director; and

(b) Not reexamine the weight assigned to evidence by an administrative law judge in an award.

(9) Except in claims under KRS 342.792, the employer shall promptly commence payment on all of the liability pursuant to the award or order and shall continue until the liability of the Kentucky Coal Workers' Pneumoconiosis Fund is established.

(a) This duty of prompt payment shall continue during pendency of an appeal from denial of a request for participation.

(b) In claims arising from KRS 342.792, the Kentucky Coal Workers' Pneumoconiosis Fund shall promptly commence payment upon its acceptance of the claim.

(10)(a) Except in claims under KRS 342.792, upon an appeal from the denial of a request for participation, if the Kentucky Coal Workers' Pneumoconiosis Fund does not prevail, it shall reimburse the employer for its proportionate share of the liability with interest accrued from the date of denial.

(b) In an appeal of a denial in a claim arising under KRS 342.792, in which the Kentucky Coal Workers' Pneumoconiosis Fund does not prevail, the fund shall commence payment pursuant to the opinion and award or order approving settlement with interest accrued from the date of the denial. All interest shall be paid at the rate established in KRS 342.040.

Section 30.[~~27.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a)[~~Form 101, "Application for Resolution of Injury Claim", (revised April 2006), Office of Workers' Claims;~~

~~(b) Form 102-0D, "Application for Resolution of Occupational Disease Claim", (revised June, 2005), Office of Workers' Claims;~~

~~(c) Form 103, "Application for Resolution of Hearing Loss Claim", (June 2005 Edition), Office of Workers' Claims;~~

~~(d)~~] Form 104, "Plaintiff's Employment History", [~~{~~]January 1, 1997 Edition[~~}~~], Department[~~Office~~] of Workers' Claims;

(b)[~~(e)~~] Form 105, "Plaintiff's Chronological Medical History", [~~{~~]January 1, 1997 Edition[~~}~~], Department[~~Office~~] of Workers' Claims;

(c)[~~(f)~~] Form 106, "Medical Waiver and Consent", [~~{~~]July 2003 Edition[~~}~~], Department[~~Office~~] of Workers' Claims;

(d)[~~(g) Form 107-I, "Medical Report - Injury", (revised April 2005), Office of Workers' Claims;~~

~~(h) Form 107-P, "Medical Report - Psychological", (revised April 2005), Office of Workers' Claims;~~

~~(i) Form 108-OD, "Medical Report - Occupational Disease," (April 2005 Edition), Office of Workers' Claims;~~

~~(j) Form 108-CWP, "Medical Report - Coal Workers' Pneumoconiosis", (April 2005 Edition), Office of Workers' Claims;~~

~~(k) Form 108-HL, "Medical Report - Hearing Loss", (revised April 2005), Office of Workers' Claims;~~]

~~(l)~~] Form 109, "Attorney Fee Election", [~~{~~]March 15, 1995 Edition[~~}~~], Department[~~Office~~] of Workers' Claims;

(e) Form 110, "Agreement as to Compensation and Order Approving Settlement", Web edition to be developed, Department of Workers' Claims;

(f)[~~(m)~~] Form 110-F, "Agreement as to Compensation and Order Approving Settlement -Fatality", [~~{~~]revised January 2005[~~}~~];

(g)[~~(n) Form 110-I, "Agreement as to Compensation and Order Approving Settlement - Injury", (revised July 2006), Office of Workers' Claims;~~

~~(o) Form 110-O, "Agreement as to Compensation and Order Approving Settlement - Occupational Disease", (revised July 2006), Office of Workers' Claims;~~

~~(p) Form 110-CWP, "Agreement as to Compensation and Order Approving Settlement - Coal Workers' Pneumoconiosis", (July 2002 Edition), Office of Workers' Claims;~~

~~(q) Form 111- Injury and Hearing Loss, "Notice of Claim Denial or Acceptance", (January 1, 1997 Edition), Office of Workers' Claims;~~

~~(r) Form 111-OD, "Notice of Claim Denial or Acceptance", (January 1, 1997 Edition), Office of Workers' Claims;~~

~~(s) Form 115, "Social Security Release Form", (January 1, 1997 Edition); and Office of Workers' Claims;~~

~~(t)~~] Form AWW - 1, "Average Weekly Wage Certification", [~~{~~]January 1, 1997 Edition[~~}~~], Department[~~Office~~] of Workers' Claims;

(h) Form AWW-CON, "Average Weekly Wage Certification-Concurrent", Web edition to be developed, Department of Workers' Claims;

(i) Form AWW-POST, "Average Weekly Wage Certification-Post-Injury", Web edition to be developed, Department of Workers' Claims;

(j) Form F "Fatality", Web edition to be developed, Department of Workers' Claims;

(k) Form SVC, "Safety Violation Alleged by Plaintiff/Employee", Web edition to be developed, Department of Workers' Claims; and

(l) Form SVE, "Safety Violation Alleged by Defendant/Employer", Web edition to be developed, Department of Workers' Claims[~~(u) Form MIR-1, Motion for Interlocutory Relief (May 29, 1997 Edition);~~

~~(v) Form MIR-2, Affidavit for Payment of Medical Expenses (May 29, 1997 Edition);~~

~~(w) Form MIR-3, Affidavit for Payment of Temporary Total Disability (May 29, 1997 Edition);~~

~~(x) Form MIR-4, Affidavit Regarding Rehabilitation Services (May 29, 1997 Edition);~~

~~(y) Form VRT, Petition for Vocational Rehabilitation Training (April 2005 Edition);~~

~~(z) Form MTR-1, Motion to Reopen by Employee (May 29, 1997 Edition);~~

~~(aa) Form MTR-2, Motion to Reopen KRS 342.732 Benefits (May 29, 1997 Edition);~~

~~(bb) Form MTR-3, Motion to Reopen by Defendant (May 29, 1997 Edition);~~

~~(cc) Form WVR, Joint Motion and Agreement to Waive Vocational Rehabilitation Evaluation (April 2005 Edition);~~

~~(dd) Form UEF-P, Motion for Payment from Uninsured Employers' Fund (April 2005 Edition); and~~

~~(ee) Form 11, Motion to Substitute Party and Continue Benefits (January 31, 2005)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[~~Office~~] of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DWIGHT T. LOVAN, Commissioner

APPROVED BY AGENCY: March 15, 2016

FILED WITH LRC: March 15, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, April 25, 2016, at 1:30 p.m. (EDT) at the offices of the Department of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing shall 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 Monday, May 2, 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: Charles E. Lowther, General Counsel, Department of Worker's Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 782-4464, fax (502) 564-0681.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charles E. Lowther

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedure for the adjustment and practice of claims for workers' compensation using the newly established Litigation Management System (LMS).

(b) The necessity of this administrative regulation: Pursuant to KRS 342.260(1) and KRS 342.285(1), the commissioner is required to promulgate administrative regulations necessary to carry on the work of the administrative law judges and the Workers' Compensation Board. The new administrative regulation establishes the procedures utilizing the electronic filing, or LMS. It amends 803 KAR 25:010.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes an orderly procedure for the Department of Workers' Claims' administrative law judges and the Workers' Compensation Board to carry on the adjudication of workers' compensation claims and appeals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation is necessary for the orderly and prompt resolution and adjudication of workers' compensation claims and appeals. All parties to a workers' compensation claim should be afforded a process and procedure for prompt, orderly and fair resolution and adjudication. The Litigation Management System will allow for the prompt filing of legal documents without the filing of paper.

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

(a) How the amendment will change this existing administrative regulation: The amendment provides for use of electronic filing of claims and streamlines and revises the claim process.

(b) The necessity of the amendment to this administrative regulation: The amendment is needed to implement electronic claims filing.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment updates procedures for filing and litigating claims.

(d) How the amendment will assist in the effective administration of the statutes: The amendment enables the use of electronic filing and simplifies the filing and litigation of claims.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amended administrative regulation affects all injured workers, those afflicted with an occupational disease, and employers, including governmental entities subject to the Workers' Compensation Act, all physicians and medical providers providing services to injured workers, workers with occupational diseases, insurance carriers, self-insured employers, self-insured groups, third-party administrators, and their attorneys.

(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: Those regulated entities identified in question (3) will have to familiarize themselves with the amended procedure and resolve or adjudicate workers' compensation claims in accordance with the administrative regulation. This includes the usage of computers for electronic filing of documents required by the Litigation Management System.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amended administrative regulation will be available for no additional cost through the web site of the Legislative Research Commission. Thus, there should be no additional cost for access to the administrative regulation. It is anticipated that increased adjudicatory efficiencies will reduce overall litigation costs for the identified entities, as there will be a drastic reduction in paper usage and postage expenses.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The identified entities will receive prompt, fair and orderly resolution and adjudication of workers' compensation claims and disputes, which should be faster due to the electronic filing of documents.

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

(a) Initially: No additional costs

(b) On a continuing basis: No continuing costs

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal operating budget is the source of funding.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied because the amended procedure applies equally to all 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? All parts of government with employees subject to KRS Chapter 342 are impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.260(1) and KRS 342.285(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. As an employer, there may be some minimal initial increased costs for implementation; however, it is anticipated that costs subsequently will be lowered.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No new administration costs are expected.

(d) How much will it cost to administer this program for subsequent years? No new administration costs are expected.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amendment)

804 KAR 9:040. Quota retail package licenses.

RELATES TO: KRS 241.060, 241.065, 242.125, 243.030

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(2) authorizes the board to limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. This administrative regulation establishes quota retail package licenses in cities that have become wet pursuant to KRS 242.125 separately from their respective counties which remain dry.

Section 1. Establishment of general city quotas. (1) Except as provided in subsection (2) of this section and Section 4 of this administrative regulation, the number of quota retail package licenses issued by the department in a city of the commonwealth which becomes wet separately by virtue of a KRS 242.125 local option election shall be a number equal to one (1) for every 2,300 persons resident in the city.

(2) The minimum number of quota retail package licenses issued by the department in a city shall be two (2) licenses.

(3) The estimates of population for Kentucky cities prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, shall be used in every year except a census year to determine the number of licenses prescribed by this administrative regulation. The United States Government census figures of population shall be used in a census year.

Section 2. Requests for Specific City Quota. (1) Three (3) or more years after the certification of a wet election pursuant to KRS 242.125 by a city, the city may file a request to the board seeking a specific city quota to increase the number of quota retail package licenses for the city.

(2) Before seeking this request, the city shall publish a notice in the newspaper used by the city for legal notices advising the general public of the city's intent to request additional city quota licenses from the board.

(3) A city's request to the board for a specific increased quota shall include:

(a) A certified copy of a city's governing body government resolution approving the request;

(b) A certified copy of the notice referenced in subsection (2) of this section; and

(c) An explanation why the city meets the criteria for a quota increase in conformity with Section 3 of this administrative regulation.

(4) Upon receiving a city request satisfying subsection (3) of this section, the board may promulgate, in conformity with KRS Chapter 13A, an amendment to Section 4 of this administrative regulation which sets a higher specific quota for the city.

(5) The specific city quota for quota retail package licenses set by the board in subsection (4) of this section shall not exceed a ratio of one (1) for every 1,500 persons resident in the city.

(6) This section does not guarantee that a city will receive the requested specific city quota even if the board promulgates an initial amendment pursuant to subsection (4) of this section. The city shall bear the burden of showing the requested increase is necessary due to a change in circumstances from the previous request and that current needs are not being met by the current license holders.

(7) If the board rejects a request made under this section, the board shall notify the city of its decision by registered mail at the address given in the request. Within thirty (30) days after the date of the mailing of the notice, the city may indicate, in writing, its desire for an administrative hearing before the board regarding its request. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B.

(8) Following an initial request for an increase under subsection (1) of this section, a city may file an additional request to the board once every three (3) years from the date of the denial or establishment of a specific city quota. The procedures established in subsections (1) through (7) of this section shall be followed.

Section 3. Criteria for Consideration. (1) The board shall consider the following information in its determination of a city's request for an increased quota made under Section 2(3) of this administrative regulation:

(a) Population served by the city;

(b) Total retail sales of the city for the most recent past fiscal year;

(c) Retail sales per capita for the most recent past fiscal year;

(d) Total alcohol sales in the city for the most recent fiscal year;

(e) Tourist destinations in the area, if applicable; and

(f) Other economic and commercial data offered to show the city's capacity to support additional licenses.

(2) The board shall grant the request if the factors considered under subsection (1) of this section justify the requested increase.

Section 4. Establishment of Specific City Quotas. (1) Pikeville, which repealed prohibition on April 12, 1983, shall have a quota of thirteen (13) quota retail package licenses.

(2) Madisonville, which repealed prohibition on March 10, 1992, shall have a quota of seven (7) quota retail package licenses.

(3) Central City, which repealed prohibition on July 10, 2002, shall have a quota of four (4) quota retail package licenses.

(4) Dawson Springs, which repealed prohibition on February 5, 2008, shall have a quota of two (2) quota retail package licenses.

(5) Lancaster, which repealed prohibition on August 19, 2008, shall have a quota of three (3) quota retail package licenses.

(6) Paintsville, which repealed prohibition on June 9, 2009, shall have a quota of three (3) quota retail package licenses.

(7) Danville, which repealed prohibition on March 2, 2010, shall have a quota of six (6) quota retail package licenses.

(8) Earlington, which repealed prohibition on March 29, 2011, shall have a quota of two (2) quota retail package licenses.

(9) Manchester, which repealed prohibition on June 21, 2011, shall have a quota of two (2) quota retail package licenses.

(10) Elizabethtown, which repealed prohibition on October 4, 2011, shall have a quota of twelve (12) quota retail package licenses.

(11) Radcliff, which repealed prohibition on October 4, 2011, shall have a quota of nine (9) quota retail package licenses.

(12) Vine Grove, which repealed prohibition on October 4, 2011, shall have a quota of two (2) quota retail package licenses.

(13) Guthrie, which repealed prohibition on October 4, 2011, shall have a quota of two (2) quota retail package licenses.

(14) Junction City, which repealed prohibition on October 4, 2011, shall have a quota of two (2) quota retail package licenses.

(15) Corbin, which repealed prohibition on February 14, 2012, shall have a quota of three (3) quota retail package licenses.

(16) Somerset, which repealed prohibition on June 26, 2012, shall have a quota of ten (10)[~~five (5)~~] quota retail package licenses.

(17) Whitesburg, which repealed prohibition on June 26, 2012, shall have a quota of two (2) quota retail package licenses.

(18) Murray, which repealed prohibition on July 17, 2012, shall have a quota of seven (7) quota retail package licenses.

(19) Franklin, which repealed prohibition on July 17, 2012, shall have a quota of three (3) quota retail package licenses.

(20) LaGrange, which repealed prohibition on July 24, 2012, shall have a quota of three (3) quota retail package licenses.

(21) Georgetown, which repealed prohibition on July 31, 2012, shall have a quota of twelve (12) quota retail package licenses.

(22) Princeton, which repealed prohibition on August 7, 2012, shall have a quota of two (2) quota retail package licenses.

(23) Bowling Green, which requested a quota increase on May 18, 2015, shall have a quota of forty-one (41) quota retail package licenses.

Section 5. Quota Vacancies. (1) On or before January 1 of each year, the Department of Alcoholic Beverage Control shall request from the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, population estimates as of that date for all wet cities located in dry counties.

(2) If a city's population has increased and the city no longer has one (1) quota retail package license for every 2,300 persons resident in the city, the Department of Alcoholic Beverage Control shall increase the city's quota to maintain the 1:2,300 ratio.

(3) If a quota retail package license vacancy is created under Section 1 or 2 of this administrative regulation or subsection (2) of this section or it occurs for any other reason, the Department of Alcoholic Beverage Control shall within sixty (60) days arrange for the newspaper used for city legal notices to advertise the vacancy and provide information about applying for it.

(4) The Department of Alcoholic Beverage Control shall accept applications for a quota retail package license vacancy not later than thirty (30) days following the date on which the public notice required by subsection (3) of this section is published.

(5) A licensee that holds a quota retail package license shall assume the business risk that the number of quota licenses might be increased.

Section 6. Quota Reductions. (1) This administrative regulation shall not prohibit renewal or approved transfer of an existing quota retail package license issued in a wet city situated in a dry county.

(2) Except for cities with specific quotas under Section 2 of this administrative regulation, if a city has in existence more than one (1) quota retail package license for every 2,300 persons resident in the city, the number of licenses shall be reduced as they expire or are surrendered or revoked.

Section 7. No Separate City Quota in Wet County. If a dry county in which a wet city is located becomes wet, the quota established for that entire county by 804 KAR 9:010 shall supersede and replace any separate city quota under this administrative regulation.

STEVEN A. EDWARDS, Commissioner
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 14, 2016

FILED WITH LRC: March 15, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 28, 2016 at 1:00 pm Eastern Time at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this Department in writing by five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through the close of business on May 2, 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: Melissa McQueen, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 782-7906, fax (502) 564-7479.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Melissa McQueen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets specific quotas for retail package licenses for cities pursuant to KRS 242.125, and sets forth the criteria needed for consideration if a city desires an increase in its quota.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set specific quotas for retail package licenses in cities and to outline the process by which a city can request an increase.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 241.060(1) authorizes the board to promulgate administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes. This administrative regulation lists specific quotas for cities which makes it clear what number of licenses are available.

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

(a) How the amendment will change this existing administrative regulation: It adds a quota increase for the city of Somerset.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary for the department to comply with a Pulaski Circuit Court order in Pulaski Circuit Court Civil Action No. 13-CI-00872, and styled City of Somerset vs. Alcoholic Beverage Control Board, et al.

(c) How the amendment conforms to the content of the authorizing statutes: The department is authorized to promulgate regulations pursuant to KRS 241.060. In City of Somerset vs. Alcoholic Beverage Control Board, et al., Pulaski Circuit Court Civil Action No. 13-CI-00872, the Pulaski Circuit Court held that the Department violated the separation of powers of doctrine by withdrawing the proposed amendment in 2013 in deference to the legislature when it was previously filed. The court ordered the Department to reevaluate its proposed amended regulation and to use its own discretion in so doing. The court ordered the Department to restore Somerset to its position after the ARR Subcommittee hearing and prior to withdrawal of the amendment. At that time, the Department had proposed an amendment to 804 KAR 9:040 aimed at increasing Somerset's quota to ten (10). In restoring Somerset to its post-ARR Subcommittee hearing and pre-amendment withdrawal position, the court ordered the Department to exercise "its own discretion" using the version of 804 KAR 9:040 in existence when the proposed amendment was withdrawn. The proposed amendment would restore Somerset to its exact position after the ARR Subcommittee hearing and before the amendment was withdrawn and allow the Department to exercise its statutory discretion in compliance with the court's order through all steps of the regulatory process.

(d) How the amendment will assist in the effective administration of the statutes: This amendment causes the department to comply with the Pulaski Circuit Court's order which held that the department failed to perform its statutory duties and discretion under KRS 241.060. Filing this amendment will restore the city of Somerset to the position it was in prior to the amendment being improperly withdrawn as held by the court.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The city of Somerset is affected by this administrative regulation. The five (5) current quota retail package licensees in Somerset would also be affected by this regulation.

(4) Provide an analysis of how the entities identified in question

(3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The city and current licensees will not have to take any additional steps to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are not expected to be any additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): City residents will likely have increased business competition resulting in better consumer choices and prices. The availability of additional licenses reduces the price of an existing license so as to better promote and encourage business investments in community. City would also receive minimal financial benefits from additional licensing fees of the extra available licenses.

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

(a) Initially: No extra costs are anticipated to amend this administrative regulation.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is used to implement and enforce the amendment of this administrative regulation.

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

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

(9) TIERING: Is tiering applied? No tiering is applied because this regulation applies equally to the regulated entities.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments or school districts) will be impacted by this administrative regulation? The city of Somerset requested this amendment and is expected to be impacted by this amendment. The Department of Alcoholic Beverage Control will also be impacted as it will have to review additional license applications.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 241.060(1) authorizes the board to promulgate administrative regulations.

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

(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?

Minimal revenue will be generated by this administrative regulation in the form of additional licensing fees.

(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? Minimal revenue is expected to be generated by this administrative regulation in the form of additional licensing fees.

(c) How much will it cost to administer this program for the first year? The cost to administer this amendment should be minimal, if any.

(d) How much will it cost to administer this program for subsequent years? The cost to administer this amendment should be minimal, if any.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Additional costs to administer these regulatory changes at the local government level for this year or subsequent years should be minimal or none.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(Amendment)

815 KAR 7:120. Kentucky Building Code.

RELATES TO: KRS 132.010, 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.990, 227.300, 227.550(7)

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) and 198B.050 require the Kentucky Board of Housing, Buildings and Construction to adopt and promulgate a mandatory uniform statewide building code, based on a model code, which establishes standards for construction of buildings in the state. This administrative regulation establishes the Kentucky Building Code's general provisions.

Section 1. Definitions. (1) "Board of Housing" or "board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" is defined by KRS 198B.010(4).

(3) "Commissioner" is defined by KRS 198B.010(9).

(4) "Department" is defined by KRS 198B.010(11).

(5) "Farm" means property:

(a) Located outside the corporate limits of a municipality on at least ten (10) acres;

(b) Used for purposes established in the definitions of "agricultural land" and "horticultural land", established in KRS 132.010(9) and (10), respectively; and

(c) Qualified by and registered with the property valuation administrator in that county.

(6) "Fire Code Official" means the State Fire Marshal, fire chief, or other enforcement officer designated by the appointing authority of the jurisdiction for the enforcement of the provisions of KRS 227.300 and the Kentucky Standards of Safety as established in 815 KAR 10:060.

(7) "Industrialized building system" or "building system" is defined by KRS 198B.010(16).

(8) "KBC" means the Kentucky Building Code as established in this administrative regulation.

(9) "Kentucky Residential Code" means the International Residential Code as incorporated by reference and amended for application in Kentucky by 815 KAR 7:125.

(10) "Kentucky Standards of Safety" means the requirements established in 815 KAR 10:060, which serve as the fire prevention code for existing buildings as well as a supplement to this code.

(11) "Manufactured home" is defined by KRS 227.550(7).

(12) "Modular home" means an industrialized building system, which is designed to be used as a residence and that is not a manufactured or mobile home.

(13) "Ordinary repair" is defined by KRS 198B.010(19).

(14) "Single-family dwelling" or "one (1) family dwelling" means a single unit that:

(a) Provides complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

(b) Is not connected to another unit or building.

(15) "Townhouse" means a single-family dwelling unit constructed in a group of three (3) or more attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two (2) sides.

(16) "Two (2) family dwelling" means a building containing not more than two (2) dwelling units that are connected.

Section 2. Administration and Enforcement of the Building Code. (1) Notwithstanding the requirements of the 2012 International Building Code, the Kentucky amendments established in the 2013 Kentucky Building Code shall be mandatory and shall supersede any conflicting provision of the international code.

(2)(a) Except as provided in paragraph (b) and (c) of this subsection and as superseded by the provisions of this administrative regulation and the 2013 Kentucky Building Code, the 2012 International Building Code, shall be the mandatory state building code for all buildings constructed in Kentucky.

(b) One (1) and two (2) family dwellings and townhouses shall be governed by 815 KAR 7:125.

(c) Manufactured homes shall be governed by KRS 227.550 through 227.665.

Section 3. State Plan Review and Inspection Fees. The fees required by this section shall apply for plan review and inspection by the department. (1) Fast track elective.

(a) A request for expedited site and foundation approval of one (1) week or less, prior to full review of the complete set of construction documents, shall be accompanied by the fee required by Table 121.3.1 in subsection (3) of this section, plus an additional fifty (50) percent of the basic plan review or inspection fee.

(b) The additional fifty (50) percent fee shall not be less than $400 and not more than $3,000.

(c) The entire fee shall be paid with the initial plan submission.

(2) New buildings.

(a) The department's inspection fees shall be calculated by:

1. Multiplying the total building area under construction by the cost per square foot of each occupancy type as listed in subsection (3) of this section; and

2. Computing the square footage by the outside dimensions of the building.

(b) The fee for a building with multiple or mixed occupancies shall be calculated using the cost per square foot multiplier of the predominant use.

(c) The minimum fee for review of plans pursuant to this subsection shall be $285.

(3) Table 121.3.1, Basic Department Fee Schedule. The basic plan review or inspection fee shall be:

(a) Assembly occupancies, sixteen (16) cents;

(b) Business occupancies, fifteen (15) cents;

(c) Day care centers, fifteen (15) cents;

(d) Educational occupancies, fifteen (15) cents;

(e) High hazard occupancies, sixteen (16) cents;

(f) Industrial factories, fifteen (15) cents;

(g) Institutional occupancies, sixteen (16) cents;

(h) Mercantile occupancies, fifteen (15) cents;

(i) Residential occupancies, fifteen (15) cents;

(j) Storage, fifteen (15) cents; or

(k) Utility and miscellaneous, thirteen (13) cents.

(4) Additions to existing buildings. (a) Plan review fees for additions to existing buildings, which shall not require the entire building to conform to the Kentucky Building Code, shall be calculated in accordance with the schedule listed in subsection (3) of this section by the measurement of the square footage of the addition, as determined by the outside dimensions of the addition.

(b) The minimum fee for review of plans pursuant to this subsection shall be $285.

(5) Change in use. (a) Plan review fees for existing buildings in which the use group or occupancy type is changed shall be calculated in accordance with the schedule listed in subsection (3) of this section by using the total square footage of the entire building or structure pursuant to the new occupancy type as determined by the outside dimensions.

(b) The minimum fee for review of plans pursuant to this subsection shall be $285.

(6) Alterations and repairs. (a) Plan review fees for alterations and repairs not otherwise covered by this fee schedule shall be calculated by using the lower result of:

1. Multiplying the cost for the alterations or repairs by 0.0030; or

2. Multiplying the total area being altered or repaired by the cost per square foot of each occupancy type listed in the schedule in subsection (3) of this section.

(b) The total square footage shall be determined by the outside dimensions of the area being altered or repaired.

(c) The minimum fee for review of plans pursuant to this subsection shall be $285.

(7) Specialized fees. In addition to the fees established by subsections (1) through (6) of this section, the following fees shall be applied for the specialized plan reviews listed in this subsection:

(a) Table 121.3.9, Automatic Sprinkler Review Fee Schedule:

1. An inspection of four (4) through twenty-five (25) sprinklers shall be a fee of $150;

2. An inspection of twenty-six (26) through 100 sprinklers shall be a fee of $200;

3. An inspection of 101 through 200 sprinklers shall be a fee of $250;

4. An inspection of 201 through 300 sprinklers shall be a fee of $275;

5. An inspection of 301 through 400 sprinklers shall be a fee of $325;

6. An inspection of 401 through 750 sprinklers shall be a fee of $375; and

7. An inspection of over 750 sprinklers shall be a fee of $375 plus thirty (30) cents per sprinkler over 750.

(b) Fire detection system review fee:

1. Zero through 20,000 square feet shall be $275; and

2. Over 20,000 square feet shall be $275 plus thirty (30) dollars for each additional 10,000 square feet in excess of 20,000 square feet.

(c) The standpipe plan review fee shall be $275. The combination stand pipe and riser plans shall be reviewed pursuant to the automatic sprinkler review fee schedule.

(d) Carbon dioxide suppression system review fee:

1. One (1) through 200 pounds of agent shall be $275; and

2. Over 200 pounds of agent shall be $275 plus five (5) cents per pound in excess of 200 pounds.

(e) Clean agent suppression system review fee:

1.a. Up to thirty-five (35) pounds of agent shall be $275; and

b. Over thirty-five (35) pounds shall be $275 plus ten (10) cents per pound in excess of thirty-five (35) pounds; and

2. The fee for gaseous systems shall be ten (10) cents per cubic foot and not less than $150.

(f) Foam suppression system review fee.

1. The fee for review of a foam suppression system shall be fifty (50) cents per gallon of foam concentrate if the system is not part of an automatic sprinkler system.

2. Foam suppression system plans that are submitted as part of an automatic sprinkler system shall be reviewed pursuant to the automatic sprinkler review fee schedule.

3. The fee for review of plans pursuant to subparagraph 1. of this paragraph shall not be less than $275 or more than $1,500.

(g) The commercial range hood review fee shall be $225 per hood.

(h) Dry chemical systems review fee (except range hoods). The fee for review of:

1. One (1) through thirty (30) pounds of agent shall be $275; and

2. Over thirty (30) pounds of agent shall be $275 plus twenty-five (25) cents per pound in excess of thirty (30) pounds.

(i) The flammable, combustible liquids or gases, and hazardous materials plan review fee shall be $100 for the first tank, plus fifty (50) dollars for each additional tank and $100 per piping system including valves, fill pipes, vents, leak detection, spill and overfill detection, cathodic protection, or associated components.

(j) Boiler and unfired pressure vessel fees. Plan review fees of boiler and unfired pressure vessel installations shall be in accordance with 815 KAR 15:027.

Section 4. General. All plans shall be designed and submitted to conform to this administrative regulation.

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

(a) "2012 International Building Code", First Edition, International Code Council, Inc.; and

(b) "2013 Kentucky Building Code", Fourth[~~Third~~] Edition, December 2015[~~August 2014~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.

STEVE A. MILBY, Chairman
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: February 22, 2016

FILED WITH LRC: February 24, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2016, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 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 canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on May 2, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Victoria M. Kadreva Holmes, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, Option 2, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Victoria M. Kadreva Holmes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the uniform Kentucky Building Code as required pursuant to KRS 198B.050.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to adopt the Kentucky Building Code as required pursuant to KRS 198B.050.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation utilizes the International Building Code as the basis for construction standards and allows the Board of Housing, Buildings and Construction to make amendments unique to Kentucky after due consideration of equivalent safety measures as required by KRS 198B.050.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth standards authorized by the statute for the enforcement of the uniform state building code, incorporating all applicable laws into its processes.

(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: Updates the 2013 Kentucky Building Code to correct inadvertent typographical, grammatical, or citation errors and omissions, as well as to restore clarification language that was inadvertently omitted at the time of the initial adoption of the 2013 Kentucky Building Code. In addition, this amendment establishes a newly numbered section related to accessibility requirements for recreational facilities (Section 1110), to improve clarity and guidance by consolidating existing provisions from Section 1109 with newly updated 2015 International Building Code provisions on the same subject. Further, this amendment clarifies the scope of applicability of the 2012 International Energy Conservation Code by providing an exception permitting the use of the 2009 edition for certain residential occupancies. Finally, this amendment updated the adopted editions of existing referenced standards related to elevators, escalators, lifts, and conveyors.

(b) The necessity of the amendment to this administrative regulation: To implement code changes adopted and approved by the Board of Housing, Buildings and Construction during its December 10, 2015 meeting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B mandates the Board of Housing, Buildings and Construction to establish a uniform Kentucky Building Code. These amendments were approved by the Board to update, correct and amend the current 2013 Kentucky Building Code.

(d) How the amendment will assist in the effective administration of the statutes: These amendments to the 2013 Kentucky Building Code are intended to enhance clarity and guidance for proper use and application of code requirements, allow the construction industry to utilize the most current versions of referenced codes and standards, provide clarification regarding accessibility requirements for recreational facilities and energy requirements for residential use groups, as well as conform applicable elevator, escalator, lift, and conveyor standards to current industry standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Construction projects subject to the Kentucky Building Code will be affected by the amendments to this regulation; architects; engineers; contractors; project managers; businesses; and local 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;

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: The identified entities must comply with the new amendments to the building code.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities are not anticipated to incur any substantial new expenses, as this amendment primarily reduces energy compliance standards for certain residential occupancies, provides additional clarity and guidance regarding accessibility requirements, and corrects citations, typographical and formatting errors or omissions. Moreover, increased expenses or savings associated with compliance with updated elevator standards or energy codes are anticipated to be minimal and subject to offset or pass through.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include increased clarity of existing standards.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these administrative amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all builders, contractors, local governments and owners will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction and local jurisdiction inspection and plan review programs.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 198B.040(7) and KRS 198B.050.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(Amendment)

815 KAR 7:125. Kentucky Residential Code.

RELATES TO: KRS 132.010(9), (10), 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.990, 227.550(7)

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) requires the Kentucky Board of Housing, Buildings and Construction to adopt and promulgate a mandatory uniform state building code, based on a model code, which establishes standards for construction of buildings in the state. This administrative regulation establishes the basic mandatory uniform statewide code provisions relating to construction of one (1) and two (2) family dwellings and townhouses.

Section 1. Definitions. (1) "Board of Housing" or "board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" is defined by KRS 198B.010(4).

(3) "Commissioner" means the commissioner of the Department of Housing, Buildings, and Construction.

(4) "Department" means the Department of Housing, Building, and Construction.

(5) "Farm" means property having a bona fide agricultural or horticultural use as defined by KRS 132.010(9) and (10) that is qualified by and registered with the property valuation administrator in the county in which the property is located.

(6) "KBC" means the Kentucky Building Code as established in 815 KAR 7:120.

(7) "Manufactured home" is defined by KRS 198B.010(23) and 227.550(7).

(8) "Modular home" means an industrialized building system, which is designed to be used as a residence and that is not a manufactured or mobile home.

(9) "Ordinary repair" is defined by KRS 198B.010(19).

(10) "Single-family dwelling" or "one-family dwelling" means a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and which is not connected to any other unit or building.

(11) "Two (2) family dwelling" means a building containing not more than two (2) dwelling units that are connected.

Section 2. Mandatory Building Code Requirements for Dwellings. (1) Except as provided in subsection (2) of this section, a single-family dwelling, two (2) family dwelling, or townhouse shall not be constructed unless it is in compliance with the 2012 International Residential Code for One (1) and Two (2) Family Dwellings, as amended by this administrative regulation and the 2013 Kentucky Residential Code.

(2) Exceptions.

(a) Permits, inspections, and certificates of occupancy shall not be required for a single-family dwelling unless required by a local ordinance.

(b) All residential occupancies that are not single-family, two (2) family, or townhouses shall comply with the 2012 International Building Code for One (1) and Two (2) Family Dwellings and the 2013 Kentucky Building Code.

(3) The 2012 International Residential Code for One (1) and Two (2) Family Dwellings shall be amended as established in the 2013 Kentucky Residential Code.

(4) Plans for single-family or one (1) family dwellings, two (2) family dwellings, and townhouses shall be designed and submitted to conform to this administrative regulation.

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

(a) "2012 International Residential Code for One (1) and Two (2) Family Dwellings," International Code Council, Inc.; and

(b) "2013 Kentucky Residential Code", Third[~~Second~~] Edition, December 2015[~~February 2014~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings, and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.

STEVEN A. MILBY, Chairman
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: February 22, 2016

FILED WITH LRC: February 24, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2016, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 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 canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on May 2, 2016. Send written notification of

intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Victoria M. Kadreva Holmes, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, Option 2, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Victoria M. Kadreva Holmes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the uniform Kentucky Residential Code as required pursuant to KRS 198B.050.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to adopt the Kentucky Residential Code as required pursuant to KRS 198B.050.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation utilizes the International Residential Code as the basis for construction standards and allows the Board of Housing, Buildings and Construction to make amendments unique to Kentucky after due consideration of equivalent safety measures as required by KRS 198B.050.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth standards authorized by the statute for the enforcement of the residential code, incorporating all applicable laws into its processes.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates the 2013 Kentucky Residential Code to correct an inadvertent error in the wording of energy code requirements for insulation of basement walls (Section N1102.2.1), in order to conform to both actual current industry practice and original intent of the Kentucky amendment.

(b) The necessity of the amendment to this administrative regulation: To implement code changes adopted and approved by the Board of Housing, Buildings and Construction during its December 10, 2015 meeting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B mandates the Board of Housing, Buildings and Construction to establish a uniform Kentucky Building Code. These amendments were approved by the Board and by the Single Family Dwellings Advisory Committee to update the current 2013 Kentucky Residential Code.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the 2013 Kentucky Residential Code is intended to enhance clarity and guidance for proper use and application of code requirements and ensure the preservation of current industry practices.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Construction projects subject to the Kentucky Residential Code will be affected by the amendments to this regulation; architects; engineers; contractors; project managers; businesses; and local 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;

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: The identified entities must comply with the new amendments to the building code.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities are not anticipated to incur any new expenses, as this amendment merely corrects language to confirm to current industry practice regarding energy compliance standards for basement wall insulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include increased clarity of existing standards.

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

(a) Initially: There are no anticipated additional costs to administer this regulatory amendment.

(b) On a continuing basis: There are no anticipated additional costs to administer this regulatory amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this amendment is anticipated to result in no additional costs to the agency. Any agency costs resulting from this administrative amendment will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all builders, contractors, local governments and owners will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction and local jurisdiction inspection and plan review programs.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 198B.040(7) and KRS 198B.050.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS 58.200, 318.160
STATUTORY AUTHORITY: KRS 198B.040(10), 318.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after approval by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. KRS 58.200(2) requires newly-constructed public buildings to be equipped with twice the number of restroom facilities for use by women as is provided for use by men. This administrative regulation establishes the minimum plumbing fixture requirements for buildings in Kentucky.

Section 1. Definitions. (1) "Developed travel distance" means the length of a pathway measured along the center line of the path.
(2) "Mobile facility" means a vehicle licensed and registered with the Kentucky Department of Transportation that contains plumbing fixtures and is intended for temporary use with regard to the structure it serves.
(3) "Modular" means a structure or component that is wholly or in substantial part fabricated in an off-site manufacturing facility for installation at the building site.
(4) "Temporary" means a period of time not to exceed thirty (30) days of intermittent or continual use within a twelve (12) month period on the same premises.

Section 2. General Requirements. (1) In a building accommodating males and females, it shall be presumed that the occupants will be equally divided between males and females, unless otherwise denoted.
(2) The occupancy load factor used to determine the total number of plumbing fixtures required in a building shall be the load denoted in the Kentucky Building Code, incorporated by reference in 815 KAR 7:120.
(3) All types of buildings shall be provided with toilet rooms on each level or floor, unless:
(a) Separate facilities on each level or floor are unnecessary; and
(b) Toilet rooms on every other level or floor shall be sufficient.
(4) Unisex Facilities in Historic Buildings. A building or structure that is listed in the National Register of Historic Places or designated as historic under Kentucky statute may provide the required number of plumbing fixtures in unisex facilities if the overall occupant load is 100 persons or less, except as required in Sections 7, 8, 9, 12, 13, 15, 16, and 17 of this administrative regulation.
(5) Unisex facilities in historic buildings permitted by this section shall not be required to provide the urinals.
(6) Toilet rooms for males, females, and unisex shall be clearly marked.
(7) Upon written request, the department may permit the temporary use of mobile facilities. The written request shall be submitted to the Division of Plumbing and shall include:
(a) The name of the owner;
(b) The address of the location of the building being served by the mobile facilities; and
(c) The dates for which the mobile facilities are to be used.

Section 3. Toilet Floor Construction Requirements. (1) Floors in toilet rooms shall be constructed of nonabsorbent materials.
(2) If a wood floor is used, the wood floor shall be covered by other nonabsorbent materials.
(3) If two (2) or more fixtures that receive human waste are installed, the toilet room shall have at least:
(a) One (1) floor drain; and
(b) One (1) accessible hose bibb.

Section 4. Facilities for Stages. (1) A separate water closet and lavatory shall be provided for males and females in the stage area.
(2) A drinking fountain shall be provided in the stage and auditorium area.

Section 5. Theaters, Assembly Halls, and Similar Occupancies. Separate toilet rooms for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation. (1) Water closets and urinals for males.
(a) Water closets for males shall be installed with at least:
1. One (1) water closet for each 100 males;
2. Two (2) water closets for 101 to 200 males;
3. Three (3) water closets for 201 to 400 males; and
4. If over 400 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof.
(b) Urinals for males shall be installed with at least:
1. One (1) urinal for eleven (11) to 100 males;
2. Two (2) urinals for 101 to 300 males;
3. Three (3) urinals for 301 to 600 males; and
4. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.
(2) Water closets for females. Water closets for females shall be installed with at least:
(a) One (1) water closet for each fifty (50) females;
(b) Two (2) water closets for fifty-one (51) to 100 females;
(c) Three (3) water closets for 101 to 150 females;
(d) Four (4) water closets for 151 to 200 females; and
(e) If over 200 females, four (4) water closets plus one (1) additional water closet for each additional 150 females or fraction thereof.
(3) Lavatories for Males or Females. Lavatories shall be installed with at least:
(a) One (1) lavatory for up to 100 persons;
(b) Two (2) lavatories for 101 to 200 persons;
(c) Three (3) lavatories for 201 to 400 persons;
(d) Four (4) lavatories for 401 to 750 persons; and
(e) If over 750 persons, four (4) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof.
(4) Sinks. There shall be at least one (1) service sink or slop sink on each floor.
(5) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.
(6) Drinking fountain. At least one (1) drinking fountain shall be provided on each floor for each 500 persons or fraction thereof.
(7) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 6. Libraries, Museums, and Art Galleries. Separate toilet facilities for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation:
(1) There shall be at least one (1) water closet and one (1) lavatory for each 100 females or fraction thereof.
(2) Except as established in subsection (7) of this section, there shall be at least one (1) water closet and one (1) lavatory for each 200 males or fraction thereof.
(3) There shall be at least:
(a) One (1) urinal for eleven (11) to 200 males;
(b) Two (2) urinals for 201 to 400 males;
(c) Three (3) urinals for 401 to 600 males; and
(d) If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.
(4) There shall be at least one (1) service sink or slop sink on each floor.
(5) At least one (1) drinking fountain shall be provided for each 500 persons or fraction thereof.
(6) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity of fixed seats. If fixed seats

are not provided, the basis for determining the capacity shall be one (1) person for each fifteen (15) square feet of area.

(7) Urinals may be substituted for water closets for males if:

(a) The substituted urinals do not exceed one-third (1/3) of the required total number of water closets; and

(b) The minimum number of urinals is installed.

(8) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 7. School Buildings Not Including Higher-Education Facilities. A school building shall be in compliance with the requirements established in 702 KAR 4:170 and this section. (1) Drinking fountains.

(a) At least one (1) drinking fountain shall be provided on each floor and wing of a building.

(b) At least one (1) additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof.

(c) The drinking fountains shall be equipped with:

1. A protective cowl; and

2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school buildings shall be provided with the following:

(a) Water closets for males shall be installed with at least:

1. One (1) water closet for up to twenty-five (25) pupils;

2. Two (2) water closets for twenty-six (26) to 100 pupils; and

3. If over 100 pupils, two (2) water closets plus one (1) additional water closet for each additional 100 pupils or fraction thereof;

(b) Urinals for males shall be installed with at least:

1. One (1) urinal for up to twenty-five (25) pupils;

2. Two (2) urinals for twenty-six (26) to fifty (50) pupils;

3. Four (4) urinals for fifty-one (51) to 100 pupils;

4. Six (6) urinals for 101 to 200 pupils;

5. Eight (8) urinals for 201 to 300 pupils;

6. Ten (10) urinals for 301 to 400 pupils;

7. Twelve (12) urinals for 401 to 500 pupils; and

8. If over 500 pupils, twelve (12) urinals plus one (1) additional urinal for each additional fifty (50) pupils or fraction thereof in excess of 500;

(c) Water closets for females shall be installed with at least:

1. Two (2) water closets for up to twenty-five (25) pupils;

2. Three (3) water closets for twenty-six (26) to fifty (50) pupils;

3. Six (6) water closets for fifty-one (51) to 100 pupils;

4. Eight (8) water closets for 101 to 200 pupils;

5. Ten (10) water closets for 201 to 300 pupils;

6. Twelve (12) water closets for 301 to 400 pupils;

7. Fourteen (14) water closets for 401 to 500 pupils; and

8. If over 500 pupils, fourteen (14) water closets plus one (1) additional water closet for each additional forty (40) pupils or fraction thereof; and

(d)1. Lavatories for male and female pupils shall be installed with at least:

a. One (1) lavatory for each twenty-five (25) pupils or fraction thereof; and

b. If over fifty (50) pupils, two (2) lavatories plus one (1) additional lavatory for each additional fifty (50) pupils or fraction thereof; and

2. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin, if provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) At least one (1) service sink or slop sink shall be installed on each floor of a building.

(4) If detached modular classrooms are used, sanitary facilities shall not be required, if:

(a) The entrance of the modular classroom for elementary grades through the fifth grade is within a developed travel distance not to exceed 100 feet from the accessible entrance to the main structure or an approved central modular restroom;

(b) The entrance of the modular classroom for sixth grade and above is within a developed travel distance not to exceed 200 feet, from the accessible entrance to the main structure or an approved central modular restroom;

(c) The travel path meets the accessibility requirements established in the Kentucky Building Code, 815 KAR 7:120; and

(d) There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the modular classrooms.

(5) Water closets in a school building shall be of the elongated bowl type with a split open front seat.

Section 8. Schools of Higher Education and Similar Educational Facilities. (1)(a) Except as established in paragraph (b) of this subsection, in a school of higher education or a similar education facility, there shall be installed at least:

1. One (1) water closet for each fifty (50) males and one (1) water closet for each twenty-five (25) females or fraction thereof;

2. One (1) lavatory for each fifty (50) persons or fraction thereof;

3. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof; and

4. One (1) urinal for each fifty (50) males or fraction thereof.

(b) One (1) water closet less than the number specified in paragraph (a) of this subsection may be provided for each urinal installed except that the number of water closets in those cases shall not be reduced to less than two-thirds (2/3) of the minimum specified.

(2) Water closets in a school of higher education or a similar education facility shall be of the elongated bowl type with a split open front seat.

Section 9. Public Garages and Service Stations. (1) Separate toilet rooms for males and females shall be provided with at least:

(a) A water closet and lavatory for females; and

(b) A water closet, lavatory, and urinal for males.

(2) Water closets shall be of the elongated bowl type with a split open front seat.

Section 10. Churches. (1) Sanitary facilities shall be provided in a church with at least:

(a) One (1) drinking fountain for each 400 persons or fraction thereof;

(b) One (1) water closet for each 150 females or fraction thereof;

(c) One (1) water closet for each 300 males or fraction thereof;

(d) One (1) urinal for fifty (50) to 150 males or fraction thereof;

(e) One (1) additional urinal for each additional 150 males or fraction thereof; and

(f) One (1) lavatory for each 150 persons or fraction thereof.

(2) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 11. Transient Lodging Facilities. A transient lodging facility shall be in compliance with the requirements established in 902 KAR 10:010 and this section. (1) A hotel or motel with private rooms shall have at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(2) In the public and service areas, there shall be at least:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof;

(b) One (1) water closet for each fifteen (15) females or fraction thereof;

(c) One (1) lavatory for each twenty-five (25) persons or fraction thereof;

(d) One (1) urinal for eleven (11) to 100 males plus one (1) additional urinal for each additional fifty (50) males or fraction thereof;

(e) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof on each floor; and

(f) One (1) service sink or slop sink on each floor.

(3) In residential-type buildings, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(5) In rooming houses without private baths, there shall be at

least:

(a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) males or fraction thereof;

(b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) females or fraction thereof;

(c) One (1) urinal for eleven (11) to 100 males and one (1) for each additional fifty (50) males or fraction thereof;

(d) One (1) lavatory for each ten (10) persons or fraction thereof; and

(e) One (1) bathtub or shower for each ten (10) persons or fraction thereof.

Section 12. Dormitories: School, Labor, or Institutional. (1) Water closets. There shall be at least:

(a) One (1) water closet for up to ten (10) males plus one (1) additional water closet for each additional twenty-five (25) males or fraction thereof; and

(b) One (1) water closet for up to eight (8) females plus one (1) additional water closet for each additional twenty (20) females or fraction thereof.

(2) Urinals.

(a) There shall be at least:

1. One (1) urinal for each twenty-five (25) males or fraction thereof up to 150 males; and

2. If there are over 150 males, one (1) additional urinal for each additional fifty (50) males or fraction thereof.

(b) If urinals are provided, a urinal may be substituted for a water closet, not to exceed one-third (1/3) of the required total number of water closets.

(c) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) Lavatories. There shall be at least one (1) lavatory for one (1) to twelve (12) persons, with an additional one (1) lavatory for each additional twenty (20) males and fifteen (15) females or fraction thereof.

(4) Additional fixtures. There shall be at least:

(a)1. One (1) bathtub or shower for each eight (8) persons or fraction thereof, up to 150 persons; and

2. If there are over 150 persons, one (1) additional bathtub or shower for each twenty (20) persons;

(b) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof;

(c) One (1) laundry tray or clothes washer for each fifty (50) persons or fraction thereof; and

(d) One (1) service sink or slop sink for each 100 persons or fraction thereof.

(5) If the dormitory is located in a youth camp, the requirements of 902 KAR 10:040 shall apply in addition to the requirements established in this section.

Section 13. Hospitals, Nursing Homes, and Institutions. A hospital, nursing home, or institution shall comply with the requirements established in 902 KAR 20:031, 20:046, 20:056, and 9:010. Sanitary facilities shall be provided on each floor level and shall conform to this section. (1) Hospitals.

(a) Wards. There shall be at least:

1. One (1) water closet for each ten (10) patients or fraction thereof;

2. One (1) lavatory for each ten (10) patients or fraction thereof;

3. One (1) tub or shower for each fifteen (15) patients or fraction thereof; and

4. One (1) drinking fountain for each 100 patients or fraction thereof.

(b) Individual rooms. There shall be at least one (1) water closet, one (1) lavatory, and one (1) tub or shower.

(c) Waiting rooms. There shall be at least one (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal). There shall be at least:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof;

(b) One (1) water closet for each twenty (20) females or fraction thereof;

(c) One (1) lavatory for each ten (10) persons or fraction thereof;

(d) One (1) urinal for each fifty (50) males or fraction thereof;

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof;

(f) One (1) drinking fountain on each floor; and

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal.

(a) Cell. There shall be at least:

1. One (1) prison-type water closet; and

2. One (1) prison-type lavatory.

(b) Day rooms and dormitories.

1. There shall be at least:

a. One (1) water closet for each eight (8) female inmates or fraction thereof and one (1) water closet for each twelve (12) male inmates or fraction thereof;

b. One (1) lavatory for each twelve (12) inmates or fraction thereof;

c. One (1) shower for each fifteen (15) inmates or fraction thereof;

d. One (1) drinking fountain per floor; and

e. One (1) service sink or slop sink per floor.

2. For males, one (1) urinal may be substituted for each water closet if the number of water closets is not reduced to less than one-half (1/2) the number required.

(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(d) There shall be at least one (1) drinking fountain on each floor.

(e) There shall be at least one (1) service sink or slop sink per floor.

Section 14. Workshops, Factories, Mercantile, and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted. (1) Workshops and factories: Sanitary facilities shall conform to the following:

(a) There shall be at least:

1. One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100;

2. One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100;

3. One (1) urinal for eleven (11) to fifty (50) employees;

4. Two (2) urinals for fifty-one (51) to 100 employees;

5. One (1) lavatory for each twenty-five (25) females or fraction thereof up to 100; and

6. One (1) water closet for each fifteen (15) females or fraction thereof up to 100;

(b) If in excess of 100 persons, there shall be at least:

1. One (1) additional water closet for each additional thirty (30) males and each additional thirty (30) females or fraction thereof;

2. One (1) additional lavatory for each additional fifty (50) males and females or fraction thereof; and

3. One (1) additional urinal for each additional 100 males or fraction thereof;

(c) There shall be at least:

1. One (1) shower for each fifteen (15) persons or fraction thereof, exposed to skin contamination from irritating, infectious, or poisonous materials;

2.a. One (1) drinking fountain on each floor for each fifty (50) employees or fraction thereof, up to 100 employees; and

b. If there are more than 100 employees, there shall be an additional drinking fountain on each floor for each additional seventy-five (75) employees or fraction thereof; and

3. One (1) service sink or slop sink per floor; and

(d)1. Individual sinks or wash troughs may be used in lieu of lavatories.

2. Twenty-four (24) inches of sink or trough, if provided with water, or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

(2) Mercantile.

(a) Employees.

1. Except as provided in subparagraph 2 of this paragraph, sanitary facilities within each store shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For a store containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or accessible areas having a travel distance of not more than 500 feet within the building in which the store is located.

(b) Customers.

1. Sanitary facilities shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed in individual stores or in a central toilet room area or areas, if:

a. The distance from the main entrance of a store does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Sanitary facilities shall be provided as stated in this section and there shall be at least:

1. One (1) water closet for one (1) to 150 males;

2. Two (2) water closets for 151 to 300 males;

3. Three (3) water closets for 301 to 450 males;

4. If over 500 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof;

5. One (1) urinal for fifty (50) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 300 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) water closet for one (1) to 100 females;

10. Two (2) water closets for 101 to 200 females;

11. Three (3) water closets for 201 to 400 females;

12. If over 400 females, three (3) water closets plus one (1) additional water closet for each additional 300 females or fraction thereof;

13. One (1) lavatory for one (1) to 200 persons;

14. Two (2) lavatories for 201 to 400 persons;

15. Three (3) lavatories for 401 to 700 persons;

16. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof; Three (3) lavatories plus one (1) lavatory for each 500 persons, or fraction thereof, in excess of 700;

17. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

18. One (1) service sink or slop sink per floor.

(3) Office buildings.

(a) Employees.

1. Except as established in subparagraph 2 of this paragraph, sanitary facilities within office buildings shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For an office building or space containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of not more than 500 feet within the same building.

(b) Customers.

1. Sanitary facilities shall be provided for customers if the office building or space contains 5,000 square feet or more.

2. In an office building, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed within the individual offices, or in a central toilet room area or areas if:

a. The distance from the main entrance of an office space does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Separate sanitary facilities for each gender shall be provided as stated in this section.

1. For males and females there shall be at least:

a. One (1) water closet for one (1) to fifteen (15) persons;

b. Two (2) water closets for sixteen (16) to thirty-five (35) persons;

c. Three (3) water closets for thirty-six (36) to fifty-five (55) persons;

d. Four (4) water closets for fifty-six (56) to eighty (80) persons;

e. Five (5) water closets for eighty-one (81) to 110 persons;

f. Six (6) water closets for 111 to 150 persons;

g. If over 150 persons, six (6) water closets plus one (1) additional water closet for each additional forty (40) persons or fraction thereof;

h. One (1) lavatory for one (1) to fifteen (15) persons;

i. Two (2) lavatories for sixteen (16) to thirty-five (35) persons;

j. Three (3) lavatories for thirty-six (36) to sixty (60) persons;

k. Four (4) lavatories for sixty-one (61) to ninety (90) persons;

l. Five (5) lavatories for ninety-one (91) to 125 persons;

m. If over 125 persons, five (5) lavatories plus one (1) additional lavatory for each additional seventy-five (75) persons or fraction thereof; and

n. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

2. For males, if urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed if the number of water closets is not reduced to less than seventy (70) percent of the minimum specified.

Section 15. Swimming Pool Bathhouses. A swimming pool bathhouse shall comply with the requirements established in 902 KAR 10:120 and this section. (1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, with one (1) part designated for "Males" or "Men" and the other part designated for "Females" or "Women."

(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather load, as defined in 902 KAR 10:120, and shall conform to the following:

(a) For swimming pools in which the total bather capacity is 200 persons or less, there shall be at least:

1. One (1) water closet for each seventy-five (75) males or fraction thereof;

2. One (1) water closet for each fifty (50) females or fraction thereof;

3. One (1) urinal for each seventy-five (75) males or fraction thereof;

4. One (1) lavatory for each 100 persons or fraction thereof;

5. One (1) shower per each fifty (50) persons or fraction thereof; and

6. One (1) drinking fountain per each 200 persons or fraction thereof;

(b) For swimming pools in which the total bather capacity exceeds 200 persons, there shall be at least:

1. Five (5) water closets for 201 to 400 females, with one (1) additional water closet for each additional 250 females or fraction thereof;

2. Three (3) water closets for 201 to 400 males, with one (1) additional water closet for each additional 500 males or fraction thereof;

3. Three (3) urinals for 201 to 400 males, with one (1) additional urinal for each additional 500 males or fraction thereof;

4. One (1) lavatory for up to 150 persons;

5. Two (2) lavatories for 151 to 400 persons;

6. Three (3) lavatories for 401 to 750 persons;

7. If over 750 persons, three (3) lavatories plus one (1) additional lavatory for each additional 750 persons or fraction thereof;

8. One (1) shower per each fifty (50) persons or fraction thereof up to 150;

9. If over 150 persons, three (3) showers plus one (1) additional shower for each additional 500 persons or fraction thereof; and

10. One (1) drinking fountain per each 500 persons or fraction thereof.

(3) Fixture schedules shall be increased for pools at schools or similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time

schedules of:

(a) One (1) hour or less shall have at least one (1) shower for each six (6) swimmers; and

(b) One (1) to two (2) hours shall have at least one (1) shower for each ten (10) swimmers.

(4) Shower facilities, including warm water and soap, shall be provided for each sex.

(a) Showers shall be supplied with water at a temperature of not less than ninety (90) degrees Fahrenheit and at a flow rate of at least three (3) gallons per minute.

(b) Thermostatic, tempering, or mixing valves shall be installed to prevent scalding of the bathers.

(5) The requirement relating to bathhouse toilet room and shower facilities may be waived if the facilities are available to pool patrons within 150 feet from the pool.

Section 16. Park Service Buildings or Bathhouses. A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020, Section 8, and this section. (1) Except for a self-contained recreational vehicle community, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures established in this section.

(2) Except for a self-contained recreational vehicle community, sanitary facilities shall be provided as follows:

(a) If there are one (1) to fifteen (15) vehicle spaces, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

2. Females: At least one (1) water closet, one (1) lavatory, and one (1) shower;

(b) If there are sixteen (16) to thirty (30) vehicle spaces, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, two (2) lavatories, and two (2) showers; and

2. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;

(c) If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be for:

1. Males: At least two (2) water closets, one (1) urinal, three (3) lavatories, and three (3) showers; and

2. Females: At least two (2) water closets, three (3) lavatories, and three (3) showers;

(d) If there are forty-six (46) to sixty (60) vehicle spaces, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, three (3) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, three (3) lavatories, and three (3) showers;

(e) If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, four (4) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, four (4) lavatories, and four (4) showers;

(f) If there are eighty-one (81) to 100 vehicle spaces, there shall be for:

1. Males: At least four (4) water closets, two (2) urinals, five (5) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, five (5) lavatories, and five (5) showers; and

(g) If over 100 vehicle spaces are provided, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;

2. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and

3. One (1) additional urinal for males per additional 100 vehicle spaces or fraction thereof.

Section 17. Residential and Day Camp Sites. A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this section. (1)(a) Each residential camp site shall be provided with sanitary facilities for each sex as established in this section.

(b) A day camp shall:

1. Not be required to provide shower facilities; and

2. Provide all other sanitary facilities for each sex as established in this section.

(2) Sanitary facilities shall be provided as follows:

(a) If there are one (1) to eighteen (18) persons served, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

2. Females: At least two (2) water closets, one (1) lavatory, and one (1) shower;

(b) If there are nineteen (19) to thirty-three (33) persons served, there shall be for:

1. Males: At least two (2) water closets, one (1) urinal, two (2) lavatories, and two (2) showers; and

2. Females: At least two (2) water closets, two lavatories, and two showers;

(c) If there are thirty-four (34) to forty-eight (48) persons served, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, two (2) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, two (2) lavatories, and three (3) showers;

(d) If there are forty-nine (49) to sixty-three (63) persons served, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, three (3) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, three (3) lavatories, and four (4) showers;

(e) If there are sixty-four (64) to seventy-nine (79) persons served, there shall be for:

1. Males: At least three (3) water closets, three (3) urinals, three (3) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, three (3) lavatories, and five (5) showers;

(f) If there are eighty (80) to ninety-five (95) persons served, there shall be for:

1. Males: At least four (4) water closets, three (3) urinals, four (4) lavatories, and six (6) showers; and

2. Females: At least six (6) water closets, four (4) lavatories, and six (6) showers; and

(g) If over ninety-five (95) persons are served, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

2. One (1) additional shower for each twenty (20) persons or fraction thereof served; and

3. One (1) additional urinal per fifty (50) additional males or fraction thereof.

(3) Coed day camps with equal number of males and females shall meet the fixture requirements of Section 6(2) of this administrative regulation, relating to elementary through secondary level school buildings.

(4) Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 18. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. A retail food store or restaurant shall comply with the requirements established in 902 KAR 10:020, 45:005, and this section. (1) Food stores.

(a) If more than five (5) persons of different sex are employed, separate sanitary facilities shall be provided for the employees.

(b)1. Separate sanitary facilities for each sex shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities shall be:

a. Based on one (1) person per fifty (50) square feet; and

b. Installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of a store does not exceed 500 feet.

(c) There shall be at least:

1. One (1) water closet for one (1) to 100 persons;

2. Two (2) water closets for 101 to 200 persons;

3. Three (3) water closets for 201 to 400 persons;

4. If over 400 persons, three (3) water closets plus one (1) additional water closet for each additional 500 males or 300 females or fraction thereof;

5. One (1) urinal for eleven (11) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) lavatory for one (1) to 200 persons;

10. Two (2) lavatories for 201 to 400 persons;

11. Three (3) lavatories for 401 to 700 persons;

12. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof;

13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

14. One (1) service sink, utility sink, or curbed mop basin per floor as required by the Cabinet for Health and Family Services.

(2) Restaurants.

(a) If more than five (5) persons of different sex are employed, separate sanitary facilities for each sex shall be provided for the employees.

(b)1. Except as provided in subparagraph 3 of this paragraph, in a new establishment or an establishment that is extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees.

2. Carryout-type food service operations shall be exempt from providing toilet facilities for the use of their patrons.

3. A restaurant with a business occupancy of one (1) to fifteen (15) persons shall:

a. Comply with the requirements in paragraphs (c) and (e) of this subsection; or

b. Provide at least one (1) unisex facility consisting of one (1) water closet and one (1) lavatory.

(c) There shall be at least:

1. Two (2) water closets for one (1) to 100 persons;

2. Three (3) water closets for 101 to 200 persons;

3. Four (4) water closets for 201 to 300 persons; and

4. If over 300 persons, four (4) water closets plus one (1) additional water closet for each additional 200 persons or fraction thereof.

(d) There shall be at least:

1. One (1) urinal for fifty (50) to 200 males; and

2. If over 200 males, one (1) urinal plus one (1) additional urinal for each additional 150 males or fraction thereof.

(e) There shall be at least:

1. One (1) lavatory for one (1) to 200 persons;

2. Two (2) lavatories for 201 to 400 persons;

3. Three (3) lavatories for 401 to 600 persons; and

4. If over 600 persons, three (3) lavatories plus one (1) additional lavatory for each additional 200 persons or fraction thereof.

(f) There shall be at least:

1. One (1) drinking fountain for one (1) to 100 persons; and

2. If over 100 persons, two (2) drinking fountains plus one (1) additional water fountain for each additional 400 persons or fraction thereof.

(g) If food is consumed indoors on the premises, water stations may be substituted for drinking fountains.

(h) There shall be one (1) service sink, utility sink, or curbed mop basin on each floor as required by the Cabinet for Health and Family Services.

(i) Lavatories for hand washing shall be provided in the kitchen area, readily accessible to the employees.

(3) Licensed food establishments. In all food establishments licensed by the Cabinet for Health and Family Services, Department for Public Health, the requirements in this subsection shall be met.

(a) Hand-washing sinks.

1. All hand-washing sinks shall have a minimum hot water temperature of 100 degrees Fahrenheit and a maximum of 120 degrees Fahrenheit.

2. Self-closing faucets shall provide a flow of water for no less than fifteen (15) seconds from activation.

3. Placement of hand-washing sinks shall be approved by the Cabinet for Health and Family Services, Department for Public Health pursuant to 902 KAR 45:005.

(b) A three (3) compartment sink used for washing utensils shall be required and shall drain by a direct connection with a minimum of a two (2) inch drain.

(c) Dishwashing or ware washing machines shall discharge indirectly through a three (3) inch open receptacle.

(d) Residential type dishwashing machines shall discharge:

1. Through an air gap device; or

2. Indirectly through a three (3) inch open receptacle.

(e) Sinks solely used for food preparation shall discharge by an indirect connection to a minimum three (3) inch trap.

(f) All hub drains, open receptacles, floor sinks, or other waste receptacles shall extend one (1) inch above the floor plane unless a full grate/strainer is installed flush with the floor.

(g) Occupied mobile food units not located within an existing permitted food establishment shall:

1. Meet the requirements of the Kentucky Plumbing Code, KRS Chapter 318 and 815 KAR Chapter 20;

2. Have a waste tank no less than fifty (50) percent larger than the freshwater tank;

3. Have a National Sanitary Foundation (NSF) approved freshwater tank for potable water; and

4. Have a minimum of a three (3) compartment sink and one (1) hand sink.

STEVEN A. MILBY, Chairman
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 8, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 27, 2016, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 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 canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on May 2, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Samuel I. Thorner, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Samuel I. Thorner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum plumbing fixture requirements for buildings in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to implement the Division of Plumbing's statutory duty to establish a state plumbing code regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and

private water supplies, including the number and type of fixtures to be used in connection with different types of occupancy.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, which includes the kind, type and quality of plumbing fixtures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists Division of Plumbing in establishing uniform standards for the number and type of fixtures to be installed in various types of buildings in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: This amendment permits, with approval by the Division of Plumbing, of the temporary use of mobile plumbing facilities that are registered with the Kentucky Department of Transportation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow certain structures without existing plumbing requirements to be temporarily used for other purposes that would otherwise require the installation and expense of a permanent plumbing system, by allowing the use of certain approved mobile plumbing facilities to be used during the temporary use to satisfy minimum code requirements.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment directly relates to the permissible quality and type of plumbing fixtures that must be used in Kentucky buildings.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide greater flexibility in balancing plumbing requirements with the need to reserve a property owner's ability to enjoy certain alternative temporary uses of the property.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in plumbing activity within the Commonwealth, as well as all owners and operators of buildings in which plumbing systems are required or otherwise installed.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: This amendment imposes no new requirements on the affected parties; rather, it merely affords an additional option allowing certain temporary uses and occupancies of existing structures to occur without the expense of installing a permanent plumbing system not suited to the primary use and purpose of the structure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities are not anticipated to incur increased expenses as a result of this amendment, as this amendment reduces existing requirements for certain facilities and provides an optional alternative to complying with existing fixture requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include greater flexibility in complying with current plumbing fixture requirements during temporary changes in use while preserving a structure's original and primary character.

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

(a) Initially: There are no anticipated additional costs to administer this amendment.

(b) On a continuing basis: There are no anticipated additional costs to administer this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this amendment is anticipated to result in no additional costs to the agency. Any agency costs resulting associated with this amendment will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is applied because the number of plumbing fixtures required for different buildings is based on each building's occupancy load and the presumed gender of the occupants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 318.130.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: Neutral

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 20:195. Medical gas piping installations.

RELATES TO: KRS 198B.050, 318.010, 318.134

STATUTORY AUTHORITY: KRS 198B.050(2), (5), 318.130, 318.134(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.134(3) requires the department to establish a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. KRS 318.130 authorizes the department to promulgate a reasonable rule or administrative regulation to administer the provisions of KRS Chapter 318. This administrative regulation establishes the requirements for medical gas piping installation.

Section 1. Definitions. (1) "Health care facility" means a

hospital, nursing home, limited care facility, clinic, ambulatory care center, or office practice medical or dental office as defined in NFPA 99C.

(2) "Medical gas piping" means a permanent fixed piping system in a health care facility that is used to convey oxygen, nitrous oxide, nitrogen, carbon dioxide, helium, medical air, and mixtures of these gases from its source to the point of use. Medical gas piping includes the fixed piping associated with a medical, surgical, or gas scavenging vacuum system, as well as a bedside suction system.

(3) "NFPA" means the National Fire Protection Association.

Section 2. Standards and Procedures. (1) Installation standards.[~~Except that Section 5.1.10.6.6, Branch Takeoffs, shall not be adopted nor enforced within the Commonwealth,~~] A new medical gas piping installation or an addition to an existing medical gas piping system shall comply with the applicable provisions of NFPA 99C, Standard on Gas and Vacuum Systems, 2002 Edition, with the following exceptions:

(a) Section 5.1.10.6.6, Branch Takeoffs, shall not be adopted nor enforced within the commonwealth; and

(b) Axially swaged, elastic strain preload fittings providing metal to metal seal having a temperature rating not less than 538 degrees Celsius (1,000 degrees Fahrenheit) and a pressure rating not less than 2,070 kPa (300 psi), and that, when complete, are permanent and nonseparable, shall be permitted to be used to join copper or stainless steel tube. The axially swaged, elastic strain preload fittings shall not be installed within six (6) inches of a brazed joint, and a brazed joint shall not be installed within six (6) inches of an existing axially swaged, elastic strain preload fitting.

(2) Permit required. A licensed master plumber shall make application for a permit to install medical gas piping prior to the installation. To obtain the permit, the master plumber shall:

(a) Pay a fee of forty-five (45) dollars base permit for the medical gas system for each building;

(b) Pay a fee of fifteen (15) dollars per opening; and

(c) Identify the person who shall perform the installation. The person making the installation shall be a certified medical gas installer as required by NFPA 99C as well as a licensed master or journeyman plumber.

(3) Supervision by the master. It shall be the responsibility of the licensed master plumber to ensure that the person doing the installation:

(a) Is properly certified as required by NFPA 99C;

(b) Uses the proper products and stores them correctly; and

(c) Requests and receives all inspections at the initial pressure test for the complete system from a certified state plumbing inspector.

(4) Final approval. Upon completion of the installation, the master plumber shall furnish the Division of Plumbing with certification from the medical gas system verifier as required by NFPA 99C.

Section 3. Incorporation by Reference. (1) "NFPA 99C Standard on Gas and Vacuum Systems", 2002 Edition, National Fire Protection Association, 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, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) A copy may also be obtained by contacting the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

STEVEN A. MILBY, Chairman
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 8, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 27, 2016, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 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 canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on May 2, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Samuel I. Thorner, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Samuel I. Thorner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for medical gas piping installations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to implement the Division of Plumbing's duty to administer and enforce uniform standards for the permitting and inspection of plumbing work.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.134(3) requires the department to establish a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists Division of Plumbing in establishing uniform installation standards for medical gas piping, and guidelines for the permitting and inspection fees to be charged in performing its oversight role over such plumbing work in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: This amendment allows the use of approved axially swaged, elastic strain preload fittings for joining join copper and stainless steel tubing in medical gas piping systems.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to expand the permissible use of this type of metal to metal seal to join copper and stainless steel tubes within a medical gas piping system, and in order to incorporate the use of new and verified plumbing technologies.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 318.130 permits the department to adopt any reasonable rule or regulation to administer the provisions of Chapter 318.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will increase the options available to the plumbing industry in the design and installation of medical gas piping systems.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in the installation of medical gas piping systems within the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: This amendment imposes no new

requirements on the affected parties; rather, it merely provides additional options for the selection of desired parts and materials for use within medical gas piping systems.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities are not anticipated to incur any increased expenses as a result of this amendment, as this amendment merely adds to the existing types of materials that may be used.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include greater flexibility and options in complying with current plumbing requirements for the design and construction of medical gas piping systems, consistent with evolving technologies.

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

(a) Initially: There are no anticipated additional costs to administer this amendment.

(b) On a continuing basis: There are no anticipated additional costs to administer this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this amendment is anticipated to result in no additional costs to the agency. Any agency costs resulting associated with this amendment will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all medical gas piping installations will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is required by KRS 318.134(3).

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: N/A

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amendment)

922 KAR 1:320. Service appeals for Title 922 KAR Chapters 1, 3, and 5.

RELATES TO: KRS Chapter 13B, 23A.010, 194A.005, 194A.030(11), 199.555(2), 199.557, 209.020(4), (5), 209A.020(4), (5), 600.020(44), 605.090(1)(b), (6), 620.020(1), 620.180(2)(a)1, 620.230, 45 C.F.R.[~~Part 98,~~] 205.10, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397[~~, 9858-9858q~~]

STATUTORY AUTHORITY: KRS 13B.170, 194A.010(2), 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010(2) designates the Cabinet for Health and Family Services as the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds, including 45 C.F.R. 205.10, made applicable to titles IV-B and IV-E programs by references in 45 C.F.R. 1355.21(b) and 1355.30(p). This administrative regulation establishes procedures related to appeals and complaints for benefits and services under 922 KAR Chapters 1, 3, and[~~through~~] 5 effective April 1, 2016.

Section 1. Definitions. (1) "Adoption assistance" means a payment under:

(a) KRS 199.555(2) and 922 KAR 1:050, State-funded adoption assistance; or

(b) KRS 199.557 and 922 KAR 1:060, Federal Title IV-E adoption assistance.

(2) "Adult" is defined by KRS 209.020(4) or 209A.020(4).

(3) "Caretaker relative" means a relative:

(a) With whom a child is, or will be, placed by the cabinet; and

(b) Who is seeking to qualify as a kinship caregiver in accordance with 922 KAR 1:130, Kinship Care Program.

(4) "Case permanency plan" is defined by KRS 620.020(1) and described in KRS 620.230 for a child placed outside the home.

(5) "Case plan" means a plan described in 922 KAR 1:430, Child Protective Services In-home Case Planning and Service Delivery, for a child who remains in the home.

(6) "Case planning conference" means a meeting in which a case plan or a case permanency plan is developed or modified in accordance with KRS 620.180(2)(a)1.

(7)[~~"Child care assistance" means subsidy benefits as described by 922 KAR 2:160, Child Care Assistance Program.~~

~~(8)~~] "Child welfare services" means benefits or services on behalf of a child meeting a purpose of 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, or 1397.

(8)[~~(9)~~] "Commissioner" means the Commissioner of the Department for Community Based Services or designee.

(9)[~~(10)~~] "Contract agency" means a business or organization that offers child welfare, adult, or domestic violence protective[~~, or child care~~] services to the public through a contract or agreement with the cabinet.

(10)[~~(11)~~] "General adult services" means a voluntary preventative service in accordance with 922 KAR 5:090, General adult services.

(11)[~~(12)~~] "Good cause" means justification for failure to carry forward with a legal obligation related to an appeal in accordance with Section 6(7) of this administrative regulation.

(12)[~~(13)~~] "Kinship caregiver" means a qualified caretaker relative of a child with whom the child is placed by the cabinet as an alternative to foster care in accordance with 922 KAR 1:130, Kinship Care Program.

(13)[~~(14)~~] "Parent" is defined by[~~:~~

~~(a)~~] KRS 600.020(44) and 42 U.S.C. 675(2) for child welfare benefits and services[~~; or~~

~~(b) 45 C.F.R. 98.2 for child care assistance~~].

(14)[~~(15)~~] "Protective services" is defined by KRS 209.020(5) or 209A.020(5).

[~~(16) "Registered child care provider" means a caregiver registered under 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program.~~

~~(17) "Resource home" means a home in which an individual has been approved by the cabinet in accordance with 922 KAR 1:350, Family preparation, to:~~

~~(a) Provide foster care services for a child placed by the cabinet;~~

~~(b) Adopt a child:~~

~~1. Whose parents' parental rights have been terminated; and~~

~~2. Who is under the custodial control of the cabinet; or~~

~~(c) Provide respite service for a family approved to care for a child under the custodial control of the cabinet.~~]

Section 2. Right to Appeal. (1) A parent may request review of the following through an administrative hearing:

(a) Denial, reduction, modification, suspension, or termination of child welfare services provided by the cabinet;

(b) Closure of a child protective services case in accordance with:

1. 922 KAR 1:330, Section 11[~~(3)~~]; or

2. 922 KAR 1:430, Section 4(4)[~~(b)~~]; or

(c) Failure by the cabinet to:

1. Respond with reasonable promptness to a request for child welfare services provided by the cabinet;

2. Complete a case plan, or case permanency plan;

3. Provide or refer for services as specified in the case plan or case permanency plan; or

4. Meet the mandated time frames for child protective services specified in 922 KAR 1:330.

(2) A foster[~~resource home~~] parent approved by the department in accordance with 922 KAR 1:350 or an adoptive parent may request review of the following through an administrative hearing:

(a) Failure by the cabinet to:

1. Process reimbursement to the[~~a resource~~] home with reasonable promptness;

2. Provide information required by KRS 605.090(1)(b) and (6);

3. Advise an adoptive parent of the availability of adoption assistance in accordance with 922 KAR 1:050, State funded adoption assistance, or 922 KAR 1:060, Federal Title IV-E adoption assistance; or

4. Provide an adoptive parent with known relevant facts regarding the:

a. Child;

b. Child's background prior to finalization of the adoption; and

c. Child's biological family;

(b) Determination of ineligibility for adoption assistance upon execution of an adoptive placement agreement under 922 KAR 1:050, State funded adoption assistance, or 922 KAR 1:060, Federal Title IV-E adoption assistance;

(c) Denial of a request for a change in payment level due to a change in circumstances of an adoptive parent or child when the adoption assistance agreement is renewed under 922 KAR 1:050, State funded adoption assistance, or 922 KAR 1:060, Federal Title IV-E adoption assistance; or

(d) Closure of a foster or adoptive[~~resource~~] home under 922 KAR 1:350, Family preparation, unless a provision of Section 3(1)(f), (g), (h), or (i) of this administrative regulation applies.

(3) An approved and available adoptive parent outside the jurisdiction with responsibility for handling the case of an adoptive child may request an administrative hearing for the cabinet's denial or delay in placement of the child for adoption pursuant to 42 U.S.C. 671(a)(23).

(4)(a) A kinship caregiver may request an administrative hearing pursuant to 922 KAR 1:130, Section 19.

(b) Pursuant to 922 KAR 1:130, Section 19(2), a kinship caregiver who is dissatisfied with an action or inaction on the part of the cabinet relating to financial assistance under the Kinship Care Program may request an administrative hearing under the provisions of 921 KAR 2:055, Hearings and appeals.

(5) An applicant determined by the cabinet to be ineligible for a tuition waiver may request an administrative hearing pursuant to 922 KAR 1:450, Section 3.

(6) An applicant determined by the cabinet to be ineligible for an educational and training voucher may request an administrative hearing pursuant to 922 KAR 1:500, Section 5.

(7) An adult may request review of the following through an administrative hearing:

(a) The cabinet's denial of general adult services or protective services to an adult identified as a victim of abuse, neglect, or exploitation; or

(b) Failure by the cabinet to respond with reasonable promptness to a request for:

1. General adult services; or

2. Protective services for an adult.

(8)[~~An applicant for child care assistance or the parent of a child receiving assistance may request an administrative hearing for the denial, reduction, suspension, or termination of benefits pursuant to 922 KAR 2:160, Section 18.~~

~~(9) An applicant for child care registration or a registered child care provider may request an administrative hearing in accordance with 922 KAR 2:180, Section 9.~~

~~(10)~~] An individual aggrieved by an action of the cabinet may request an administrative hearing for a matter by which a Kentucky Revised Statute or 922 KAR Chapters 1, 3, and[~~through~~] 5 expressly permits the appeal of a cabinet action or alleged act.

(9)[~~(11)~~] A parent or an adult aggrieved by an action of the cabinet may request review of the following through an administrative hearing:

(a) A cabinet denial, reduction, suspension, or termination of services or federally-funded benefits, payments, or financial assistance to which an individual may be entitled under 922 KAR Chapters 1, 3, and[~~through~~] 5; or

(b) A cabinet failure to act with reasonable promptness to a request for a federally-funded benefit, payment, or financial assistance to which an individual may be entitled under 922 KAR Chapters 1, 3, and[~~through~~] 5.

Section 3. Matters Not Appealable through an Administrative Hearing. (1) The following shall not be subject to review through an administrative hearing:

(a) A matter in which a court:

1. Has previously made a judicial determination or issued an order on the same issue being appealed; or

2. Is currently engaged in legal proceedings regarding the same issue being appealed;

(b) A final administrative decision made by the cabinet or cabinet's designee as a result of a previous appeal on the same issue;

(c) An appeal that has been abandoned by an appellant who failed to demonstrate good cause for failure to go forward;

(d) Failure to submit a written request for appeal within the time frame established by Section 6(4)(b) of this administrative regulation;

(e) A decision to deny:

1. Approval of an individual seeking to provide foster or adoptive services or respite care in accordance with 922 KAR 1:350 or 922 KAR 1:310; or

2. A caretaker relative approval as a kinship caregiver if the:

a. Caretaker relative fails to meet the provisions of 922 KAR 1:130, Section 5; or

b. Child is ineligible in accordance with 922 KAR 1:130, Section 9;

(f) Removal of a foster child from a foster or adoptive home or respite care provider[~~resource home~~] if the foster or adoptive[~~resource~~] home parent, respite care provider, or another individual residing in the home has been found by the cabinet to have abused, neglected, or exploited a child and the:

1. Foster or adoptive[~~Resource~~] home parent, respite care

provider, or other individual waived the right to appeal the substantiated incident; or

2. Substantiated incident was upheld after:

a. An administrative hearing; or

b. Judicial review;

(g) Removal of a child from a foster[~~resource~~] home for the purpose of:

1. Achieving a permanency goal described by 922 KAR 1:140, Foster care and adoption permanency services; or

2. Uniting or reuniting the child with a sibling at the next placement;

(h) Closure of a foster or adoptive[~~resource~~] home if the cabinet has not placed a child in the home within the previous two (2) years;

(i) Closure of a foster or adoptive[~~resource~~] home according to the terms of the contract between the cabinet and the foster or adoptive[~~resource~~] home;

(j) A situation where state or federal law requires adjustment of a payment or grant, except if a payment or grant computation is incorrect;

(k) The per diem rate of reimbursement paid to a foster[~~resource~~] home parent[~~who provides foster care services~~]; or

(l) Decision to not recommend a foster[~~resource~~] home parent in accordance with 922 KAR 1:350, Section 6(9)[~~9(12)~~] for enrollment in specialized training as a medically complex foster parent[~~an emergency shelter, medically fragile, specialized medically fragile,~~] or care plus foster parent[~~resource home~~].

(2) A complaint of discrimination may be filed with the cabinet's Office of Human Resource Management in accordance with 920 KAR 1:090.

Section 4. Service Complaints. (1) If a matter is not subject to review through an administrative hearing, a parent, caretaker relative, kinship caregiver, foster or adoptive parent approved by the department in accordance with 922 KAR 1:350, or an adult may:

(a) Attempt to resolve the issue by submitting a written complaint to the service region administrator or designee within thirty (30) calendar days after the date of the cabinet action or alleged act; or

(b) Contact the cabinet's Office of the Ombudsman if the matter was not previously reviewed:

1. By that office; or

2. Pursuant to paragraph (a) of this subsection.

(2)(a) The service region administrator, administrator's designee, or the cabinet's Office of the Ombudsman shall provide a written response to the complainant within thirty (30) calendar days of receipt of a written complaint not subject to review through an administrative hearing.

(b) The service region administrator[~~commissioner~~] or the ombudsman may grant an extension to the response timeframe given in paragraph (a) of this subsection if:

1. Extenuating circumstances prolong the review of the complaint; and

2. Notice of the extension is provided to the complainant.

(3)(a) A parent, caretaker relative, kinship caregiver, foster or adoptive parent approved by the department in accordance with 922 KAR 1:350, or an adult dissatisfied with a written response rendered by the service region administrator, administrator's designee, or the Office of the Ombudsman may request that the commissioner review the complaint and the written response.

(b) A request for review shall be submitted in writing to the commissioner within ten (10) days of receipt of the written response provided in accordance with subsection (2) of this section.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the complainant of the need for an extension to the timeframe specified in this paragraph.

(d) The department shall abide by the commissioner's written determination.

(4) The department shall compile data regarding service complaints to:

(a) Fulfill federal and state reporting requirements; and

(b) Use for program development and evaluation.

Section 5. Appeal of a Child Abuse or Neglect Investigative Finding. An individual who has been found by the cabinet to have abused or neglected a child may appeal the cabinet's finding through an administrative hearing in accordance with 922 KAR 1:480, Appeal of child abuse and neglect investigative findings.

Section 6. Request for Appeal. (1) The cabinet shall provide a copy of the[~~:~~

~~(a)~~] DPP-154, Protection and Permanency Service Appeal Request, to an individual:

(a)[~~1.~~] At each case planning conference;

(b)[~~2.~~] Upon denial, reduction, modification, suspension, or termination by the cabinet of:

1.[~~a.~~] Child welfare services provided by the cabinet;

2.[~~b.~~] General adult services or protective services, if notification does not present a risk of harm to the victim;

3.[~~c.~~] Adoption assistance; or

4.[~~d.~~] Other federally-funded program benefit described in 922 KAR Chapter 1, 3, or 5; or

(c)[~~3.~~] Upon determination that a student is not eligible for a tuition waiver or education and training voucher[~~; or~~

~~(b) DCC-88, Child Care Service Appeal Request, to an individual:~~

~~1. Upon the denial, reduction, or termination of child care assistance;~~

~~2. In accordance with 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program, for a:~~

~~a. Withdrawal or denial of child care registration application, not at the request of the applicant; or~~

~~b. Revocation or closure of a registered child care provider, not at the request of the provider;~~

~~3. Upon a reduction or revocation of a child care provider's STARS level in accordance with:~~

~~a. 922 KAR 2:170, STARS for KIDS NOW Program Type I licensed child-care centers; or~~

~~b. 922 KAR 2:210, STARS for KIDS NOW Program for Type II licensed and certified family child-care homes; or~~

~~4. Upon a revocation of a trainer's credential in accordance with 922 KAR 2:240, Kentucky Early Care and Education Trainer's Credential and training approval~~].

(2) At least ten (10) days prior to the denial, reduction, modification, suspension, or termination of a benefit or services specified in Title 922 KAR Chapter 1, 3, or 5, the cabinet shall hand-deliver or mail a[~~:~~

~~(a)~~] DPP-154A, Protection and Permanency Notice of Intended Action[~~;~~

~~(b) DCC-108, Notice of Adverse Action for Child Care Providers and Early Care and Education Professionals; or~~

~~(c) Notice in accordance with 922 KAR 2:160, Section 12(6)~~].

(3) The cabinet may take emergency action under KRS 13B.125.

(4) A request for appeal shall:

(a) Be written by the appellant, with the assistance of the cabinet or contract agency if the appellant is unable to comply without assistance;

(b) Be submitted to the cabinet no later than thirty (30) calendar days from the date:

1. That the notice provided in accordance with subsection (2) of this section was issued; or

2. Of the occurrence of the disputed action;

(c) Describe the:

1. Cabinet action in dispute; or

2. Alleged act;

(d) Specify:

1. The reason the appellant disputes the cabinet's action;

2. Name of each cabinet staff person involved with the

disputed action, if known; and

3. Date of the cabinet action or alleged act in dispute; and

(e) Include the notice provided in accordance with subsection (2) of this section, if available.

(5)(a) Upon receipt of a written request for appeal, the cabinet shall determine whether the matter is subject to review through an administrative hearing.

(b) If the matter is not subject to review, the cabinet shall inform the individual in writing that the:

1. Matter is not appealable; and

2. Resolution of the matter may be pursued through the service complaint process described in Section 4 or 10 of this administrative regulation.

(6) If the cabinet receives a written request for appeal within ten (10) calendar days from the date the notice provided in accordance with subsection (2) of this section was issued or date of the disputed action and the matter is appealable, the cabinet shall continue to provide federally-funded assistance in accordance with 45 C.F.R. 205.10(a)(6) pending the outcome of the appeal.

(7) The cabinet shall not dismiss a request for appeal if an appellant demonstrates good cause. Justification may include:

(a) An appellant's inability to comprehend the cabinet's written statement describing appeal rights; or

(b) A cabinet-sanctioned determination that the appellant or the appellant's legal representative is not at fault for failure to:

1. Submit a written request for appeal; or

2. Participate in a proceeding related to an administrative hearing.

Section 7. Administrative Hearing. Each administrative hearing conducted by the cabinet or designee shall comply with KRS Chapter 13B.

Section 8. Recommended Order. (1) A copy of the recommended order shall be sent simultaneously to:

(a) Each party to the administrative hearing;

(b) The commissioner of the Department for Community Based Services; and

(c) The secretary of the Cabinet for Health and Family Services or designee.

(2) If a party to a hearing disagrees with the recommended order, the party may file a written exception as provided in KRS 13B.110(4) with the secretary, which shall:

(a) Be filed within fifteen (15) days of the date the recommended order was mailed;

(b) Be based on facts and evidence presented at the hearing;

(c) Not refer to evidence that was not introduced at the hearing; and

(d) Be sent to each other party involved in the hearing.

Section 9. Final Order. (1) The secretary of the Cabinet for Health and Family Services or designee shall issue a final order in accordance with KRS 13B.120.

(2)(a) Unless waived by an appellant, final administrative action shall be taken within ninety (90) days from the date of the request for an administrative hearing as required by 45 C.F.R. 205.10.

(b) If the appellant waives the ninety (90) day requirement specified in paragraph (a) of this subsection, the hearing officer shall notify all parties to the hearing when final administrative action will be taken.

(3) An aggrieved party may petition for judicial review in accordance with:

(a) KRS 13B.140 to 13B.160; or

(b) KRS 23A.010.

Section 10. Contract Agencies. (1) A contract agency shall offer a complaint process consistent with:

(a) Section 4 of this administrative regulation; or

(b) Provisions of the contract or agreement between the contract agency and the cabinet, if the provisions are different from Section 4 of this administrative regulation.

(2)(a) An individual dissatisfied with a final written response rendered by a contract agency regarding a complaint may request that the commissioner review the complaint and the contract agency's written response.

(b) A request for review shall be submitted to the commissioner within ten (10) days of the contract agency's written response.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the client of the need for an extension to the timeframe specified in this subparagraph.

(d) The contract agency shall abide by the commissioner's written determination.

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

(a)[~~"DCC-88, Child Care Service Appeal Request", 11/09;~~

~~(b) "DCC-108, Notice of Adverse Action for Child Care Providers and Early Care and Education Professionals", 11/09;~~

~~(c)~~] "DPP-154, Protection and Permanency Service Appeal Request", 11/09; and

(b)[~~(d)~~] "DPP-154A, Protection and Permanency Notice of Intended Action", 11/09.

(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, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 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 May 2, 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 40601, phone 502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures related to service appeals and complaints for benefits and services under Title 922 KAR Chapters 1, 3, and 5.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide service appeal and complaint procedures for benefits and services governed by Title 922 KAR Chapters 1, 3, and 5.

(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 service complaint and due process in accordance with KRS Chapter 13B and 45 C.F.R. 205.10.

(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 through its establishment of service appeal and complaint processes for benefits and services permitted by Title 922 KAR Chapters 1, 3, and 5.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this existing administrative regulation removes benefits and services permitted by Title 922 KAR Chapter 2, Day Care. In addition, other technical corrections and updates have been made to ensure alignment with administrative regulations in Title 922 KAR Chapters 1, 3, and 5 and compliance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: New service appeal and complaint processes for child care programs governed by Title 922 KAR Chapter 2 have been proposed in other administrative regulations. The change has been necessitated by new business processes and technological supports to be deployed by this department in effort to improve agency efficiencies and qualified customers' access to benefits and services.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by delineating service appeal and complaint processes for benefits and services outlined in Title 922 KAR Chapters 1, 3, and 5.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by distinguishing and clarifying service appeal and complaint processes for protection and permanency programs found in Title 922 KAR Chapters 1, 3, and 5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Individuals receiving child welfare or adult services are entities impacted by this administrative regulation, which governs service appeals and complaints for Title 922 KAR Chapters 1, 3, and 5. In State Fiscal Year (SFY) 2015, the Department for Community Based Services investigated nearly 59,078 reports of child maltreatment, 34,694 reports involving a vulnerable adult, and served approximately 7,700 children per month in foster care.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will not be required to take any new or additional action as a result of this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will not be subject to any new or additional costs as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will have service complaint and appeal processes for protection and permanency programs (Title 922 KAR Chapters 1, 3, and 5) clearly outlined and distinguished from child care benefits and services (Title 922 KAR Chapter 2).

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

(a) Initially: The administrative body will realize no new or additional costs to implement this administrative regulation. The regulatory amendment is organizational and technical in nature.

(b) On a continuing basis: The administrative body will realize no new or additional ongoing costs as a result of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Social Services Block Grant and Title IV-E (of the Social Security Act) funds are federal funds that support the implementation and enforcement of this administrative regulation. State General Funds are also utilized.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation does not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied, as this administrative regulation is applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 C.F.R. 205.100, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397

2. State compliance standards. KRS Chapter 13B, 194A.010(2), 194A.050(1)

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 205.100, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397

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 requirement, or additional, or different requirements or responsibilities, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, additional, or different responsibilities or requirements. This administrative regulation does not impose stricter requirement, or additional, or different requirements or responsibilities, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13B, 194A.010(2), 194A.050(1), 45 C.F.R. 205.100, 1355.21(b), 1355.30(p), 42 U.S.C. 601(a)(1), 621(1)-(4), 629, 670, 671(a)(23), 673, 675, 1397

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 new revenues 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 new revenues for the subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will generate no new or additional costs in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will generate no new or additional costs in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amendment)

922 KAR 2:020. Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

RELATES TO: KRS Chapter 13B, 23A.010, 45.237-45.241, 194A.060, 45 C.F.R. 98,[~~45 C.F.R.~~] 205.50, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 45.237(4), 194A.050(1), 199.8994, 45 C.F.R. 98.60(i)

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. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. 45 C.F.R. 98.60(i) and KRS 45.237(4) require the cabinet, as the lead agency for Kentucky, to recover child care payments that are the result of fraud or improper payment. This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

Section 1. Definitions. (1) "Agency error" means an error on the part of the cabinet or its designee.

(2) "Cabinet" means the Cabinet for Health and Family Services or its designee.

(3) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of 922 KAR 2:160, with the financial resources to find and afford quality child care.

(4) "Child care provider" means the individual, business, or business proprietor who is receiving, or has received, payment for child care services under CCAP.

(5) "Claim" means an amount owed to the cabinet as a result of an overpayment of CCAP.

(6) "Claimant" means a current or former CCAP recipient or child care provider subject to a claim.

(7) "Compromise a claim" means accepting less than the full value of a claim.

(8) "Hearing officer" is defined by KRS 13B.010(7).

(9) "Improper payment" is defined by KRS 45.237(1)(d) or 45 C.F.R. 98.100(d).

(10) "Inadvertent error claim" means an overpayment resulting from a misunderstanding or unintended error on the part of a recipient or a child care provider.

(11) "Intentional program violation" or "IPV" means a CCAP recipient or child care provider having intentionally:

(a) Made a false or misleading statement; or

(b) Misrepresented, concealed, or withheld facts.

(12) "Overpayment" means a CCAP payment which exceeded the amount a CCAP recipient or a child care provider was eligible to receive.

(13) "Recipient" means a family who has been found eligible for CCAP.

(14) "Terminate a claim" means ceasing all collection actions on a claim.

(15) "Underpayment" means a payment which was less than the amount a recipient or a child care provider was eligible to receive.

Section 2. Responsibility for a Claim. (1) A parent of a recipient household or a child care provider shall be responsible for paying a claim which resulted from an:

(a) Overpayment due to an action or inaction on the part of the recipient or the child care provider, including failure to report a change in circumstance in accordance with 922 KAR 2:160, Section 11; or

(b) Agency error that provided the recipient or the child care provider with an overpayment.

(2) The cabinet shall make an exception to subsection 1(b) of this section if the recipient:

(a) Is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

(b) Complied with the requirements of the recipient's:

1. Case plan developed in accordance with 922 KAR 1:430; or

2. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

Section 3. Claim Category. (1) A claim shall be classified in one (1) of the following three (3) categories:

(a) A claim resulting from an IPV;

(b) Inadvertent error claim; or

(c) Agency error claim.

(2) The cabinet shall establish an IPV against a recipient or a child care provider if:

(a) A court of appropriate jurisdiction issues a conviction, or accepts an Alford or guilty plea, related to an IPV in CCAP against a parent of the recipient household or the child care provider;

(b) A parent of the recipient household or a child care provider completes, signs, and returns[~~the~~]:

1. a. Until February 29, 2016, the DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing, 11/09; or

b. Effective February 29, 2016, the DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing, 02/16; or

2. a. Until February 29, 2016, the DCC-83, Deferred Adjudication Disqualification Consent Agreement, 11/09; or

b. Effective February 29, 2016, the DCC-83, Deferred Adjudication Disqualification Consent Agreement, 02/16; or

(c) A hearing officer or an agency head makes a determination finding an IPV as a result of an administrative disqualification hearing.

Section 4. Action on an Improper Payment. (1) The cabinet shall investigate each:

(a) Instance of an improper payment; or

(b) Allegation of an IPV related to a:

1. Recipient; or

2. Child care provider.

(2) The cabinet shall initiate action to correct an improper payment in a CCAP case.

(3) If an overpayment has occurred, the cabinet shall:

(a) Determine the amount of overpayment in accordance with Section 5 of this administrative regulation; and

(b) Categorize and establish a claim to recover the amount of the overpayment.

(4) If the cabinet has sufficient documentary evidence to confirm that a recipient or child care provider has committed an IPV, the cabinet shall:

(a)1. Refer the case to the cabinet's Office of Inspector General (OIG) for investigation or referral for prosecution if warranted by the facts of the case;

2. Initiate an administrative disqualification hearing in accordance with Section 9 of this administrative regulation; or

3. Accept a parent of a recipient household or a child care provider's waiver of an administrative disqualification hearing through the parent or child care provider's completing, signing, and returning a DCC-84 Supplement A as specified in Section 3(2)(b) of this administrative regulation; and

(b) Take an action necessary to establish a claim to collect any overpayment resulting from the suspected IPV.

Section 5. Calculating a Claim. (1) The cabinet shall calculate the amount of an overpayment for an:

(a) Agency error back to the month that the error first occurred, but not more than twelve (12) months prior to the date that the cabinet became aware of the overpayment;

(b) Inadvertent error back to the month that the misunderstanding or error first occurred, but not more than three (3) years prior to date that the cabinet became aware of the overpayment; and

(c) IPV back to the month of the fraudulent act first occurred, but not more than five (5) years prior to the date that the cabinet became aware of the overpayment.

(2) If an overpayment occurred as a result of a change during the period of CCAP eligibility, the first day of the claim shall begin thirty-one (31) days from the date of the change.

(3) If the overpayment occurred due to the failure of a parent of a recipient household to report information at application or recertification[~~re-determination~~] for eligibility in accordance with 922 KAR 2:160, Section 2 or 8, the claim shall start the first day of the approval of the application or recertification[~~redetermination~~].

(4)(a) The cabinet shall:

1. Calculate the amount of CCAP for each month that a recipient or a child care provider received the improper payment; and

2. Subtract the correct amount of CCAP from the CCAP actually received.

(b) The difference shall be the amount of the overpayment.

(5) If the overpayment exists for the entire period of CCAP eligibility, the cabinet shall calculate the full amount of benefits overpaid:

(a) On behalf of the recipient; or

(b) To the child care provider.

(6) If an overpayment and an underpayment exist for a recipient or a child care provider, the amounts of the overpayment and the underpayment shall be offset to determine the total amount of the claim.

(7) The amount of a claim may differ from a calculation obtained through the methods outlined in this section if a different claim amount is ordered by:

(a) An administrative hearing officer or agency head in accordance with:

1. Until April 1, 2016, 922 KAR 1:320; or

2. Effective April 1, 2016, 922 KAR 2:260; or

(b) A court of appropriate jurisdiction.

Section 6. General Claim Notices. (1) Until February 29, 2016, a KCD-2, General Claims Notice, 11/09, shall serve many purposes in the administration of CCAP claims collections, including the use as:

(a) An appointment letter;

(b) A demand letter;

(c) A notification of benefit reduction;

(d) A past due notice;

(e) A repayment agreement;

(f) A claim adjustment notice;

(g) A claim termination notice;

(h) A payment receipt;

(i) Notice of a claim being paid in full; or

(j) Notice of a delinquent claim's referral for collection in accordance with Section 11(2) of this administrative regulation.

(2) Effective February 29, 2016, a KCD-2, General Claims Notice, 02/16, shall serve the purposes specified in subsection (1)(a) through (1)(j) of this section.

(3) The language on the KCD-2 shall differ according to the purpose of the notice as described in subsection (1) or (2) of this section.

Section 7. Notification of a Claim. (1) The cabinet shall:

(a) Provide initial notice in accordance with Section 6 of this administrative regulation to a recipient or a child care provider suspected of having a claim;

(b) Provide notice of a suspected IPV, if applicable, with a:

1. Until February 29, 2016,

a. DCC-84, Notice of Suspected Intentional Program Violation, 11/09; and

b.[~~2.~~] DCC-84 Supplement A, 11/09; or[~~and~~]

2. Effective February 29, 2016;

a. DCC-84, Notice of Suspected Intentional Program Violation, 02/16, and

b. DCC-84 Supplement A, 02/16; and

(c) Offer the recipient or the child care provider an opportunity to meet with the cabinet to:

1. Discuss the potential claim;

2. Determine the category of the claim as specified in Section 3 of this administrative regulation; and

3. Sign the DCC-84 Supplement A, if an IPV is suspected.

(2) If a recipient or a child care provider requests to reschedule the meeting within ten (10) days of the date of the notice provided in accordance with subsection (1) of this section, the cabinet shall reschedule the meeting.

(3) The cabinet shall determine the claim's category in accordance with Section 3 of this administrative regulation and the amount of the claim based on the information available to the cabinet if the recipient or the child care provider:

(a) Fails to attend the meeting to discuss the claim; and

(b) Does not contact the cabinet to reschedule the meeting in accordance with subsection (2) of this section.

(4) If the cabinet determines the category and amount of a claim in accordance with subsections (1) through (3) of this section:

(a) Collection shall be initiated in accordance with Section 10 of this administrative regulation; and

(b) Subsequent notice pursuant to Section 6 of this administrative regulation shall be mailed to the recipient or the child care provider to give the claim:

1. Amount;

2. Time period;

3. Reason; and

4. Classification in accordance with Section 3 of this administrative regulation.

(5) A recipient or a child care provider shall return the notice made pursuant to subsection (4)(b) of this section within ten (10) days of receipt if the recipient or child care provider chooses to request an administrative hearing on the establishment of the claim in accordance with[~~Section 18 of~~] this administrative regulation.

Section 8. Disqualification Period. (1) A recipient or a child care provider determined to have committed an IPV in accordance with Section 3(2) of this administration regulation shall have a period of disqualification from CCAP pursuant to subsection (2) of this section.

(2)(a) A disqualification period from CCAP shall adhere to the following guidelines:

1.a. Until February 29, 2016, three (3) months disqualification for a first occurrence of IPV; or

b. Effective February 29,2016, twelve (12) months disqualification for a first occurrence of IPV;

2.a. Until February 29, 2016, six (6) months disqualification for a second occurrence of IPV;

b. Effective February 29, 2016, twenty-four (24) months disqualification for a second occurrence of IPV; and

3. Permanent disqualification for a third occurrence of IPV.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:

a. Case plan developed in accordance with 922 KAR 1:430; or

b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(3) If a court of appropriate jurisdiction issues a disqualification period upon conviction of a charge, or acceptance of an Alford or guilty plea, related to the IPV, the cabinet:

(a) May make exception to a disqualification period specified in subsection (2) of this section; and

(b) Shall enforce the court-ordered disqualification period.

(4) Unless subsection (2)(b)[~~2(b)~~] of this section applies, the

disqualification period shall continue uninterrupted until it is completed regardless of the eligibility of the recipient or the child care provider.

(5) Regardless of the disqualification period, the recipient or the child care provider shall continue to be responsible for the payment of a claim resulting from the IPV.

(6) Eligibility of a recipient or payment to a child care provider shall not be affected by a suspected IPV until a disqualification is established in accordance with subsection (1) of this section.

(7) If a court of appropriate jurisdiction fails to impose a disqualification period for an IPV, the cabinet shall impose a penalty in accordance with this section.

(8) The cabinet shall not separate the same act of IPV repeated over a period of time for the imposition of multiple, separate penalties.

Section 9. Administrative Disqualification Hearing. (1) The cabinet shall initiate an administrative disqualification hearing on the establishment of an IPV if the:

(a) Facts of the IPV do not warrant civil or criminal prosecution through a court of appropriate jurisdiction;

(b) Referral for prosecution is declined by prosecutorial authorities;

(c) Referral for prosecution is withdrawn by the cabinet; or

(d) Recipient or child care provider declines to sign the DCC-84 Supplement A.

(2) If the facts of the case arise out of the same or related circumstances, the cabinet shall not initiate an administrative disqualification hearing against a recipient or a child care provider:

(a) Whose case is currently referred for prosecution; or

(b) Subsequent to an action taken against the recipient or the child care provider by the prosecutor or a court of appropriate jurisdiction.

(3) Unless a different procedure is specified in this section, an administrative disqualification hearing shall:

(a) Be conducted in accordance with[~~922 KAR 1:320 and~~] KRS Chapter 13B and:

1. Until April 1, 2016, 922 KAR 1:320; or

2. Effective April 1, 2016, 922 KAR 2:160; and

(b) Include:

1. The issuance of a recommended order;

2. Procedures for written exceptions; and

3. The issuance of a final order.

(4) The cabinet may initiate an administrative disqualification hearing regardless of the current eligibility of a recipient or the payment status of a child care provider.

(5)(a) In accordance with KRS 13B.050, an administrative disqualification hearing notice shall be sent by:

1.[~~By~~] Certified mail, return receipt requested, to the individual; or

2. Another method, such as electronic or first class mail, if the individual waives his or her right to certified mail delivery under KRS 13B.050[~~To the addressee only; and~~

~~3. With a return recipient requested~~].

(b) An administrative disqualification hearing notice shall provide information in accordance with KRS 13B.050.

(6) Timeframes for an administrative disqualification hearing shall be in accordance with KRS 13B.110 and 13B.120.

(7)(a) The cabinet shall combine a request for an administrative hearing in accordance with Section 16 of this administrative regulation and an administrative disqualification hearing into a single hearing if the:

1. Factual issues arise out of the same or related circumstances; and

2. Recipient or the child care provider receives prior notice that the hearings are being combined.

(b) If the hearings are combined for the purpose of settling the amount of the claim concurrent with a determination of whether an IPV occurred, the recipient or the child care provider subject to the claim shall lose the right to a subsequent administrative hearing on the amount of the claim.

(8) During an administrative disqualification hearing, the hearing officer shall advise the recipient or child care provider accused of an IPV of the option to refuse to answer questions during the hearing.

(9)(a)[~~In accordance with KRS 13B.080(6),~~] If a recipient or child care provider does not appear for the administrative disqualification hearing, the hearing officer shall[~~review the case file to determine if the hearing shall:~~

~~1.~~] proceed in accordance with KRS 13B.080(6)[~~without recipient or child care provider representation because the return receipt from the hearing notice verified the notice was received by the recipient or the child care provider; or~~

~~2. Not be conducted because the hearing notice or return receipt is annotated as unclaimed or undeliverable~~].

(b) The cabinet shall conduct a new administrative disqualification hearing if the:

1. Recipient or the child care provider was not represented at the hearing;

2. Recipient or the child care provider was determined to have committed an IPV; and

3. Hearing officer determined the household had good cause for not appearing, in accordance with:

a. Until April 1, 2016, 922 KAR 1:320, Section 6(7); or

b. Effective April 1, 2016, 922 KAR 2:260, Section 5(7)[~~, for not appearing~~].

(10)(a) The determination of an IPV made through an administrative disqualification hearing shall not be reversed by a subsequent administrative hearing decision.

(b) A recipient or child care provider shall be entitled to seek relief through a court of appropriate jurisdiction in accordance with:

1. KRS 13B.140 to 13B.160; or

2. KRS 23A.010.

Section 10. Collection of a Claim. (1) The cabinet shall collect a claim from a claimant through:

(a) Voluntary payment arrangement, negotiated either orally or in writing, which includes a payment schedule;

(b) Court-ordered repayment;

(c) State tax refund interception in accordance with KRS 45.238;

(d) Lottery offsets;

(e) Wage garnishment; or

(f) Referral to a collection agency.

(2)(a) The cabinet shall accept a lump sum payment on a claim from a recipient or a child care provider.

(b) The lump sum payment may be a full or partial payment.

(3)(a) If a claimant who is a child care provider submits a completed DCC-97 Supplement A, Voluntary Payment Reduction, indicating the amount the provider wishes to have applied to the claim, the child care provider currently receiving CCAP payment may choose to have an amount withheld from the provider's CCAP payment to be applied towards a claim.

(b) The amount indicated on the DCC-97 shall not be less than ten (10) percent of the total CCAP payment.

(4) The cabinet shall refund to a claimant any amount the claimant pays in excess of the amount of the claim.

Section 11. Delinquent Claims. (1) In accordance with KRS 45.237(4), a claim shall be considered delinquent if:

(a) A claimant has not made a payment or entered into a satisfactory payment arrangement with cabinet sixty (60) calendar days from the date on the notice provided in accordance with Section 7(4)(b) of this administrative regulation; or

(b) Sixty (60) days have lapsed since the claimant has missed a scheduled payment pursuant to the payment arrangement with the cabinet.

(2) The cabinet shall pursue collection on a delinquent claim through a collection method specified in Section 10(1)(b) through (f) of this administrative regulation.

(3)(a) If the cabinet determines that a claimant who is a recipient is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

1. Terminate the recipient's CCAP; and

2. Not reapprove the recipient for CCAP until the recipient has paid all[~~two (2) months of~~] delinquent payments.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:

a. Case plan developed in accordance with 922 KAR 1:430; or

b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(4) If the cabinet determines that a claimant who is a child care provider is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

(a) Disallow any CCAP payments to the child care provider; and

(b) Not approve the child care provider for further CCAP payments until the provider has paid all[~~two (2) months of~~] delinquent payments.

(5) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation prior to an action specified in subsection (3) or (4) of this section.

(6) If the cabinet is unable to determine a claim's delinquency status because the claim collection is coordinated through the court system, the cabinet shall not subject a claim to the requirements for delinquent debts in accordance with this section.

(7) A claim shall not be considered delinquent if:

(a) Another claim for the same claimant is currently being paid through a repayment agreement or court order; and

(b) The cabinet expects to begin collection on the claim once the prior claim is settled.

(8)(a) A claim awaiting an administrative hearing shall not be considered delinquent.

(b) If a hearing officer or agency head determines that a claim does exist as result of an administrative hearing, the cabinet shall:

1. Send subsequent notice of the claim in accordance with Section 6 of this administrative regulation; and

2. Base delinquency on the due date of the subsequent notice.

(c) If a hearing officer or agency head determines that a claim does not exist as a result of an administrative hearing, the cabinet shall terminate the claim in accordance with Section 12(2) of this administrative regulation.

Section 12. Compromising or Terminating a Claim. (1) Except for a claim that is established by a court of appropriate jurisdiction, the cabinet may compromise a claim or a portion of a claim if:

(a) A request for a compromise is received from the claimant; and

(b) The cabinet makes a determination that the claimant will be unable to pay the claim within five (5) years.

(2) The cabinet shall terminate a claim if the:

(a) Claim:

1. Is invalid, unless pursuing the overpayment as a different type of claim is appropriate;

2. Balance is twenty-five (25) dollars or less, and the claim has been delinquent for ninety (90) days or more, unless another claim is pending against the same claimant resulting in an aggregate claim total of greater than twenty-five (25) dollars; or

3. Has been delinquent for at least three (3) years;

(b) Claimant dies; or

(c) Cabinet is unable to locate the claimant.

(3) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation if the cabinet:

(a) Compromises or terminates a claim; and

(b) Has a mailing address for the claimant.

Section 13. Underpayments and CCAP Restoration. (1) If an underpayment has occurred, the cabinet shall issue a payment to the child care provider that includes the difference between the amount that the child care provider:

(a) Was entitled to receive; and

(b) Actually received.

(2) CCAP shall be restored for no more than twelve (12) months to a recipient or a child care provider if benefits were lost:

(a) Due to an agency error; or

(b) By a disqualification period for an IPV that is subsequently reversed through an order of a court of appropriate jurisdiction.

Section 14. Disclosure of Information. The disclosure or the use of CCAP information shall be restricted in accordance with:

(1) KRS 194A.060; and

(2) 45 C.F.R. 205.50(a)(1)(i).

Section 15. Retention of Records. (1) Records for CCAP shall be retained in accordance with 45 C.F.R. 98.90(e).

(2) The cabinet shall retain:

(a) The official records of an administrative disqualification hearing until all appeals have been exhausted; and

(b) A CCAP record with an IPV disqualification indefinitely.

Section 16. A parent in the recipient household or a child care provider may request an appeal of the establishment of a claim in accordance with:

(1) Until April 1, 2016, 922 KAR 1:320, Section 2(10); or

(2) Effective April 1, 2016, 922 KAR 2:260, Section 2(4).

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DCC-83, Deferred Adjudication Disqualification Consent Agreement",[~~edition~~] 11/09;

(b) "DCC-83, Deferred Adjudication Disqualification Consent Agreement", 02/16;

(c) "DCC-84, Notice of Suspected Intentional Program Violation",[~~edition~~] 11/09;

(d) "DCC-84, Notice of Suspected Intentional Program Violation", 02/16;

(e)[~~(c)~~] "DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing", edition 11/09;

(f) "DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing", 02/16;

(g)[~~(d)~~] "DCC-97 Supplement A, Voluntary Payment Reductions",[~~edition~~] 11/09;[~~and~~]

(h)[~~(e)~~] "KCD-2, General Claims Notice",[~~edition~~] 11/09; and

(i) "KCD-2, General Claims Notice", 02/16.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 am through 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 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 May 2, 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 40601, phone 502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish improper payments, claims, and penalties within CCAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the content of the authorizing statutes by establishing procedures for improper payments, claims, and penalties used by the cabinet in CCAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation currently assists in the effective administration of the statutes through its establishment of the cabinet's procedures for improper payments, claims, and penalties in CCAP.

(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 is necessary to implement tougher penalties for intentional program violations (i.e., fraud and abuse) committed by either a CCAP recipient or a child care provider participating in CCAP. The penalties to be applied in CCAP are identical to penalties currently used for intentional program violations (IPVs) in the Supplemental Nutrition Assistance Program (SNAP). In addition, after a period of 90 days delinquency in repayment of an established claim, the amendment will require that all delinquent claim payments be made prior to a CCAP recipient or child care provider returning to active status within CCAP. The amendment to this administrative also aligns the administrative regulation's incorporated materials with the new claims system. Lastly, the amendment also makes technical corrections in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to toughen penalties and claim collections practices within CCAP in effort to deter and respond appropriately to programmatic fraud and abuse and to reconcile outstanding claim balances. The proposed changes to the administrative regulation assure alignment with the new claims system, which promises further programmatic modernization, greater efficiency in ongoing case maintenance, and enhanced reporting and archiving functionalities.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes through its enhancement of penalties and claim collection practices in CCAP.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes through its improvements to the cabinet's procedures for improper payments, claims, and penalties in CCAP.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The parent of a child eligible for CCAP or a provider serving a child eligible for CCAP could be impacted by this administrative regulation if an overpayment or underpayment or a suspected intentional program violation has occurred involving the child's case/eligibility or payment to the child care provider. During State Fiscal Year 2015, CCAP served, on average, 22,792 children in 12,236 families per month. For State Fiscal Year 2015, the numbers for providers participating in CCAP are as follows: 2,056 licensed (Type I and Type II), 336 certified, and 207 registered. For the first half of State Fiscal Year 2015, July through December, 1,814 claims were established on both recipients and providers participating in CCAP.

(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: Measures incorporated impact CCAP recipients and child care providers that have committed an intentional program violation and/or are in a repayment agreement due to a claim. The disqualification period for an intentional program violation has been extended comparable to the Supplemental Nutrition Assistance Program (SNAP), and collection practices for delinquent claim repayments have been enhanced to foster greater compliance on the part of repaying CCAP recipients and child care providers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new or additional costs to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment to this administrative regulation will foster accuracy in benefits and program integrity for applicants, recipients, and providers participating in CCAP. Benefits to CCAP recipient households include reduced fraud in CCAP and correction of underpayments. Overpayments returned to CCAP will be utilized to support new or existing recipients.

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

(a) Initially: There will be no new or additional cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: There will be no new or additional cost to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for implementation and enforcement of this administrative regulation will be the federal Child Care and Development Fund Block Grant, state matching, state maintenance of effort funds, and General Fund dollars. In addition, child care provided to work-eligible adults participating in the Kentucky Works Program is supported by federal and state funds allocated to the Temporary Assistance for Needy Families (TANF) Block Grant.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to change this 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 does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS Chapter 13B, 45.237-45.241, 194A.050(1), 194A.060, 199.8994

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

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 will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This

administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13B, 45.237-45.241, 194A.050(1), 194A.060, 199.8994, 45 C.F.R. Part 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

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 new revenue during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no new revenue for in subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will create no new or additional costs during the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will create no new or additional costs in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amendment)

922 KAR 2:160. Child Care Assistance Program.

RELATES TO: KRS 194A.060, 199.892, 199.894(1),(5), 199.896, 199.898(1), (2), 199.8982, 199.899, 199.8994, 214.036, 314.011(5), 337.275, 600.020(50)[~~(49)~~], 605.120(5), 620.020(10), 2014 Ky. Acts ch. 117, Part 1, G.9(3), 7 C.F.R. 1463,[~~2012,~~] 20 C.F.R. 652, 660-671, 45 C.F.R. 98, 205.10(a)(6), 205.50(a)(1)(i), 400.66(d), 7 U.S.C. 2012, 25 U.S.C. 459, 1261, 1401, 29 U.S.C. 723(a)(5), 38 U.S.C. 1815, 42 U.S.C. 601-619, 1395w-141[~~1451~~], 1771-1793[~~, 1775~~], 2000d, 3001, 4950-5085[~~5084~~], 8621, 9902(2), 9857-9858q[~~9858-9858g~~], 10602(c)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.892, 199.8994

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. KRS 199.892 enables the Cabinet for Health and Family Services to promulgate administrative regulations to qualify to receive federal funds under provisions of the federal Social Security Act, 42 U.S.C. 9857-9858q[~~601-619~~], and to provide for effective regulation of child care centers. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. This administrative regulation establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available.

Section 1. Definitions. (1) "Applicant" means a child's natural or adoptive parent or an individual caring for a child in loco parentis who is applying for CCAP.

(2) "Cabinet" is defined by KRS 199.894(1).

(3) "Change in a circumstance" means a change that affects eligibility or benefit amounts and includes:

(a) Beginning or ending employment;

(b) Change in an employer or obtaining additional employment;

(c) Increase or decrease in the number of work hours;

(d) Increase or decrease in the rate of pay;

(e) Increase or decrease in family members;

(f) Change in self-employment activity;

(g) Change in scheduled hours care is needed;

(h) Beginning or ending an educational activity;

(i) Change in child care provider;

(j) Change in address or residence;

(k) Change in marital status; or

(l) Beginning or ending receipt of unearned income.

(4) "Child care" means the provision of care for a child for a portion of a day on a regular basis, designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development, and supervision.

(5) "Child care and development fund" or "CCDF" is defined by 45 C.F.R. 98.2.

(6) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of this administrative regulation, with the financial resources to find and afford quality child care.

(7) "Child care certificate" is defined by 45 C.F.R. 98.2.

(8) "Child protective services" is defined in 922 KAR 1:330, Section 1(3).

(9) "Child with a special need" means a child who has multiple or severe functional needs requiring ongoing specialized care.

(10) "Employment" means public or private, permanent or temporary work for an average of twenty (20) hours per week for compensation or as an unpaid job requirement.

(11) "Family" means an applicant or parent, a child, and another responsible adult if present, residing in the same home.

(12) "Family child-care home" is defined by KRS 199.894(5).

(13) "Full day" means child care that is provided for five (5) or more hours per day.

(14) "Health professional" means a person actively licensed as a:

(a) Physician;

(b) Physician's assistant;

(c) Advanced practice registered nurse;

(d) Qualified mental health professional as defined by KRS 600.020(50); or

(e) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(15) "Homeless" means an individual or a family lacking a fixed, regular, and adequate residence due to economic hardship.

(16) "In loco parentis" means a person acting in place of a parent, including:

(a) A legal guardian;

(b) An individual related by blood, marriage, or adoption to the child; or

(c) A nonrelative pursuing legal custody of the child within one (1) year of application.

(17)[~~(16)~~] "Infant" means a child who is less than one (1) year old.

(18)[~~(17)~~] "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families or "TANF" money payment program established in 921 KAR

Chapter 2.

(19)[~~(18)~~] "Parent" is defined by 45 C.F.R. 98.2.

(20)[~~(19)~~] "Part day" means child care that is provided for less than five (5) hours per day.

(21)[~~(20)~~] "Preschool child" means a child who has reached the third birthday up to, but not including, the sixth birthday.

(22)[~~(21)~~] "Preventive services" is defined by KRS 620.020(10).

(23)[~~(22)~~] "Provider" means the entity providing child care services, including:

(a) A member of a limited liability corporation (LLC);

(b) The head of an organization;

(c) An owner of a corporation;

(d) A member of a partnership;

(e) An owner of a business;

(f) An individual provider; or

(g) A stockholder of a stock-holding company.

(24)[~~(23)~~] "Qualified alien" means a child who meets the requirements of 921 KAR 2:006, Section 1(14).

(25)[~~(24)~~] "Registered provider" means a child care provider who meets the requirements of 922 KAR 2:180.

(26)[~~(25)~~] "Related" means having one (1) of the following relationships:

(a) Child;

(b) Stepchild;

(c) Grandchild;

(d) Great-grandchild;

(e) Niece;

(f) Nephew;

(g) Sibling;

(h) Child in legal custody; or

(i) Child living in loco parentis.

(27)[~~(26)~~] "Responsible adult" means a person other than the applicant who is in the child's household and who is:

(a) The natural parent, adoptive parent, or stepparent; or

(b) The spouse of an individual caring for a child in loco parentis.

(28)[~~(27)~~] "School-age child" means a child who has reached the sixth birthday.

(29) "State median income" or "SMI" means the estimated median income of households in the state.

(30)[~~(28)~~] "Supplemental Nutrition Assistance Program" or "SNAP" means the program, formerly known as the Food Stamp Program:

(a) Defined by 7 U.S.C. 2012; and

(b) Governed by 921 KAR Chapter 3.

(31)[~~(29)~~] "Teenage parent" means a head of household under the age of twenty (20) and attending high school or obtaining a GED [~~parent who is nineteen (19) years of age or younger~~].

(32)[~~(30)~~] "Toddler" means a child who has reached the first birthday up to, but not including, the third birthday.

Section 2. Application Rights and Requirements. (1) An individual may apply or reapply for CCAP through the cabinet or its designee.

(2)(a) Unless an applicant is approved according to the criteria in Section 5 or 6 of this administrative regulation, an application shall have been made on the date:

1. The following is received at the cabinet or its designee's office:

a. Until April 1, 2016,[~~1.~~] a signed DCC-90, Application for Subsidized Child Care Assistance, 11/09, or DCC-90.1, Intent to Apply for Child Care Assistance, 11/09,[~~is received at the cabinet or its designee office~~]; or

b. Effective April 1, 2016, a signed DCC-90, Subsidized Child Care Assistance Application Summary, 04/16, or submission in accordance with 921 KAR 2:040, Section 1(6); or

2. The agency is contacted, if the person:

a. Has a physical or mental disability; and

b. Needs special accommodation due to the impairment.

(b) An[~~If the applicant is physically unable to come to the office to apply, the~~] applicant may designate an authorized representative to make application.

(c) An[~~The~~] applicant may be:

1. Assisted by another individual of choice in the application process; and

2. Accompanied by the individual in a contact with the agency.

(d) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for persons who are:

1. Deaf; or

2. Hard of hearing.

(e) Interpreter services shall be provided for a non-English speaking individual in accordance with Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d.

(3) The cabinet or its designee shall not discriminate against an applicant based on age, race, color, sex, disability, religious creed, national origin, or political beliefs.

(4) For the month child care payment is intended to cover, a family shall meet the technical and financial eligibility criteria, according to its particular circumstances, as described in Sections 3, 4, 5, 6, and 7 of this administrative regulation.

(a) An[~~The~~] applicant or recipient shall be the primary source of information and shall:

1. Furnish verification of:

a. Income;

b. Technical eligibility; and

c. Employment; and

2. Give written consent to the cabinet or its designee necessary to verify information pertinent to the eligibility determination.

(b) Upon receiving written notice of a request for information or a scheduled appointment to present required documentation, failure of an applicant or recipient to respond shall be considered a failure to present adequate proof of eligibility.

(c) A homeless household shall be approved for CCAP with an extended period to verify information not to exceed ninety (90) days in accordance with 42 U.S.C. 9858c(c)(3)(B)(i).

(5) The cabinet or its designee shall:

(a) Render a decision on each application; and

(b)[~~Send a DCC-105, Child Care Assistance Program Notice of Action, to the applicant in accordance with Section 11(5) of this administrative regulation~~] To provide written notification of the decision within thirty (30) calendar days of receipt of the application submitted in accordance with subsection (2) of this section, send:

1. A DCC-105, Child Care Assistance Program Notice of Action, 11/09, to the applicant in accordance with Section 11(5)(a) of this administrative regulation; or

2. Effective April 1, 2016, notice to the applicant in accordance with Section 11(5)(b) of this administrative regulation.

(6) Each decision regarding eligibility for assistance shall be supported by documentation recorded in the applicant or recipient's case record.

(7) A family shall not receive:

(a) Assistance until approval of the application for benefits; or

(b) Benefits prior to application.

Section 3. Technical Eligibility. (1) A child shall be eligible for child care assistance, if the child:

(a) Is a:

1. Resident of Kentucky; and

2. U.S. citizen or qualified alien;

(b) Is under age:

1. Thirteen (13); or

2. Nineteen (19) and is:

a. Physically or mentally incapable of caring for himself, as demonstrated by a written document provided by a health professional;

b. Under court supervision; or

c. Identified as a priority by federal statute, regulation, or funding source; and

(c) Has a current immunization certificate showing that the child is immunized, unless:

1. There is an exception pursuant to KRS 214.036; or

2. The child is attending a:

a. Licensed child-care center;

b. Certified child-care home;

c. Public school;

d. Head Start; or

e. Other entity that requires the immunization record.

(2) If a child served by the CCAP is not immunized, child care assistance benefits shall be available or continue for a period of thirty (30) calendar days following the notification of the needed immunization while the family takes necessary action to comply with the immunization requirement.

(3) A family shall not be eligible for a CCAP benefit if care is provided by:

(a) A parent or stepparent;

(b) A legal guardian;

(c) A member of the K-TAP or SNAP case in which the child in need of child care assistance is included;

(d) A person living in the same residence as the child in need of care;

(e) A provider not:

1. Licensed according to 922 KAR 2:090, Child care center licensure;

2. Certified according to 922 KAR 2:100, Certification of family child care homes; or

3. Registered according to 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

(f)[~~Effective August 15, 2015, a licensed child-care center or certified family child-care home that does not participate in the quality rating program governed by 922 KAR 2:170 or 922 KAR 2:210, unless an exception is granted pursuant to Section 12(8) of this administrative regulation;~~

~~(g)~~] A Head Start program unless the child care is provided before, after, or in between the Head Start program's operating hours as wrap-around child care; or

(g)[~~(h)~~] Another child care provider if the family operates the child care business in the home.

(4) If the restrictions specified in subsection (3) of this section do not apply to the provider related to the child, the provider related to the child may be eligible for payment from CCAP if the requirements of 922 KAR 2:180 are met.

(5) A child in foster care shall not be eligible for CCAP.

Section 4. Requirements for Low Income Working Family Eligibility Determination. (1) A child shall be eligible to receive CCAP if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

(a) An applicant who has employment an average twenty (20) hours per week;

(b) An applicant and a responsible adult who have employment an average of forty (40) hours per week combined, if the individual with the least employment has an average of at least five (5) hours of employment per week;

(c) An applicant and a responsible adult if either the applicant or the responsible adult has employment an average of twenty (20) hours per week, and the other is physically or mentally unable to provide adequate care or supervision as documented by a written statement from a health professional;

(d) Until April 1, 2016, a recipient[~~An applicant~~] who:

1. Loses employment or training through no fault of the recipient[~~their own~~] up to four (4) weeks;

2. Is on maternity leave for up to six (6) weeks; or

3. Is on medical leave from employment due to a health condition verified by a health professional for up to six (6) weeks;

(e) Effective April 1, 2016, a recipient who is less than ninety (90) days from:

1. The loss of employment, required number of employment hours, or training through no fault of the recipient and is actively searching for employment in accordance 42 U.S.C. 9858c(c)(2)(N)(iii);

2. The start of maternity leave; or

3. The start of medical leave from employment due to a health condition verified by a health professional;

(f) A relative caregiver pursuant to the conditions of a program established by KRS 605.120(5), who meets:

1. All requirements in this section; and

2. Income eligibility standards in Section 7; or

(g)[~~(f)~~] A teen parent attending high school or pursuing a general equivalency degree (GED).

(2) Compliance with subsection (1) of this section for an applicant or a responsible adult who is self-employed shall be determined by dividing income calculated in accordance with Section 7(7)(d) of this administrative regulation by minimum wage established in accordance with KRS 337.275.

(3) Until April 1, 2016, an applicant eligible in accordance with this section shall sign and return the DCC-91, Client Rights and Responsibilities Sheet, and the DCC-94, Child Care Service Agreement and Certificate, 11/09.

Section 5. Requirements for Protection and Permanency Eligibility Determination. (1) A child shall be eligible to receive CCAP if the child:

(a) Resides with an applicant who:

1. Receives child protective or preventive services; or

2. Needs to receive child protective or preventive services based upon an assessment conducted by child protective services staff pursuant to 922 KAR 1:330; and

(b) Meets the requirements listed in Section 3 of this administrative regulation.

(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application, as an integral part of a protective or preventive services plan in accordance with 922 KAR 1:430.

(3)[~~A child who participates in the CCAP as a result of a child protective or preventive services authorization shall not be eligible for more than six (6) months without further authorization.~~

~~(4)~~](a) Based on the assessment in accordance with 922 KAR 1:330, the cabinet may waive the family copayment required by Section 10 of this administrative regulation for a child who participates in CCAP as a result of child protective services authorization.

(b) If the cabinet waives the family copayment in accordance with paragraph (a) of this subsection, the cabinet shall document the reason for the waiver in the child's protective services case plan.

(5) Until April 1, 2016, an applicant eligible in accordance with this section shall sign and return the DCC-91.

Section 6. Kentucky Works Child Care Eligibility Determination. (1) A child shall be eligible for CCAP if the child:

(a) Resides with an applicant who is participating in the Kentucky Works Program described in 921 KAR 2:370; and

(b) Meets the requirements listed in Section 3 of the administrative regulation.

(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application as an integral part of a Kentucky Works Program self-sufficiency plan.

(3) Until April 1, 2016, an applicant eligible in accordance with this section shall sign and return the DCC-91.

Section 7. Income Eligibility. (1)(a) A child shall be eligible for the CCAP if the family's income is less than or equal to:

Family Household Size	Initial Application Annual Income Limit	Initial Application Monthly Income Limit	Recertification or Recalculation Annual Income Limit	Recertification or Recalculation Monthly Income Limit
2	$22,068.00	$1,839.00	$24,276.00	$2,023.00
3	$27,804.00	$2,317.00	$30,588.00	$2,549.00
4	$33,528.00	$2,794.00	$36,888.00	$3,074.00
5	$39,264.00	$3,272.00	$43,188.00	$3,599.00
6	$44,988.00	$3,749.00	$49,500.00	$4,125.00
7	$50,724.00	$4,227.00	$55,800.00	$4,650.00
8	$56,448.00	$4,704.00	$62,100.00	$5,175.00

(b) For a family with more than eight (8) people, the cabinet or its designee shall determine the household's maximum income for eligibility determination purposes by adding:

1. $478.00 to the monthly income limit, or $5,736.00 to the

annual income limit, for each additional family member for initial application; and

2. $525.00 to the monthly income limit, or $6,300.00 to the annual income limit, for each additional family member for recertification or recalculation[~~140 percent of the 2011 federal poverty level at:~~

~~1. Initial application; or~~

~~2. Redetermination or eligibility recalculation in accordance with Section 8 of this administrative regulation.~~

~~(b) On or after July 1, 2015, a child shall be eligible for the CCAP if the family's income is less than or equal to:~~

~~1. 150 percent of the 2011 federal poverty level at initial application; or~~

~~2. 165 percent of the 2011 federal poverty level at redetermination or eligibility recalculation in accordance with Section 8 of this administrative regulation.~~

~~(2) A family that becomes ineligible for K-TAP shall remain eligible for CCAP for twelve (12) months from the date of the K-TAP discontinuance, if the family's income remains less than or equal to:~~

~~(a) 140 percent of the 2011 federal poverty level; or~~

~~(b) 165 percent of the 2011 federal poverty level on or after July 1, 2015~~].

(2)[~~(3)~~] Except for a child who is eligible as specified in Section 5 of this administrative regulation, gross income received or anticipated to be received by the applicant and responsible adult shall be considered when the cabinet or its designee determines the family's eligibility for the CCAP.

(3)[~~(4)~~] A child that is eligible for CCAP as specified in Section 5 of this administrative regulation shall be eligible without regard to the family's income.

(4)[~~(5)~~] Excluded income shall be:

(a) K-TAP child only payments, including back payment;

(b) A payment received from the Kinship Care Program, pursuant to 922 KAR 1:130, including back payment;

(c) Educational grant, loan, scholarship, and work study income;

(d) The value of Kentucky Works supportive services payment pursuant to 921 KAR 2:017;

(e) The value of United States Department of Agriculture program benefits including:

1. Donated food;

2. Supplemental food assistance received pursuant to 42 U.S.C. 1771;

3. Special food service program for a child pursuant to 42 U.S.C. 1775;

4. Nutrition program for the elderly pursuant to 42 U.S.C. 3001; and

5. The monthly allotment under SNAP;

(f) Payment made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;

(g) In-kind income;

(h) Reimbursement for transportation in performance of an employment duty, if identifiable;

(i) Nonemergency medical transportation payment;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grant;

(m) Home produce utilized for household consumption;

(n) Housing subsidy received from federal, state, or local governments;

(o) Receipt distributed to a member of certain Indian tribes by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;

(p) Funds distributed per capita to or held in trust for a member of an Indian tribe by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;

(q) Payment for supporting services or reimbursement of out-of-pocket expense made to an individual volunteering as:

1. Senior health aide; or

2. Member of the:

a. Service Corps of Retired Executives; or

b. Active Corps of Executives;

(r) Payment made to an individual from a program pursuant to 42 U.S.C. 4950 to 5085[~~5084~~] if less than the minimum wage under state or federal law, whichever is greater, including:

1. Volunteers in Service to America (VISTA);

2. Foster Grandparents;

3. Retired and Senior Volunteer Program; or

4. Senior Companion;

(s) Payment from the cabinet for:

1. Child foster care; or

2. Adult foster care;

(t) Energy assistance payment made under:

1. The Low Income Home Energy Assistance Program pursuant to 42 U.S.C. 8621; or

2. Other energy assistance payment made to an energy provider or provided in-kind;

(u) The principal of a verified loan;

(v) Up to $12,000 to Aleuts and $20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for a hardship experienced during World War II;

(w) The advance payment or refund of earned income tax credit;

(x) Payment made from the Agent Orange Settlement Fund;

(y) Payment made from the Radiation Exposure Compensation Trust Fund;

(z) Up to $2,000 per year of income received by individual Indians denied from a lease or other use of individually-owned trust or restricted lands;

(aa) Payment made to an individual because of the individual's status as a victim of Nazi persecution;

(bb) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census;

(cc) A payment received from the National Tobacco Growers Settlement Trust;

(dd) A Tobacco Loss Assistance Program payment pursuant to 7 C.F.R. 1463;

(ee) A payment received from a crime victim compensation program according to the Antiterrorism and Effective Death Penalty Act of 1996 pursuant to 42 U.S.C. 10602(c);

(ff) A payment made, pursuant to 38 U.S.C. 1815 by the Veteran's Administration, to children of female Vietnam veterans;

(gg) A discount or subsidy provided to Medicare beneficiaries pursuant to 42 U.S.C. 1395w-141[~~Section 1860D-31(g)(6) of the Social Security Act, 42 U.S.C. 601-619~~];

(hh) Any cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement Programs pursuant to 45 C.F.R. 400.66(d);

(ii) Reimbursement payment for a vocational rehabilitation individual participating in Preparing Adults for Competitive Employment pursuant to 29 U.S.C. 723(a)(5);[~~or~~]

(jj) Income or earnings from a program funded under the Work Investment Act (WIA) pursuant to 20 C.F.R. 652 and 660 to 671; or

(kk) Effective April 1, 2016, Supplemental Security Income (SSI) for a child.

(5)[~~(6)~~] Deductions from gross income shall be:

(a) Actual, legally obligated child support payment made by the applicant or responsible adult to a party not living in the family's residence; and

(b) Operating costs to determine adjusted gross income from self-employment.

(6)[~~(7)~~] Best estimate.

(a) Gross income shall be computed by using a best estimate of income that may exist in the benefit month.

(b) The following method shall be used to calculate a best estimate of earned income other than earned self-employment:

1. Cents shall:

a. Not be rounded to the nearest dollar before adding or multiplying hourly or daily earnings; and

b. Be rounded to the nearest dollar before adding or multiplying weekly, biweekly, semi-monthly, monthly, quarterly, or annual earnings[~~at any step in the calculation~~];

2. Unless it does not represent the ongoing situation, income from all pay periods in the preceding two (2) calendar months shall be used;

3. A monthly amount shall be determined by[~~: a.~~] adding gross income from each pay period,[~~; b.~~] dividing by the total number of pay periods considered,[;] and[~~c.~~] converting the pay period figure to a monthly figure by multiplying a:

a.[~~(i)~~] Weekly amount by:

(i) 4.334; or

(ii) Effective April 1, 2016, four and one-third (4 1/3);

b. Biweekly amount by:

(i) 2.167; or

(ii) Effective April 1, 2016, two and one-sixth (2 1/6); or

c.[~~(iii)~~] Semimonthly amount by two (2); and

4. If income has recently begun and the applicant or recipient has not received a calendar month[~~two (2) calendar months~~] of earned income, the anticipated monthly income shall be computed by:

a. Multiplying the:

(i) Hourly rate by the estimated number of hours to be worked in a pay period; or

(ii) Daily rate by the estimated number of days to be worked in the pay period;[~~and~~]

b. Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3.c. of this paragraph; and

c. Rounding to the nearest dollar.

(c) For a case with unearned income, other than unearned self-employment income, a monthly amount shall be determined by:

1.[~~Not rounding cents at any step in the calculation;~~

~~2.~~] Using the gross monthly amount of continuing, stable unearned income received on a monthly basis; and

2.[~~3.~~] Averaging the amount of unstable[~~nonstable~~] unearned income received in the three (3) prior calendar months, unless it does not represent the ongoing situation.

(d) For a case with self-employment income, a monthly amount shall be determined as follows:

1.[~~Cents shall not be rounded at any step in the calculation;~~

~~2.~~] If the self-employment enterprise has been in operation for at least a year, the income shall be prorated by dividing the income from the last calendar year by twelve (12);

2.[~~3.~~] If the self-employment enterprise has been in operation for less than a year, the income shall be prorated by dividing by the number of months the business has been in existence; and

3.[~~4.~~] Profit shall be determined by:

a. Rounding the total gross income to the nearest dollar;

b. Rounding the total amount of allowable expenses to the nearest dollar;

c. Dividing total gross income and total amount of allowable expenses separately by twelve (12) or the appropriate number of months, and rounding the quotients to the nearest dollar; and

d. Subtracting the rounded monthly allowable expense quotient from the rounded monthly gross income quotient.

(e) If the cabinet or its designee becomes aware of a change in circumstance, the best estimate shall be recalculated[~~Dividing the allowable expenses permitted by the Internal Revenue Service except for depreciation by:~~

~~(i) Twelve (12) if the enterprise has been in operation for at least a year; or~~

~~(ii) The number of months the business has been operating if the business has been in existence for less than a year; and~~

~~b. Subtracting the monthly expense from the monthly income~~].

Section 8. Continuing Eligibility. (1) Continued eligibility under the CCAP shall be recertified[~~redetermined~~] at least every[~~: (a)~~] twelve (12) months[~~; or~~

~~(b) Six (6) months for a child eligible pursuant to requirements in Section 5 of this administrative regulation~~].

(2) Eligibility shall be reviewed and recalculated if necessary due to a known or reported change in circumstance.

(3) A nonrelative who is acting in loco parentis for a child shall be required to show proof of efforts to seek permanent custody of the child or adopt the child within one (1) year of initial application as a condition of continued eligibility for CCAP.

(4) Effective April 1, 2016, in accordance with 42 U.S.C. 9858c(c)(2)(N), if a family's income does not exceed eighty-five (85) percent of Kentucky's SMI, the family shall remain eligible for CCAP until recertification in accordance with this section.

Section 9. Payment Rates and Policy. (1)(a) Prior to February 1, 2016, to the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rates Chart, 10/14.

(b) Effective on or after February 1, 2016, to the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rates Chart, 02/16.

(c)[~~(a)~~] The rates in the DCC-300 shall represent the maximum payment rates on a per day, per child, per child care provider basis.

(d)[~~(b)~~] The maximum payment rates shall include the following categories:

1. Full day;
2. Part day;
3. Licensed;
4. Certified;
5. Registered;
6. Infant/Toddler;
7. Preschool child; and
8. School-age child.

(2) To the extent funds are available, a licensed or certified provider shall receive:

(a) Two (2) dollars per day beyond the maximum rate if the provider is accredited by the:

1. National Association for the Education for Young Children;
2. National Early Childhood Program Accreditation;
3. National Association for Family Child Care;
4. Council on Accreditation; or
5. Other accrediting body approved by the Early Childhood Advisory Council or the cabinet; or

(b) One (1) dollar per day beyond the maximum rate for nontraditional care for providing child care assistance based on the parent's schedule between:

1. 7 p.m. to 5 a.m. daily; or
2. Friday, 7 p.m. through Monday, 5 a.m.

(3) To the extent funds are available, a licensed, certified, or registered provider shall receive a special care rate of one (1) additional dollar per day beyond the maximum rate for care of a child:

(a) With a special need; or

(b) Who is age thirteen (13), but under age nineteen (19), and is:

1. Physically or mentally incapable of caring for himself as determined by a health professional; or
2. Under court supervision.

(4) The cabinet or its designee shall determine the maximum daily reimbursement rate not to exceed the amount charged to the general public.

(5) A child care provider registered according to 922 KAR 2:180 shall not be paid for more than:

(a) Three (3) children receiving CCAP per day; or

(b) Six (6) children receiving CCAP per day, if those children are:

1. A part of a sibling group; and
2. Related to the provider.

(6) A family meeting the requirements of Section 4 or 6 of this administrative regulation shall be eligible for payment to cover child care needs due to full-time or part-time enrollment in an educational program.

(7) To the extent funds are available, required enrollment fees shall be paid no more than three (3) times in a twelve (12) month period for a family meeting the requirements in Section 5 or 6 of this administrative regulation.

Section 10. Family Copayment. (1) Unless a family copayment has been waived in accordance with Section 5(4) of this administrative regulation, a family of a child served by the CCAP shall be responsible for a copayment in accordance with the family copayment table in subsection (3) of this section.

(2) If a court orders a parent of a CCAP-eligible child to pay a

portion of the child's child care expenses, the court-ordered payment shall be in lieu of the family copayment required by subsection (3) of this section.

(3)(a) The cabinet or its designee shall determine a copayment that a family shall pay to the provider for the cost of child care, based on the following table:

Family Co-Payment Per Day								
Income Range Monthly		Family Size 2 Family Co-Pay With 1 Child	Family Size 3 Family Co-Pay		Family Size 4 Family Co-Pay		Family Size 5 or More Family Co-Pay	
			With 1 Child	With 2 or more	With 1 Child	With 2 or more	With 1 Child	With 2 or more
0	899	$0	$0	$0	$0	$0	$0	$0
900	999	$2	$2	$3	$2	$2	$2	$2
1,000	1,099	$3	$3	$3	$2	$3	$2	$3
1,100	1,199	$4	$4	$4	$3	$3	$2	$3
1,200	1,299	$4	$4	$5	$4	$4	$3	$3
1,300	1,399	$5	$5	$5	$5	$5	$3	$4
1,400	1,499	$6	$5	$6	$5	$6	$4	$4
1,500	1,599	$7	$6	$6	$6	$6	$5	$5
1,600	1,699	$8	$6	$7	$6	$7	$6	$6
1,700	1,799	$9	$7	$8	$7	$8	$6	$7
1,800	1,899	$10	$8	$9	$7	$8	$7	$8
1,900	1,999	$10	$9	$10	$8	$9	$8	$9
2,000	2,099	$11	$10	$11	$8	$9	$8	$9
2,100	2,199.99	$12	$10	$11	$9	$10	$9	$10
2,200	2,299.99	$12	$11	$12	$10	$11	$9	$10
2,300	2,399.99	$12	$12	$13	$11	$12	$9	$10
2,400	2,499.99	$12	$12	$13	$12	$13	$10	$11
2,500	2,599.99	$12	$13	$14	$12	$13	$10	$11
2,600	2,699.99	$12	$13	$14	$13	$14	$12	$13
2,700	2,799.99	$12	$13	$14	$13	$14	$13	$14
2,800	2,899.99	$12	$13	$14	$14	$15	$14	$15
2,900	2,999.99	$12	$13	$14	$14	$15	$16	$17
3,000	3,099.99	$12	$13	$14	$15	$16	$18	$19
3,100	3,199.99	$12	$13	$14	$15	$16	$20	$21
3,200	3,299.99	$12	$13	$14	$15	$16	$20	$21
3,300	3,399.99	$12	$13	$14	$15	$16	$22	$23
3,400	3,499.99	$12	$13	$14	$15	$16	$22	$23
3,500	3,599.99	$12	$13	$14	$15	$16	$24	$25
3,600	3,699.99	$12	$13	$14	$15	$16	$25	$25

(b) The maximum copayment for an eligible family with more than five (5) members shall be twenty-five (25) dollars.

[~~(4)(a) If a provider notifies the cabinet or its designee that a family has failed to comply with a required copayment for two (2) weeks, the cabinet or its designee shall request that the provider develop a payment plan with the family.~~

~~(b) If a provider notifies the cabinet or its designee that a family fails to enter into a payment plan within ten (10) days from a provider's notification that a payment plan is necessary, or a family fails to make two (2) payments in accordance with the payment plan, the cabinet shall:~~

~~1. Not pay a subsequent provider until the family demonstrates compliance with the payment plan; and~~

~~2. Terminate CCAP for the family.~~

~~(c) The cabinet or its designee may grant an exception to paragraph (b) of this subsection due to:~~

~~1. A disaster verified by utility provider, local, state, or federal government;~~

~~2. The closure of a provider;~~

~~3. Family circumstances, such as relocation, illness, or death; or~~

~~4. A risk to the health, welfare, or safety of the child or parent.~~]

Section 11. Family Rights and Responsibilities. (1) The family of a child served by the CCAP shall have rights pursuant to KRS 199.898(1) and (2).

(2) Unless an alternative program such as Head Start, state preschool, or state kindergarten is available and accessible during the time child care is needed, an applicant for a child who receives or has been approved to receive CCAP benefits shall:

(a) Be offered choice of child care assistance subject to the availability of state and federal funds; and

(b) Receive a child care certificate:

1.[~~,~~] The DCC-94, 11/09; or

2. Effective April 1, 2016, the DCC-94, 04/16.

(3) An applicant approved in accordance with Section 4 of this administrative regulation shall sign and return:

(a) The DCC-91 and the DCC-94, 11/09; or

(b) Effective April 1, 2016, the DCC-90, 04/16.

(4) Until April 1, 2016, an applicant approved in accordance with Section 5 or 6 of this administrative regulation shall sign and return the DCC-91.

(5) Notification of action.

(a) Until April 1, 2016, a DCC-105, Child Care Assistance Program Notice of Action, 11/09:

1. Shall serve many purposes in the administration of CCAP, including notice to an applicant or recipient of:

a.[~~1.~~] Changes in:

(i)[~~a.~~] Copayment;
(ii)[~~b.~~] Certification period; or
(iii)[~~c.~~] Household size;
b.[~~2.~~] Approval of:
(i)[~~a.~~] Application; or
(ii)[~~b.~~] Continued eligibility; or
c.[~~3.~~] Adverse action, including:
(i)[~~a.~~] Denial of application;
(ii)[~~b.~~] Reduction of CCAP benefits; or
(iii)[~~c.~~] Termination of CCAP benefits;[~~.~~]
2.[~~(b) the DCC-105~~] Providing notice of an adverse action shall include:
a.[~~1.~~] Reason for the adverse action;
b.[~~2.~~] Citation from an applicable state administrative regulation; and
c.[~~3.~~] Information regarding the:
(i)[~~a.~~] Informal dispute resolution process in accordance with Section 17 of this administrative regulation; and
(ii)[~~b.~~] Opportunity to request an administrative hearing in accordance with Section 18 of this administrative regulation; and
3.[~~. (c) the language on the DCC-105~~] Shall contain language that differs[~~differ~~] according to the purpose of the notice described in subparagraphs 1 through 2 of this paragraph[~~paragraphs (a) and (b) of this subsection~~].
(b) Effective April 1, 2016:
1. A DCC-94C, Provider Notification Letter, shall provide notice to a provider of a child's discontinuation from CCAP or disenrollment with a provider;
2. A DCC-94.1, CHILD CARE Approval Notice, shall provide notice of:
a. A change in the certification period of child;
b. Approval of an application; or
c. Continued eligibility;
3. A DCC-105, Child Care Denial/Discontinuance Notice, 04/16, shall provide notice of:
a. Denial of an application;
b. Discontinuance of a CCAP benefit;
c. Reason for adverse action;
d. Citation from an applicable state administrative regulation; and
e. Information regarding the opportunity to request an administrative hearing in accordance with Section 17 of this administrative regulation; and
4. The language on the form shall differ according to the purpose of the notice described in subparagraphs 1 through 3 of this paragraph.
(6)[~~An applicant may change the applicant's provider a maximum of three (3) times in a twelve (12) month period, unless an exception is authorized by the cabinet or its designee due to:~~
~~(a) A disaster verified by utility provider, local, state, or federal government;~~
~~(b) Closure of a provider;~~
~~(c) Family circumstances, such as relocation, illness, or death;~~
~~(d) A risk to the health, welfare, or safety of the child or the applicant; or~~
~~(e) Failure of the provider to comply with Section 13(1) of this administrative regulation.~~
~~(7) A family that changes the child care provider more than three (3) times as described in subsection (6) of this section shall be discontinued from the CCAP and unable to participate until the end of the eligibility period in effect at the time of discontinuance.~~
~~(8)~~] An applicant for a child served by CCAP shall advise the cabinet or its designee of a change in a circumstance within ten (10) calendar days of the day the change is known.
(7)[~~(9)~~] Failure to report a change in a circumstance may result in a:
(a) Decrease or discontinuance of CCAP benefits based on the type of change; or
(b) Claim in accordance with 922 KAR 2:020.
(8)[~~(10)~~] An applicant for a child served by CCAP who fails to cooperate with a cabinet quality control or case review shall be:
(a) Discontinued from CCAP benefits; and
(b) Unable to participate in CCAP until the applicant meets the requirements of the quality control or case review.
(9)[~~(11)~~] An applicant for a child served by CCAP shall report to the cabinet or its designee a provider whom the applicant suspects is not fulfilling requirements in accordance with Section 13(1)(c) of this administrative regulation.

Section 12. Cabinet Requirements. (1) The DCC-94 shall:
(a) Be used for child care assistance provided by a licensed, certified, or registered provider; and
(b) Not be considered a contract, employment, or grant to the child care provider, but shall be considered assistance to the applicant pursuant to 45 C.F.R. 98.30(c)(6).
(2) The cabinet or its designee shall provide consumer information regarding conditions for termination of the DCC-94 pursuant to KRS 199.8994(6)(b).
(3) The cabinet or its designee shall assure that a provider of child care assistance funded under the CCDF and other local, state, or federal funds shall comply with the applicable regulatory requirements pursuant to:
(a) 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;
(b) 922 KAR 2:090, Child care center licensure;
(c) 922 KAR 2:100, Certification of family child care homes;
(d) 922 KAR 2:110, Child care facility provider requirements;
(e) 922 KAR 2:120, Child care facility health and safety standards;
(f)[~~922 KAR 2:170, STARS for KIDS NOW Program for Type I licensed child-care centers, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation;~~
~~(g)~~] 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program; and
(g)[~~(h)~~] 922 KAR 2:190, Civil penalties[~~; and~~
~~(i) 922 KAR 2:210, STARS for KIDS NOW Program for Type II licensed child-care centers and certified family child-care homes, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation~~].
(4) Effective April 1, 2016, the cabinet or its designee shall complete a home inspection of a registered child care provider in CCAP in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and 922 KAR 2:180.
(5) If CCAP benefits are reduced or discontinued[~~terminated~~] due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to each family receiving child care assistance.
(6)[~~(5)~~] If the daily maximum payment rate is reduced due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to licensed, certified, or registered providers.
(7)[~~(6)~~] The cabinet shall send a notice of adverse action ten (10) calendar days in advance of taking adverse action.
(8)[~~(7)~~] The cabinet shall prioritize child care assistance benefits as determined by the available funds as follows:
(a) Child protective or preventive services authorization;
(b) A child with a special need;
(c) K-TAP recipients participating in the Kentucky Works Program established in 921 KAR 2:370;
(d) Teen parents attending high school or pursuing a general equivalency degree (GED);
(e) A K-TAP recipient attempting to transition off assistance through employment;
(f) A parent whose K-TAP case has been discontinued during the previous twelve (12) months and who needs child care assistance in order to accept or retain employment;
(g) A low income working parent; or
(h) A parent in education or training programs leading to self-sufficiency.
[~~(8)(a) The cabinet shall grant an exception for a CCAP-eligible child's placement with a child care provider participating in the quality rating program governed by 922 KAR 2:170 and 922 KAR 2:210 if:~~
~~1. A violation of or conflict with 45 C.F.R. 98.30 would result, such as:~~

~~a. A geographic area in which an adequate supply of child care is lacking; or~~

~~b. A parent's scheduling, transportation, or other circumstance that prevents the use of a child care provider participating within the quality rating program;~~

~~c. A child is approved for CCAP in accordance with Section 5 or 6 of this administrative regulation;~~

~~d. A child has special needs; or~~

~~e. The provision of child care is available through a provider:~~

~~(i) Registered in accordance with 922 KAR 2:180;~~

~~(ii) Operated by the armed services located on an armed forces base; or~~

~~(iii) Regulated by another state;~~

~~2. A situation or circumstance, such as an emergency or disaster, necessitates the provision of emergency child care; or~~

~~3. Noncompliance or federal penalty under 421 U.S.C. 601-619 or 42 U.S.C. 9858-9858g would result.~~

~~(b) The DCC-400, Request for Exception from Placement with a STAR-Rated Child Care Provider:~~

~~1. Shall be used to request an exception in accordance with paragraph (a)1 of this subsection; and~~

~~2. May be used to request an exception in accordance with paragraphs (a)2 and (a)3 of this subsection.~~

~~(c) The cabinet shall respond to a completed and signed DCC-400 in accordance with Section 11(3) of this administrative regulation within ten (10) calendar days of its submission unless:~~

~~1. The cabinet experiences a circumstance that prolongs the review of the request; and~~

~~2. Notice of the extension is provided to the requesting parent.~~]

Section 13. Provider Requirements. (1) A licensed child-care center, certified family child-care home, or registered child care provider that serves a child who participates in the CCAP shall:

(a) Sign and give to the parent for submission[~~submit the DCC-94~~] to the cabinet or its designee, prior to receiving payment from the CCAP, the following form:

1. Until April 1, 2016, the DCC-94, 11/09; or

2. Effective April 1, 2016, the DCC-94, 04/16;

(b) Report all absences on the DCC-97, Provider Billing Form, submitted to the cabinet or its designee;

(c)1. Maintain the DCC-94E, Child Care Daily Attendance Record, in which the attendance is:

a. Recorded legibly each time the child arrives and each time the child departs the provider's care; and

b. Signed by the parent or applicant for the child served by CCAP; and

2. Submit the DCC-94E upon request of the cabinet or its designee;

(d) Comply with the applicable regulatory requirements pursuant to:

1. 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

2. 922 KAR 2:090, Child care center licensure;

3. 922 KAR 2:100, Certification of family child care homes;

4. 922 KAR 2:110, Child care facility provider requirements;

5. 922 KAR 2:120, Child care facility health and safety standards;

6.[~~922 KAR 2:170, STARS for KIDS NOW Program for type I licensed child-care centers, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation;~~

~~7.~~] 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program; and

7.[~~8.~~] 922 KAR 2:190, Civil penalties[~~; and~~

~~9. 922 KAR 2:210, STARS for KIDS NOW Program for type II licensed child-care centers and certified family child-care homes, effective August 15, 2015, unless an exception is granted in accordance with Section 12(8) of this administrative regulation~~]; and

(e) Complete the cabinet approved training on billing and the DCC-94E[~~:~~

~~1.~~] prior to receiving an initial payment from CCAP [~~if the provider will begin participation in CCAP after October 15, 2014; or~~

~~2. By August 4, 2015, if the provider began participation in CCAP prior to October 15, 2014~~].

(2) A licensed or certified child care provider shall complete and submit the following form[~~DCC-94B, Licensed or Certified Provider Agreement Form,~~] prior to receiving payment from the CCAP:

(a) Until April 1, 2016, the DCC-94B, Licensed or Certified Provider Agreement Form, 10/14; or

(b) Effective April 1, 2016, the DCC-94B, 04/16.

(3) A licensed child care provider shall maintain written documents with attendance records stating the reason for any absence of a child receiving CCAP in excess of five (5) absences per month per child.

(4)(a) If CCAP records indicate that a certified family child-care home or a licensed child-care center is operating over capacity, as specified in 922 KAR 2:100 or 922 KAR 2:120 respectively, by having two (2) or more shifts, the cabinet shall request an operating plan from the provider.

(b) An operating plan in accordance with paragraph (a) of this subsection shall specify:

1. Each employee of each shift;

2. The work hours for each employee of each shift;

3. The management for each shift;

4. The work hours for each management employee of each shift; and

5. The children enrolled for each shift.

(c) The cabinet shall approve a provider for overcapacity if:

1. The operating plan meets all requirements of 922 KAR 2:090, 2:110, and 2:120; and

2. The provider has had less than two (2) health, safety, or welfare deficiencies or violations within the previous twenty-four (24) month period, even if deficiencies were corrected[~~an operating plan that demonstrates the health, safety, and welfare of a child in care in accordance with this administrative regulation and an administrative regulation listed in subsection (1)(d) of this section~~].

(5) Effective April 1, 2016, a registered child care provider in CCAP shall comply with an inspection in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and 922 KAR 2:180 conducted by the cabinet or its designee.

(6) A provider shall be ineligible for CCAP if the provider:

(a) Was discontinued or disqualified from participation in a governmental assistance program due to fraud or abuse of the program;

(b) Has had a previous ownership interest in a child-care provider, which had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action; or

(c) Is a parent, spouse, sibling, or child of a previous provider described in paragraphs (a) and (b) of this subsection, and the previous provider will be involved in new provider's operations in any capacity.

Section 14. Other Services. To the extent state funds are available, a child whose family's income is over the income limits for the CCAP described in Section 7 may be eligible for:

(1) Child care payments;

(2) Enrollment fees;

(3) Activity or day trip fees;

(4) Material fees;

(5) Transportation fees; or

(6) Other items relating to child care services with prior approval of the cabinet.

Section 15. An improper payment, claim, or penalty in CCAP shall be in accordance with 922 KAR 2:020.

Section 16. Criteria for Nonpayment. (1) Payment under the CCAP shall:

(a) Not be made to a licensed provider for more than five (5) absences per child during a month if the provider fails to verify in writing, and maintain attendance records verifying, that the additional absences were related to:

1. A death in the family;
2. An illness of the:
a. Child; or
b. Applicant; or
3. A Disaster verified by utility provider, local, state, or federal government;
(b) Not be made to a certified provider for more than five (5) absences per child during a month;
(c) Not be made to a registered provider for any absences;
(d) Be denied in accordance with KRS 199.8994(6);
(e) Cease if a family or provider defaults on a payment in accordance with Section 10(4) of this administrative regulation or 922 KAR 2:020;
(f) Not be made if a family no longer meets the technical or financial eligibility requirements under the CCAP;
(g) Not be made to a provider for payment requests ninety (90) days after the date of service;
(h) Not be made to a licensed or certified provider for more than ten (10) holidays per calendar year;
(i) Cease if a provider denies:
1. A parent of a child in care, the cabinet, the cabinet's designee, or a representative of an agency with regulatory authority:
a. Entry into the provider's premises during operating hours; or
b. Access to a child in care; or
2. The cabinet, the cabinet's designee, or a representative of an agency with regulatory authority access to the provider's records relevant to a:
a. Cabinet review, including CCAP quality control or case review; or
b. Review by another agency with regulatory authority;
(j) Not be made to a provider if the provider's DCC-94E in accordance with Section 13(1)(c) of this administrative regulation does not support billing for a child reported as served for the same period of time on the DCC-97;
(k) Not be made if a licensed or certified provider cares for a child served by CCAP at a location not specified on the DCC-94; or
(l) Not be made to a provider for a child in care over the capacity of the provider, as governed by 922 KAR 2:100 or 922 KAR 2:120, unless an operating plan is approved in accordance with Section 13(4) of this administrative regulation.
(2) Subject to the availability of state or federal funds, the cabinet may suspend approval of initial application for benefits under the CCAP following the priorities established in Section 12(8)[~~(7)~~] of this administrative regulation.

Section 17.[~~Informal Dispute Resolution and Appeals. (1) An applicant for CCAP or a parent of a child receiving CCAP:~~
~~(a) May seek an informal dispute resolution if the applicant or parent is dissatisfied with an action by the cabinet or its designee concerning a denial, reduction, or termination of CCAP benefits;~~
~~(b) Shall request an informal dispute resolution with the cabinet or its designee within ten (10) days of the:~~
~~1. Notice of denial for CCAP in accordance with Section 2(5) of this administrative regulation; or~~
~~2. Date of the adverse action for which notice is provided in accordance with Section 12(6) of this administrative regulation; and~~
~~(c) Who is dissatisfied with the decision of the informal dispute resolution, may submit an administrative hearing request:~~
~~1. In accordance with Section 18 of this administrative regulation; and~~
~~2. Within thirty (30) calendar days of the date of the decision made by the cabinet or its designee in accordance with subsection (3) of this section.~~
~~(2)(a) If the child's parent provides notice within ten (10) calendar days from the date of adverse action in accordance with 45 C.F.R. 205.10(a)(6), a child receiving CCAP may continue to receive CCAP during the informal dispute resolution or administrative hearing process pending the outcome of the informal dispute resolution or the administrative hearing.~~
~~(b) If an informal dispute resolution or administrative hearing process upholds the denial, reduction, or termination of CCAP, the child's parent who continued to receive CCAP benefits during the informal dispute resolution or administrative hearing process shall repay the CCAP back to the effective date of the denial, reduction, or termination.~~
~~(3) Upon receipt of a request for the informal dispute resolution, the cabinet or its designee shall:~~
~~(a) Review the request; and~~
~~(b) Render a written decision on the issue raised within ten (10) days, unless:~~
~~1. The commissioner or designee grants an extension to the timeframe specified in this paragraph due to extenuating circumstances that prolong the review of the request; and~~
~~2. Notice of the extension is provided to the applicant or parent who made the request for informal dispute resolution.~~
~~(4) An applicant for CCAP or a parent of a child receiving CCAP may request an administrative hearing in accordance with Section 18 of this administrative regulation at any time during the informal dispute resolution process established in this section.~~

~~Section 18.~~] Administrative Hearings. (1) A CCAP applicant or recipient may request an administrative hearing regarding eligibility determination, recalculation, or recertification in accordance with 921 KAR 2:055.
(2) An administrative hearing pertaining to a matter not specified in subsection (1) of this section may be requested in accordance with:
(a)1. Until April 1, 2016,[~~(1)~~] 922 KAR 1:320; or
2. Effective April 1, 2016, 922 KAR 2:260; or
(b)[~~(2)~~] 922 KAR 2:020.

Section 18.[~~19.~~] Records. Records of CCAP shall be maintained and disclosed in accordance with:
(1) KRS 194A.060;
(2) 45 C.F.R. 98.90(e); and
(3) 45 C.F.R. 205.50(a)(1)(i).

Section 19.[~~20.~~] Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "DCC-90, Application for Subsidized Child Care Assistance", 11/09;
(b) "DCC-90, Subsidized Child Care Assistance Application Summary", 04/16;
(c) "DCC-90.1, Intent to Apply for Child Care Assistance", 11/09;
(d)[~~(c)~~] "DCC-91, Client Rights and Responsibilities Sheet", 04/13;
(e)[~~(d)~~] "DCC-94, Child Care Service Agreement and Certificate", 11/09;
(f) "DCC-94, Child Care Service Agreement and Certificate", 04/16;
(g) "DCC-94.1, CHILD CARE Approval Notice", 04/16;
(h)[~~(e)~~] "DCC-94B, Licensed or Certified Provider Agreement Form", 10/14;
(i) "DCC-94B, Licensed or Certified Provider Agreement Form", 04/16;
(j) "DCC-94C, Provider Notification Letter", 04/16;
(k)[~~(f)~~] "DCC-94E, Child Care Daily Attendance Record", 7/13;
(l)[~~(g)~~] "DCC-97, Provider Billing Form", 04/13;
(m)[~~(h)~~] "DCC-105, Child Care Assistance Program Notice of Action", 11/09;
(n) "DCC-105, Child Care Denial/Discontinuance Notice", 04/16; and
(o)[~~(i)~~] "DCC-300, Kentucky Child Care Maximum Payment Rates Chart", 02/16[~~10/14; and~~
~~(j) "DCC-400, Request for Exception from Placement with a STAR-Rated Child Care Provider", 10/14~~].
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2016

FILED WITH LRC: February 26, 2016 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 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 May 2, 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 40601, phone 502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation enables the Cabinet to qualify for federal funds under the Child Care and Development Fund (CCDF) and establishes procedures for the implementation of the Child Care Assistance Program (CCAP) to the extent that funding is available.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to qualify for federal funds under CCDF and for the proper administration of CCAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorized statutes by allowing the cabinet to qualify for federal funds and establishing procedures for the implementation of CCAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the CCAP in a manner which is consistent with federal and state requirements, including available funding, and the interests of the clients to be served, child care providers, and taxpayers.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation enhances payments to child care providers serving a child in CCAP, ensures compliance with new federal requirements in accordance with Pub. L. 113-186, aligns policy and procedures with new forthcoming technology improving business processes for both the client and agency, and removes the mandate for child care providers to participate in the STARS for KIDS NOW Program due to forthcoming changes in Kentucky's quality-rating system. Lastly, the amendment makes technical in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to: ensure an adequate supply of child care providers willing to participate in CCAP and available to parents needing child care, avoid costly federal corrective action or federal financial penalty, and conform to forthcoming changes in Kentucky's quality-rating system and new technology promising improved efficiencies for both the agency and clients.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by ensuring an adequate supply of participating providers, improved customer service, and timely conformity with overarching federal law.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes and support the sustainability and worth of CCAP through its enhancements to CCAP reimbursements to child care providers, greater programmatic efficiencies, and alignment with federal law and state context.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The parent of a child eligible for CCAP or a provider serving a child eligible for CCAP will be impacted by this administrative regulation. During State Fiscal Year 2015, CCAP served, on average, 22,792 children in 12,236 families per month. For State Fiscal Year 2015, the numbers for providers participating in CCAP are as follows: 2,056 licensed (Type I and Type II), 336 certified, and 207 registered.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment to this administrative regulation will not require additional action on the part of regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation will create no new or additional costs to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from measures to support an adequate supply of child care providers willing to participate in CCAP. Regulated entities will also benefit from the administrative regulation's conformity with the newly enacted federal law and new forthcoming technology promising improved efficiencies for CCAP recipients and the preservation of federal funding. Lastly, regulated entities will benefit from the clarity provided through the inclusion of a maximum income chart, as opposed to a reference to federal poverty level.

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

(a) Initially: The administrative regulation will be implemented within available federal and state appropriations for CCAP.

(b) On a continuing basis: The administrative regulation will be implemented within available federal and state appropriations for CCAP. The administrative body will continually monitor its costs to make any adjustments necessary to maintain CCAP and related services within available funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for implementation and enforcement of this administrative regulation are the federal Child Care and Development Fund Block Grant, state match, state maintenance of effort 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: The administrative regulation requires no increase in fees or funding.

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

(9) TIERING: Is tiering applied? The Child Care Assistance Program is implemented in a like manner statewide. However, provider payment rates are tiered to recognize the higher operating costs of certain geographical, more populated areas. The provider payment rates were originally established based on the classification of cities. The rates are further supported by the analysis of the market rate survey results specified in KRS 199.899.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS 194A.050(1), 199.892, 199.8994

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

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, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services, Department for Community Based Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 199.892, 199.8994, 45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

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 Child Care Assistance Program (CCAP) has been operational for a number of years. It does not directly generate revenues for the state; however, it supports the health, safety, and welfare of children and the ability of low-income parents to work and obtain additional skills and training. This administrative regulation will not directly generate any new revenue for the first year. Research suggests that quality early care and education help avoid future public 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? This administrative regulation will not directly generate any new revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? The administration of this program is projected to fall within available federal and state appropriations.

(d) How much will it cost to administer this program for subsequent years? The administration of this program is projected to fall within available federal and state appropriations. The administrative body will continually monitor its costs to make any adjustments necessary to maintain CCAP and related services within available funding.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS

GENERAL GOVERNMENT CABINET
Board of Nursing
(New Administrative Regulation)

201 KAR 20:520. Telehealth.

RELATES TO: KRS 314.155
STATUTORY AUTHORITY: KRS 314.131, 314.155
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.155 requires the board to promulgate administrative regulations regarding telehealth, including preventing abuse and fraud through the use of telehealth services, and utilizing telehealth in the provision of nursing services and in the provision of continuing education. This administrative regulation establishes the requirements governing the use of telehealth.

Section 1. Definitions. (1) "Board" is defined by KRS 314.011(1).
(2) "Nurse" means a licensed practical nurse as defined by KRS 314.011(9), a registered nurse as defined by KRS 314.011(5), or an advanced practice registered nurse as defined by KRS 314.011(7).
(3) "Telehealth" is defined by KRS 314.155(3).

Section 2. Jurisdictional Considerations. A nurse providing nursing services via telehealth to a person physically located in Kentucky shall be licensed by the board or hold a privilege to practice pursuant to KRS 314.470.

Section 3. Representation of Services and Code of Conduct. A nurse using telehealth to deliver services shall not:
(1) Engage in false, misleading, or deceptive advertising; or
(2) Split fees.

Section 4. Practice Requirements. A nurse using telehealth to deliver nursing services shall, upon initial contact with the patient:
(1) Make reasonable attempts to verify the identity of the patient;
(2) Obtain alternative means of contacting the patient;
(3) Provide to the patient alternative means of contacting the nurse;
(4) Provide contact methods of alternative communication the nurse shall use for emergency purposes; and
(5) Not use personal identifying information in non-secure communications.

Section 5. Competence, Maintenance, and Retention of Records. A nurse using telehealth to deliver nursing services shall:
(1) Be responsible for determining and documenting that telehealth is appropriate for the patient;
(2) Document which services were provided by telehealth;
(3) Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the nurse disposes of electronic equipment and data; and
(4) Inform the patient and document acknowledgement of the risk and limitations of:
(a) The use of electronic communications in the provision of nursing;
(b) The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of nursing; and
(c) The potential disruption of electronic communication in the use of telehealth.

GAIL WISE, President
APPROVED BY AGENCY: February 18, 2016
FILED WITH LRC: March 2, 2016 at 1 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2016 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing 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 May 2, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251,
email nathan.goldman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman
(1) Provide a brief summary of:
(a) What this administrative regulation does: It sets out matters related to nurses and telehealth.
(b) The necessity of this administrative regulation: It is required by statute.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute requires the Board to promulgate this administrative regulation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting standards for nurses and telehealth.
(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: nurses engaged in telehealth, number unknown.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to be knowledgeable of the regulation.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There is no additional cost.
(b) On a continuing basis: There is no additional cost.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds

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

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

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131 and KRS 314.155

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

(d) How much will it cost to administer this program for subsequent years? No additional cost.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Board of Prosthetics, Orthotics and Pedorthics
(Repealer)

201 KAR 44:021. Repeal of 201 KAR 44:020 and 201 KAR 44:030.

RELATES TO: KRS 319B.060

STATUTORY AUTHORITY: KRS 319B.030(1)(a), (2), 319B.060

NECESSITY, FUNCTION, AND CONFORMITY: The content of 201 KAR 44:020 and 201 KAR 44:030 are no longer necessary as they only set forth licensure requirements for applicants prior to January 1, 2013. This administrative regulation repeals 201 KAR 44:020 and 201 KAR 44:030.

Section 1. The following administrative regulations are repealed:

(1) 201 KAR 44:020, Requirements for licensure as an Orthotist, Prosthetist, Orthotist/Prosthetist, Pedorthist, or Orthotic Fitter prior to January 1, 2013; and

(2) 201 KAR 44:030, Alternative Mechanism Requirements for licensure as an Orthotist, Prosthetist, Orthotist/Prosthetist, Pedorthist, or Orthotic Fitter prior to January 1, 2013 for applicants in practice who are not currently certified.

SIENNA NEWMAN, Chair

APPROVED BY AGENCY February 24, 2016

FILED WITH LRC: March 4, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 26, 2015, at 1:30 p.m., in the office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the close of business on May 2, 2016. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, 502-564-3296.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nicole Biddle

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation repeals regulations that govern licensure prior to January 1, 2013.

(b) The necessity of this administrative regulation: This regulation is repealing regulations now deemed unnecessary.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation repeals regulations now unnecessary.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation removes unnecessary regulations and will therefore assist in the effective administration of statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment is a repealer, because the regulations are now unnecessary.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to update the regulations to be current.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment merely removed superfluous, unnecessary regulations, only useful prior to January 1, 2013.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will remove unnecessary regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are no individuals affected by the repealer.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There is no impact by the repeal of these regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: N/A

(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(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 this repealer applies to all classes equally (no effect).

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? N/A Regulations are not applicable past January 1, 2013.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 319B.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? 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:

Labor Cabinet
Department of Workers' Claims
(Repealer)

803 KAR 25:014. Repeal of 803 KAR 25:009.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.033, 342.260(1), 342.270(3), 342.285(1), 342.316(3)(a), 342.732(5), 342.792

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260(1) requires the commissioner to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 342. This administrative regulation repeals 803 KAR 25:009, as that administrative regulation is no longer needed because the consensus process under KRS 342.732 and KRS 342.316 was ruled unconstitutional for coal workers' pneumoconiosis claims and the procedures for all claims are to convert to an electronic Litigation Management System ("LMS").

Section 1. 803 KAR 25:009, Procedure for adjustment of coal workers' pneumoconiosis claims, is hereby repealed.

DWIGHT T. LOVAN, Commissioner

APPROVED BY AGENCY: March 15, 2016

FILED WITH LRC: March 15, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, April 25, 2016, at 1:30 p.m. (EDT) at the offices of the Department of Workers' Claims, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 Monday, May 2, 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: Charles E. Lowther, General Counsel, Department of Workers' Claims, Prevention Park, 657 Chamberlain Avenue, Frankfort, Kentucky 40601, phone (502) 782-4464, fax (502) 564-0681.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charles E. Lowther

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 803 KAR 25:009, Procedure of adjustment of coal workers'' pneumoconiosis claims.

(b) The necessity of this administrative regulation: Pursuant to KRS 342.270(3), KRS 342.033, KRS 342.285(1), KRS 342.316(3)(a), KRS 342.732(5) and KRS 342.792 require the commissioner to establish procedures for the resolution of coal workers' pneumoconiosis claims and all other claims for workers' compensation benefits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulations repeal eliminates outdated and unconstitutional regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal of the administrative regulations eliminates outdated and unconstitutional regulations.

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

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

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

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Injured workers, employers, insurance carriers, attorneys, self-insurance groups, and third party administrators.

(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 above entities will no longer use the regulations being repealed to litigate claims

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Repeal of outdated and unconstitutional regulations will allow litigants and parties to use procedures to comply with constitutional decisions and use more

updated modern procedures for litigating claims.

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

(a) Initially: The Department of Workers' Claims will use normal budget to implement administrative regulation. There would be no cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims' budget will be used which is restricted 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 fees or funding will be increased.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are affected.

(9) TIERING: Is tiering applied? Tiering is not applied because it applies to parties in an equal manner in workers' compensation claims.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All parts of government with employees

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.270(3), KRS 342.033, KRS 342.285(1), KRS 342.316(3)(a), KRS 342.732(5), and KRS 342.792.

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. As an employer, there should be no costs due to the repeal.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue generated

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated

(c) How much will it cost to administer this program for the first year? No new administration costs

(d) How much will it cost to administer this program for subsequent years? No new administration 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:

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Heating, Ventilation and Air Conditioning
(New Administrative Regulation)

815 KAR 8:095. Vehicle identification.

RELATES TO: KRS 198B.670

STATUTORY AUTHORITY: KRS 198B.654(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654(1) requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.650 to 198B.689. KRS 198B.670 requires a master heating, ventilation, and air conditioning contractor's license number to appear on all vehicles used by the licensee for heating, ventilation, and air conditioning work. This administrative regulation establishes the identification requirements for all vehicles used in connection with heating, ventilation, and air conditioning work.

Section 1. Vehicle Identification. (1) Each vehicle used in the operation of a heating, ventilation, and air conditioning company or business shall be identified as established in this administrative regulation.

(2) Each vehicle shall bear the name of the company or business and the master heating, ventilation, and air conditioning contractor's Kentucky license number.

(3) All identification required by this administrative regulation shall be in letters not smaller than three (3) inches high and shall be legible at all times.

STEVEN A. MILBY, Chairman
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: February 22, 2016

FILED WITH LRC: February 24, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2016, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 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 canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on May 2, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Victoria M. Kadreva Holmes, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Victoria M. Kadreva Holmes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the identification requirements for all vehicles used in the operation of a heating, ventilation, and air conditioning business.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to assist the Division of Heating, Ventilation, and Air Conditioning in carrying out its duty to monitor and inspect heating, ventilation, and air conditioning activity in the Commonwealth and readily identify licensed individuals.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.654(1) requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.650 to 198B.689. KRS 198B.670 requires a master heating, ventilation, and air conditioning contractor's license number to appeal on all vehicles used by the licensee for heating, ventilation, and air conditioning work.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists Division of Heating, Ventilation, and Air Conditioning inspectors in identifying heating, ventilation, and air conditioning activity that may necessitate inspection, and in identifying the individuals responsible for the conduct of that activity.

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

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

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

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All licensed individuals engaged in the heating, ventilation, and air conditioning trade within the Commonwealth.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: The identified entities must ensure that all vehicles used in the operation of their heating, ventilation, and air conditioning business are properly marked with the name of the company and its master heating, ventilation, and air conditioning contractor's license number.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities are not anticipated to incur any substantial new expenses, as this amendment primarily clarifies the scope of an existing requirement with which they are already required to comply. Moreover, increased expenses associated related to compliance with vehicle stenciling or similar identification are anticipated to be nominal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include increased clarity of existing standards.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these administrative amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all heating, ventilation, and air conditioning operations will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Heating, Ventilation and Air Conditioning.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 198B.654.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: Neutral.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(New Administrative Regulation)

815 KAR 20:084. Storage and installation of cross-linked polyethylene piping.

RELATES TO: KRS 198B.050, 318.010, 318.015, 318.130, 318.150

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after review by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation establishes the requirements for the storage, handling, and installation of standard dimension ratio (SDR) 9 cross-linked polyethylene pipe and fittings.

Section 1. Definitions. (1) "ASSE" means American Society of Sanitary Engineers.

(2) "ASTM" means American Society for Testing Materials.

(3) "PEX" means cross-linked polyethylene pipe.

(4) "PEX-AL-PEX" means polyethylene/aluminum/cross-linked polyethylene composite pressure pipe.

Section 2. Material. (1) PEX that is to be used for cold water only shall be produced and labeled meeting ASTM F-876.

(2) Cross-linked polyethylene (PEX) that is to be used for either cold water or hot water shall be produced and labeled meeting ASTM F-877.

(3) PEX-Al-PEX shall be produced and labeled meeting ASTM F-1281.

(4) Cold expansion fittings with PEX reinforcing rings for use with PEX tubing shall be produced and labeled meeting ASTM F-1960.

(5) Metal insert fittings utilizing a copper crimp ring shall be produced and labeled meeting ASTM F-1807.

(6) Stainless steel clamps substituted for the copper crimp ring shall be produced meeting ASTM F-2098.

(7) Plastic insert fittings for PEX shall be produced meeting ASTM F-2159.

(8) Push fit fittings for PEX shall be produced meeting ASSE 1061.

(9) Metal insert fittings for cross-linked polyethylene/aluminum/cross-linked polyethylene composite pressure pipe shall be produced meeting ASTM F-1974.

(10) Metal insert fittings utilizing a copper crimp ring for PEX-AL-PEX shall be produced meeting ASTM F-2434.

Section 3. Storage and Handling. (1) PEX shall not be stored where it will be exposed to direct or indirect ultraviolet light (i.e. sunlight).

(2)(a) PEX shall not be exposed to materials that affect the basic properties of cross-linked polyethylene, brass, or copper.

(b) Chemicals, pipe thread compounds, putty, and mineral or linseed oil compounds shall not be allowed to contact the pipe.

Section 4. Installation. (1) Water Service Installation.

(a) Tubing shall be snaked in the ditch to allow for linear expansion and contraction.

(b) 1. Tubing shall not be installed in contaminated soils.

2. PEX shall not be installed in areas of known soil contamination or where there is a high risk of chemical spills such as organic solvents or petroleum distillates.

(c) Metallic fittings other than those consisting of red brass shall be protected from the soil to prevent corrosion.

(d) The number of fittings shall be kept to a minimum.

(e) The bottom of the trench shall be flat and free of rocks, hollows, or other sharp objects.

(f) When placed in soil consisting of rock, piping shall be covered with six (6) inches of coarse sand or pea gravel.

(g) When passing through a foundation wall, a rigid sleeve that spans the distance from within the wall out to the undisturbed soil shall be used to prevent shearing of the tubing.

(2) Distribution System.

(a) When PEX is to be buried under a building, fittings shall not be used.

(b) PEX passing through a concrete slab or wall shall be protected by use of sleeves.

(c) PEX passing through metal studs or plates shall be protected by plastic grommets designed for this purpose.

(d) PEX shall not be used in operating conditions inconsistent with pressure ratings that appear on the tubing and the applicable ASTM standard.

(e) PEX shall not be installed:

1. Where it may be exposed to direct or indirect ultraviolet light (i.e. sunlight);

2. Where it may be exposed to open flame;

3. With or exposed to petroleum based caulking or sealants;

4. Where it may be subjected to prolonged exposure to free chlorine concentrations greater than four (4) ppm;

5. Within twelve (12) inches of any recessed light fixture; or

6. Within six (6) inches of any gas appliance metallic vent.

(f) PEX shall be tested under a pressure not to exceed 100 pounds per square inch nor less than forty (40) pounds per square inch.

Section 5. Hangers and Supports. (1) Cross-linked polyethylene (PEX) sizes one (1) inch and smaller installed horizontally shall be supported at intervals not to exceed thirty-two (32) inches.

(2) PEX sizes 1-1/4" and larger installed horizontally shall be supported at intervals not to exceed forty-eight (48) inches.

(3) PEX installed vertically shall be supported at the base of each story with a mid-story guide.

(4) PEX shall not be rigidly anchored but shall be installed to allow room for proper expansion and contraction of the tubing.

(5) Hangers or strapping shall be constructed of plastic material or be coated to prevent damage to the tubing.

(6) PEX-AL-PEX installed horizontally shall be supported at intervals not to exceed ninety-eight (98) inches.

(7) Cross-linked polyethylene/aluminum/cross-linked polyethylene installed vertically shall be supported at the base of each story with a mid-story guide.

STEVEN A. MILBY, Chairman
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: March 8, 2016

FILED WITH LRC: March 11, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 27, 2016, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 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 canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on May 2, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Samuel I. Thorner, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Samuel I. Thorner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the storage, handling, and installation of cross-linked polyethylene piping within a plumbing system.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to implement the Division of Plumbing's duty to administer and enforce uniform standards for the methods and materials to be used for plumbing work within the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate the Kentucky State Plumbing Code regulating the construction, installation, and alteration of plumbing and plumbing fixtures, including the methods and materials to be used.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists the Division of Plumbing in establishing uniform standards for the use of cross-linked polyethylene piping within a plumbing system in order to allow the use of this new technology.

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

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

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

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in the installation of plumbing systems within the Commonwealth who may wish to employ the use of cross-linked polyethylene piping products.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: This regulation imposes no new direct requirements on the affected parties in that cross-linked polyethylene piping products are not required to be used; rather, it merely provides additional options for the selection of desired parts and materials for use within plumbing systems. However, any

regulated entities choosing to incorporate the product will have to comply with the requirements and limitations within this rule.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):): Affected entities are not anticipated to incur any increased expenses as a result of this amendment, as this regulation merely adds to the existing types of materials that may be used.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include greater flexibility and options in complying with current requirements for the design and construction of plumbing systems.

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

(a) Initially: There are no anticipated additional costs to administer this regulation.

(b) On a continuing basis: There are no anticipated additional costs to administer this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this regulation is anticipated to result in no additional costs to the agency. Any agency costs resulting associated with this regulation will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This regulation will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied as all cross-linked polyethylene piping installations will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 318.130.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulation.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: N/A

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Service
Division of Child Care
(New Administrative Regulation)

922 KAR 2:260. Child care service appeals.

RELATES TO: KRS Chapter 13B, 23A.010, 194A.005, 194A.030(1), 45 C.F.R. Part 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 13B.170, 194A.010(2), 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010(2) designates the Cabinet for Health and Family Services as the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds. Under 42 U.S.C. 9858c, the cabinet is the agency designated to administer the Child Care and Development Fund block grant. KRS 13B.170 permits an agency to promulgate administrative regulations to carry out provisions of KRS Chapter 13B pertaining to administrative hearings. This administrative regulation establishes cabinet procedures related to appeals and complaints for child care benefits and services under 922 KAR Chapter 2 effective April 1, 2016.

Section 1. Definitions. (1) "Child care assistance" means the subsidy benefits as described by 922 KAR 2:160, Child Care Assistance Program.

(2) "Commissioner" means the Commissioner of the Department for Community Based Services or designee.

(3) "Contract agency" means a business or organization that offers child care benefits or services to the public through a contract or agreement with the cabinet.

(4) "Good cause" means justification for failure to carry forward with a legal obligation related to an appeal in accordance with Section 5(7) of this administrative regulation.

(5) "Parent" is defined by 45 C.F.R. 98.2.

(6) "Provider" means the entity providing child care services.

(7) "Registered child care provider" means a caregiver registered under 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program.

Section 2. Right to Appeal. (1) A CCAP applicant or recipient may request an administrative hearing regarding eligibility determination, recalculation, or recertification in accordance with 922 KAR 2:160, Section 17(1).

(2) A provider may request an administrative hearing regarding certification, licensure, or civil monetary penalty through the Office of Inspector General, Division of Regulated Child Care in accordance with:

(a) 922 KAR 2:090, Child-care center licensure;

(b) 922 KAR 2:100, Certification of family child-care homes, or

(c) 922 KAR 2:190, Civil penalties.

(3) An administrative hearing pertaining to a matter not specified in subsection (1) or (2) of this section may be requested in accordance with:

(a) This administrative regulation; or

(b) 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

(4) With the exception of subsections (1), (2), and (3)(b) of this section, an individual or provider aggrieved by an action of the cabinet may request an administrative hearing in accordance with this administrative regulation for a matter by which a Kentucky Revised Statute or 922 KAR Chapter 2 expressly permits the appeal of a cabinet action or alleged act.

(5) With the exception of subsections (1), (2), and (3)(b) of this section, a parent or provider aggrieved by an action of the cabinet may request review of the following through an administrative hearing in accordance with this administrative regulation:

(a) A cabinet denial, reduction, suspension, or termination of services or federally-funded benefit, payments, or financial assistance to which an individual may be entitled under 922 KAR Chapter 2; or

(b) A cabinet failure to act within program timeframes to a request for a federally-funded benefit, payment, or financial assistance to which an individual may be entitled under 922 KAR Chapter 2.

Section 3. Matters Not Appealable through an Administrative Hearing. (1) The following shall not be subject to review through an administrative hearing in accordance with this administrative regulation:

(a) A matter in which a court:

1. Has previously made a judicial determination or issued an order on the same issue being appealed; or

2. Is currently engaged in legal proceedings regarding the same issue being appealed;

(b) A final administrative decision made by the cabinet or cabinet's designee as a result of a previous appeal on the same issue;

(c) An appeal that has been abandoned by an appellant who failed to demonstrate good cause for failure to go forward;

(d) Failure to submit a written request for appeal within the time frame established by Section 5(4)(b) of this administrative regulation; or

(e) A situation where state or federal law requires adjustment of a payment or grant, except if a payment or grant computation is incorrect.

(2) A complaint of discrimination may be filed with the cabinet's Office of Human Resource Management in accordance with 920 KAR 1:090.

Section 4. Service Complaints. (1) If a matter is not subject to review through an administrative hearing, a parent, a provider, or an early care and education professional may:

(a) Attempt to resolve the issue by submitting a written complaint to the department's Division of Child Care within thirty (30) calendar days after the date of the cabinet action or alleged act; or

(b) Contact the cabinet's Office of the Ombudsman if the matter was not previously reviewed:

1. By that office; or

2. Pursuant to paragraph (a) of this subsection.

(2)(a) The director of the department's Division of Child Care, director's designee, or the cabinet's Office of the Ombudsman shall provide a written response to the complainant within thirty (30) calendar days of receipt of a written complaint not subject to review through an administrative hearing.

(b) The director of the department's Division of Child Care or the ombudsman may grant an extension to the response timeframe given in paragraph (a) of this subsection if:

1. Extenuating circumstances prolong the review of the complaint; and

2. Notice of the extension is provided to the complainant.

(3)(a) A parent, provider, or an early care and education professional dissatisfied with a written response rendered by the director of the department's Division of Child Care, director's designee, or the Office of the Ombudsman may request that the commissioner review the complaint and the written response.

(b) A request for review shall be submitted in writing to the commissioner within ten (10) days of receipt of the written response provided in accordance with subsection (2) of this section.

(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:

1. Extenuating circumstances prolong the review of the complaint; and

2. The commissioner notifies the complainant of the need for an extension to the timeframe specified in this paragraph.

(d) The department shall abide by the commissioner's written determination.

(4) The department may compile data regarding service complaints to:

(a) Fulfill federal and state reporting requirements; or

(b) Use for program development and evaluation.

Section 5. Request for Appeal. (1) The cabinet shall provide:

(a) Information regarding appeals to a child care assistance applicant or recipient pursuant to 922 KAR 3:030; or

(b) A DCC-88, Child Care Service Appeal Request, to a provider:

1. In accordance with 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program, for a:

a. Withdrawal or denial of child care registration application, not at the request of the applicant; or

b. Revocation or closure of a registered child care provider, not at the request of the provider;

2. Upon a reduction or revocation of a child care provider's STARS level in accordance with:

a. 922 KAR 2:170, STARS for KIDS NOW Program Type I licensed child-care centers; or

b. 922 KAR 2:210, STARS for KIDS NOW Program for Type II licensed and certified family child-care homes; or

3. Upon a revocation of a trainer's credential in accordance with 922 KAR 2:240, Kentucky Early Care and Education Trainer's Credential and training approval.

(2) Unless the matter is appealable in accordance with Section 2(1), 2(2), or 2(3)(b) of this administrative regulation, the cabinet shall send a notice of adverse action at least ten (10) days prior to the denial, reduction, modification, suspension, or termination of a benefit or services.

(3) The cabinet may take emergency action under KRS 13B.125.

(4) A request for appeal shall:

(a) Be written by the appellant, with the assistance of the cabinet or contract agency if the appellant is unable to comply without assistance;

(b) Be submitted to the cabinet no later than thirty (30) calendar days from the date:

1. That the notice provided in accordance with subsection (2) of this section was issued; or

2. Of the occurrence of the disputed action;

(c) Describe the:

1. Cabinet action in dispute; or

2. Alleged act;

(d) Specify:

1. The reason the appellant disputes the cabinet's action;

2. Name of each cabinet staff person involved with the disputed action, if known; and

3. Date of the cabinet action or alleged act in dispute; and

(e) Include the notice provided in accordance with subsection (2) of this section, if available.

(5)(a) Upon receipt of a written request for appeal, the cabinet shall determine whether the matter is subject to review through an administrative hearing.

(b) If the matter is not subject to review, the cabinet shall inform the individual in writing that the:

1. Matter is not appealable; and

2. Resolution of the matter may be pursued through the service complaint process described in Section 4 or 9 of this administrative regulation.

(6) If the cabinet receives a written request for appeal within ten (10) calendar days from the date the notice provided in accordance with subsection (2) of this section was issued or date of the disputed action and the matter is appealable, the cabinet shall continue to provide federally-funded assistance in accordance with 45 C.F.R. 205.10(a)(6) pending the outcome of the appeal.

(7) The cabinet shall not dismiss a request for appeal if an appellant demonstrates good cause. Justification may include:

(a) An appellant's inability to comprehend the cabinet's written statement describing appeal rights; or

(b) A cabinet-sanctioned determination that the appellant or the appellant's legal representative is not at fault for failure to:

1. Submit a written request for appeal; or
2. Participate in a proceeding related to an administrative hearing.

Section 6. Administrative Hearing. Each administrative hearing conducted by the cabinet or designee shall comply with KRS Chapter 13B.

Section 7. Recommended Order. (1) A copy of the recommended order shall be sent simultaneously to:
(a) Each party to the administrative hearing;
(b) The commissioner of the Department for Community Based Services; and
(c) The secretary of the Cabinet for Health and Family Services or designee.
(2) If a party to a hearing disagrees with the recommended order, the party may file a written exception as provided in KRS 13B.110(4) with the secretary, which shall:
(a) Be filed within fifteen (15) days of the date the recommended order was mailed;
(b) Be based on facts and evidence presented at the hearing;
(c) Not refer to evidence that was not introduced at the hearing; and
(d) Be sent to each other party involved in the hearing.

Section 8. Final Order. (1) The secretary of the Cabinet for Health and Family Services or designee shall issue a final order in accordance with KRS 13B.120.
(2) An aggrieved party may petition for judicial review in accordance with:
(a) KRS 13B.140 to 13B.160; or
(b) KRS 23A.010.

Section 9. Contract Agencies. (1) A contract agency shall offer a complaint process consistent with:
(a) Section 4 of this administrative regulation; or
(b) Provisions of the contract or agreement between the contract agency and the cabinet, if the provisions are different from Section 4 of this administrative regulation.
(2)(a) An individual dissatisfied with a final written response rendered by a contract agency regarding a complaint may request that the commissioner review the complaint and the contract agency's written response.
(b) A request for review shall be submitted to the commissioner within ten (10) days of the contract agency's written response.
(c) Upon completion of the review, the commissioner shall render a written determination regarding the complaint within thirty (30) days unless:
1. Extenuating circumstances prolong the review of the complaint; and
2. The commissioner notifies the client of the need for an extension to the timeframe specified in this paragraph.
(d) The contract agency shall abide by the commissioner's written determination.

Section 10. Incorporation by Reference. (1) The form "DCC-88, Child Care Service Appeal Request", 04/16, is incorporated by reference.
(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, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADRIA JOHNSON, Commissioner
VICKIE YATES BROWN GLISSON, Secretary
APPROVED BY AGENCY: February 15, 2016
FILED WITH LRC: February 26, 2016 at 4 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2016, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 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 May 2, 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 40601, Phone: 502-564-7905, Fax: 502-564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact: Elizabeth Caywood
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes cabinet procedures related to appeals and complaints for benefits and services under 922 KAR Chapter 2.
(b) The necessity of this administrative regulation: This administrative regulation is necessary for the establishment of cabinet appeal and complaint procedures for benefits and services under 922 KAR Chapter 2.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of cabinet appeal and complaint procedures for benefits and services under 922 KAR Chapter 2.
(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 through its establishment of cabinet procedures related to appeals and service complaints for benefits and services under 922 KAR Chapter 2.
(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: The parent of a child eligible for CCAP or a provider serving a child eligible for CCAP could be impacted by this administrative regulation if they appeal a decision by the Cabinet. During State Fiscal Year 2015, CCAP served, on average, 22,792 children in 12,236 families per month. For State Fiscal Year 2015, the numbers for providers participating in CCAP are as follows: 2,056 licensed (Type I and Type II), 336 certified, and 207 registered. For the first half of State Fiscal Year 2015, July through December, 1,814 claims were established on both recipients and providers participating in CCAP.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities have no new or additional action to take. The administrative regulation reorganizes the cabinet's appeal and complaint procedures for 922 KAR Chapter 2 into this new administrative regulation to better distinguish and separate subject matter.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will face no new or additional cost as a result of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from the improved clarity that the reorganization of the cabinet's appeal and complaint procedures for 922 KAR Chapter 2 into this new administrative regulation will afford.

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

(a) Initially: The administrative body will experience no new or additional costs to implement this administrative regulation. The administrative regulation entails content reorganization and technical changes necessary as a result of the new forthcoming technology and business operations to be used in CCAP. The agency burden associated with the cabinet's appeal and complaint procedures for child care benefits and services is unchanged.

(b) On a continuing basis: The administrative body is projected to experience no new or additional continuing costs to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding sources for this administrative regulation include the federal Child Care and Development Fund block grant, state matching and maintenance of effort funds for the block grant, and tobacco settlement dollars.

(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 administrative regulation requires no increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
45 C.F.R. 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS 13B.170, 194A.010(2), 194A.050(1)

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

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, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13B.170, 194A.010(2), 194A.050(1), 45 C.F.R. 98, 205.10, 42 U.S.C. 601-619, 9857-9858q

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 new revenues 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 new revenues for the subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will impose no new or additional costs in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will impose no new or additional costs in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of March 7, 2016

Members: Senators Julie Raque-Adams, Ernie Harris, and Alice Forgy Kerr and Representatives Linda Belcher, Mary Lou Marzian, and Tommy Turner.

LRC Staff: Ange Bertholf, Emily Caudill, Betsy Cupp, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

Guests: Beau Barnes, Teachers' Retirement System; Jennifer Jones, Katherine Rupinen, Retirement Systems; Cheryl Lalonde, Board of Pharmacy; Rhonda Richardson, Real Estate Commission; Nathan Goldman, Board of Nursing; Nicole Biddle, Sienna Newman, Prosthetics, Orthotics & Pedorthics Board; Karen Waldrop, David Wicker, Department of Fish & Wildlife Resources; Michael Kurtsinger, Ann-Tyler Morgan, Fire Commission.

The Administrative Regulation Review Subcommittee met on Monday, March 7, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System: General Rules

102 KAR 1:060. Refunds. Beau Barnes, deputy executive secretary and general counsel, represented the retirement system.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 2 and 4: (a) to comply with the drafting requirements of KRS Chapter 13A; and (b) for clarity. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:070. Application for retirement.

In response to a question by Co-Chair Harris, Mr. Barnes stated that, prior to the general retirement of the baby boomer generation, fewer teachers retired at any given time; therefore, the retirement system was able to retroactively approve a retirement application in an emergency situation. Because the volume of retirees was so much greater, the retirement system was no longer able to retroactively approve retirement applications.

102 KAR 1:320. Qualified domestic relations orders.

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 3 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.

Department of Revenue: Forms

103 KAR 3:030 & E. Property and severance forms manual. David Gordon, executive director, Office of Property Valuation, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to update the edition dates of Revenue Forms 62A500(P), 62A500, 62A500-A, 62A500-C, 62A500-L, 62A500-M1, 62A500-S1, and 62A500-W: (a) to comply with KRS Chapter 13A; and (b) for clarity; and (2) to amend instructional Revenue Form 62A500(P) to delete language that was added to clarify the types of software taxed to resolve the concerns of the Kentucky Society of CPAs. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Retirement Systems: General Rules

105 KAR 1:370. Kentucky Retirement Systems personnel policies. Jennifer Jones, assistant general counsel, and Katherine Rupinen, assistant general counsel, represented the retirement systems.

In response to questions by Co-Chair Harris, Ms. Rupinen stated that, under the previous version of this administrative regulation, compensatory time was only allotted for working or driving hours pertaining to travel-related work. This administrative regulation was amended to authorize compensatory time for an employee intending to be efficient with travel, for example an employee who accepted a late flight in order to be at work on time the next day.

In response to a question by Representative Belcher, Ms. Rupinen stated that an additional spousal benefit was added for compliance with KRS Chapter 18A, regarding spouses deployed for military service.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF). Cheryl LaLonde, general counsel, represented the board.

In response to questions by Co-Chair Harris, Ms. LaLonde stated that most long-term care facilities did not have in-house pharmacies. The medication limits established in this administrative regulation were for emergency doses; therefore, the limit of six (6) individual doses of thirty (30) different noncontrolled substances was adequate.

Real Estate Commission: Commission

201 KAR 11:350. Seller's disclosure of property conditions form. Rhonda Richardson, general counsel, represented the commission.

In response to questions by Co-Chair Harris, Ms. Richardson stated that this was the first time that the term "single family residential real estate dwelling" was defined in 201 KAR Chapter 11. Previously, stakeholders had a historical understanding of what this term meant, but it was not codified.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4 and the Seller's Disclosure of Property Condition form to change the order of initialing so that the seller's initials appear before the buyer's initials. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements. Nathan Goldman, general counsel, represented the board.

In response to a question by Co-Chair Harris, Mr. Goldman stated that requirements related to sexual assault nurse examiner standards were changed to be competency based, rather than duration based. Nurse examiners were required to achieve proficiency, regardless of how long it may take.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Prosthetics, Orthotics, and Pedorthics: Board

201 KAR 44:050. Per diem of board members. Nicole Biddle, assistant attorney general, and Sienna Newman, chair, represented the board.

In response to a question by Co-Chair Marzian, Ms. Newman stated that, prior to the amendment to this administrative regulation, board members served voluntarily without compensation.

201 KAR 44:080. Renewals.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, and 5 and the application forms to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:090. Requirements for licensure as an orthotist, prosthetist, orthotist-prosthetist, pedorthist, or orthotic fitter on or after January 1, 2013.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4 and the application form to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to establish that an orthotic fitter shall submit proof of completion of an orthotic fitter education program approved by the American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC). Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:100. Inactive status.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 and the application form to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:110. Licensure by endorsement.

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.

201 KAR 44:120. Post residency registration.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 and the application form to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:132. Elk quota hunts, elk depredation permits, landowner cooperator permits, and voucher cooperator permits. Karen Waldrop, deputy commissioner, and David Wicker, general counsel, represented the department.

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

301 KAR 2:178. Deer hunting on wildlife management areas, state parks, other public lands, and federally controlled areas.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission: Commission on Fire Protection Personnel Standards and Education

739 KAR 2:100. Volunteer firefighter requirements. Michael Kurtsinger, division director, and Anne-Tyler Morgan, counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the TITLE and Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 2 to clarify the specific conditions for compliance with statutory requirements, such as what constitutes a firefighter of sobriety and integrity. Without objection, and with agreement of the agency, the amendments were approved.

739 KAR 2:110. Acceptance of out of state and military training and service.

In response to a question by Representative Belcher, Ms. Morgan stated that the commission's authorizing statutes did not provide for penalties. Staff stated that there was a statutory penalty for application fraud.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to make technical corrections; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (4) to amend Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (5) to amend Section 2 to clarify the protocol for ensuring appropriate training and experience for firefighters who received firefighter training in the U.S. Armed Forces; (6) to amend Section 2 to delete penalty requirements that did not seem to be specifically authorized by statute; and (7) to revise and add material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

739 KAR 2:120. Notification of merger or splitting of volunteer fire districts.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to make technical corrections; (2) to amend the RELATES TO paragraph to add a citation; (3) to amend Section 2 to: (a) insert items omitted from the list of documents departments shall provide; and (b) comply with the drafting requirements of KRS Chapter 13A; and (4) to amend Section 3 to revise the form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

739 KAR 2:130. Thermal vision grant application process.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the RELATES TO paragraph to add a citation; (3) to amend Section 2 to: (a) clarify required signatures on the grant application; and (b) establish thermal imaging device providers previously listed in the grant application; (4) to amend Section 3 to revise the material incorporated by reference; and (5) to correct the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the April 11, 2016, meeting of the Subcommittee:

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.

Board of Nursing: Board

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

201 KAR 20:271. Repeal of 201 KAR 20:270 and 201 KAR 20:290.

201 KAR 20:280. Standards for developmental status, initial status, and approval of prelicensure registered nurse and practical nurse programs.

201 KAR 20:350. Educational facilities and resources for prelicensure registered nurse and practical nurse programs.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

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.

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.

907 KAR 1:835. Michelle P. waiver services and reimbursements.

Occupational, Physical, and Speech Therapy

907 KAR 8:005. Definitions for 907 KAR Chapter 8.

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.

OTHER BUSINESS:

Co-Chair Marzian stated that the April ARRS meeting would be tentatively scheduled for April 11, 2016, at 1 p.m., which is currently the first day legislators are back in session following the veto period. However, if the General Assembly's session calendar was amended, the ARRS meeting date would be moved from April 11 to the same day that the General Assembly convened for session after the veto period.

The Subcommittee adjourned at 1:30 p.m. until April 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.

SENATE STANDING COMMITTEE ON HEALTH AND WELFARE
Meeting of March 9, 2016

The following administrative regulation was available for consideration and placed on the agenda of the Senate Standing Committee on Health and Welfare for its meeting of March 9, 2016, having been referred to the Committee on March 2, 2016, pursuant to KRS 13A.290(6):

201 KAR 20:057

Committee activity in regard to review of the above-referenced administrative regulation is reflected in the minutes of the March 9, 2016 meeting, which are hereby incorporated by reference.

HOUSE STANDING COMMITTEE ON HEALTH AND WELFARE
Meeting of March 10, 2016

The following administrative regulation was available for consideration and placed on the agenda of the House Standing Committee on Health and Welfare for its meeting of March 10, 2016, having been referred to the Committee on March 2, 2016, pursuant to KRS 13A.290(6):

201 KAR 20:057

Committee activity in regard to review of the above-referenced administrative regulation is reflected in the minutes of the March 10, 2016 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates **J - 2**

The Locator Index lists all administrative regulations published in VOLUME 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 **J - 15**

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 **J - 30**

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 **J - 31**

The Subject Index is a general index of administrative regulations published in VOLUME 42 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

VOLUME 41

The administrative regulations listed under VOLUME 41 are those administrative regulations that were originally published in Volume 41 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2015 Kentucky Administrative Regulations Service* was published.

SYMBOL KEY:

* Statement of Consideration not filed by deadline
** Withdrawn before being printed in Register
**** Emergency expired after 180 days
‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS:

(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

Regulation Number	41 Ky.R. Page No.	Effective Date
13 KAR 2:045E	2062	3-2-15
Replaced		See 42 Ky.R.
31 KAR 4:180E	2527	5-5-15
Replaced		See 42 Ky.R.
103 KAR 3:030E	1958	1-16-15
Replaced	2226	7-6-15
103 KAR 3:040E	1742	12-31-14
Replaced	2199	6-5-15
201 KAR 2:360E	2529	5-14-15
Replaced		See 42 Ky.R.
201 KAR 21:090E	1969	2-10-15
Replaced	2026	7-15-15
601 KAR 1:112E	1481	12-5-14
Withdrawn		7-8-15
900 KAR 7:030E	1755	12-31-14
Replaced	1891	6-5-15
907 KAR 1:045E	1759	12-31-14
Expired		8-1-15
907 KAR 3:017E	1764	12-31-14
Replaced	2224	6-5-15
908 KAR 2:220E	1766	1-7-15
Replaced	2560	6-17-15
908 KAR 2:230E	1770	1-7-15
Replaced	2562	6-17-15
908 KAR 2:260E	1773	1-7-15
Replaced	2565	6-17-15
921 KAR 2:015E	1776	12-30-14
Replaced	1932	6-5-15
921 KAR 3:060E	2530	4-30-15
Replaced		See 42 Ky.R.
921 KAR 3:070E	2533	4-30-15
Replaced		See 42 Ky.R.

ORDINARY ADMINISTRATIVE REGULATIONS:

Regulation Number	41 Ky.R. Page No.	Effective Date
11 KAR 4:080		
Amended	2099	7-6-15
11 KAR 5:145		
Amended	2100	7-6-15
11 KAR 15:010		
Amended	2102	
As Amended	2538	7-6-15
11 KAR 15:090		
Amended	2104	7-6-15
13 KAR 2:045		
Amended	2108	See 42 Ky.R.
31 KAR 3:040	2447	See 42 Ky.R.
31 KAR 4:120		
Amended	2285	See 42 Ky.R.
31 KAR 4:180	2689	See 42 Ky.R.
101 KAR 2:102		
Amended	2113	
As Amended	2538	7-6-15
101 KAR 2:105		
Amended	2118	
As Amended	2542	7-6-15
101 KAR 2:106		
Amended	2120	
As Amended	2543	7-6-15
101 KAR 2:160		
Amended	2121	7-6-15
101 KAR 2:180		
Amended	2123	
As Amended	2544	7-6-15
101 KAR 2:210		
Amended	845	
101 KAR 3:015		
Amended	2125	
As Amended	2546	7-6-15
103 KAR 3:010		
Amended	2287	See 42 Ky.R.
103 KAR 3:030		
Amended	2015	
AmComments	2226	7-6-15
103 KAR 3:040		
Amended	1841	
As Amended	2199	6-5-15
103 KAR 15:180		
Amended	85	
As Amended	439	10-3-14
200 KAR 14:011		
Amended	2604	9-4-15
200 KAR 14:081		
Amended	2607	9-4-15
201 KAR 2:015		
Amended	2609	See 42 Ky.R.
201 KAR 2:360	2691	See 42 Ky.R.
201 KAR 10:050		
Amended	2131	7-6-15
201 KAR 12:083		
Amended	2292	See 42 Ky.R.
201 KAR 12:110		
Amended	2294	
Withdrawn		6-17-15
201 KAR 20:063	2692	See 42 Ky.R.
201 KAR 21:090		
Amended	2026	7-15-15
201 KAR 44:010		
Amended	2132	
As Amended	2550	7-6-15
201 KAR 45:120		
Amended	2611	See 42 Ky.R.
201 KAR 45:170	211	
Amended	2612	9-4-15
201 KAR 46:010		
Amended	2295	See 42 Ky.R.
201 KAR 46:020		
Amended	2299	
Withdrawn		3-10-16
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.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date
201 KAR 46:050	2450	See 42 Ky.R.
201 KAR 46:060	2452	See 42 Ky.R.
201 KAR 46:070		
Amended	2308	See 42 Ky.R.
Withdrawn		3-10-16
201 KAR 46:081		
Amended	2309	
202 KAR 7:701		
Amended	2313	See 42 Ky.R.
301 KAR 1:122		See 42 Ky.R.
Amended	2614	See 42 Ky.R.
301 KAR 2:049		See 42 Ky.R.
Amended	2615	See 42 Ky.R.
301 KAR 2:132		
Amended	1868	6-5-15
301 KAR 2:172		
Amended	1873	
AmComments	2092	6-5-15
301 KAR 2:178		
Amended	1878	
As Amended	2212	6-5-15
301 KAR 2:300		
Amended	2318	9-4-15
301 KAR 3:132		
As Amended	2208	
302 KAR 20:110		
Amended	2027	
As Amended	2217	6-5-15
302 KAR 20:120		
Amended	2030	
As Amended	2219	6-5-15
402 KAR 3:010		
Amended	2619	See 42 Ky.R.
402 KAR 3:030		
Amended	2621	9-3-15
402 KAR 3:050	2694	See 42 Ky.R.
500 KAR 13:020		
Amended	2623	See 42 Ky.R.
501 KAR 1:080		
Amended	2032	
501 KAR 6:020		
Amended	1887	See 42 Ky.R.
503 KAR 1:060		
Amended	326	
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503 KAR 1:080		
Amended	591	
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503 KAR 1:100		
Amended	595	
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503 KAR 1:110		
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503 KAR 1:120		
Amended	327	
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601 KAR 1:112	1725	
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601 KAR 9:135		
Amended	2321	See 42 Ky.R.
601 KAR 14:020		See 42 Ky.R.
603 KAR 5:155	2453	See 42 Ky.R.
603 KAR 10:002	2456	See 42 Ky.R.
603 KAR 10:010		
Amended	2325	See 42 Ky.R.
603 KAR 10:021	2458	See 42 Ky.R.
702 KAR 3:320	1728	
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703 KAR 5:200		
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703 KAR 5:225		
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703 KAR 5:240		
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704 KAR 3:370		
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704 KAR 5:070		
Amended	2351	8-10-15
705 KAR 4:250		
Amended	1144	
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725 KAR 1:061		
Amended	2353	7-13-15
803 KAR 1:035		
Amended	2045	
As Amended	2550	7-6-15
804 KAR 1:060		
Repealed	2696	9-4-15
804 KAR 1:061*(r)*	2696	9-4-15
804 KAR 4:370		
Amended	2630	See 42 Ky.R.
804 KAR 7:010		
Repealed	2180	7-6-15
804 KAR 7:011*(r)*	2180	7-6-15
804 KAR 10:010		
Amended	2632	See 42 Ky.R.
804 KAR 10:020		
Amended	2633	See 42 Ky.R.
804 KAR 10:025	2697	See 42 Ky.R.
805 KAR 1:100		
Amended	2355	See 42 Ky.R.
805 KAR 1:130		
Amended	2361	See 42 Ky.R.
805 KAR 1:140		
Amended	2364	See 42 Ky.R.
805 KAR 1:170		
Amended	2366	See 42 Ky.R.
808 KAR 6:015	2462	See 42 Ky.R.
808 KAR 6:105		
Amended	2369	See 42 Ky.R.
808 KAR 9:010		
Amended	2634	See 42 Ky.R.
808 KAR 12:020		
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808 KAR 12:021		
Amended	2638	See 42 Ky.R.
808 KAR 12:110	2698	See 42 Ky.R.
810 KAR 1:027		
Amended	612	
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810 KAR 1:090		
Amended	2371	See 42 Ky.R.
810 KAR 1:300	2699	See 42 Ky.R.
811 KAR 1:300	2701	See 42 Ky.R.
811 KAR 2:300	2702	See 42 Ky.R.
815 KAR 6:010		
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815 KAR 35:015		
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900 KAR 2:050		
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900 KAR 7:030		

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900 KAR 10:020		
Amended	2658	See 42 Ky.R.
900 KAR 10:040	2464	See 42 Ky.R.
900 KAR 10:050		
Amended	2664	See 42 Ky.R.
900 KAR 10:100		
Amended	2667	See 42 Ky.R.
900 KAR 10:110	2704	See 42 Ky.R.
900 KAR 4:040		
Repealed	2051	6-5-15
902 KAR 4:041(r)	2051	6-5-15
902 KAR 10:020		
Repealed	2468	9-4-15
902 KAR 10:021		
Repealed	2468	9-4-15
902 KAR 10:022*(r)*	2468	9-4-15
902 KAR 20:091		
Amended	1896	
AmComments	2245	
902 KAR 20:160		
Amended	2374	See 42 Ky.R.
902 KAR 20:180		
Amended	2383	See 42 Ky.R.
902 KAR 20:320		
Amended	2393	See 42 Ky.R.
902 KAR 20:400		
Amended	1905	
AmComments	2256	See 42 Ky.R.
902 KAR 45:010		
Repealed	2469	9-4-15
902 KAR 45:011*(r)*	2469	9-4-15
902 KAR 45:030		
Repealed	2469	9-4-15
902 KAR 45:040		
Repealed	2469	9-4-15
902 KAR 45:050		
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902 KAR 45:060		
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902 KAR 45:110		
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902 KAR 45:120		
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902 KAR 45:130		
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902 KAR 45:160	2470	See 42 Ky.R.
907 KAR 1:044		
Amended	1910	
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907 KAR 1:045		
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907 KAR 1:046	1940	
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907 KAR 1:055		
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907 KAR 1:102		
Amended	1920	
AmComments	2268	
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907 KAR 1:350		
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907 KAR 3:017	1943	
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907 KAR 9:005		
Amended	2417	See 42 Ky.R.
907 KAR 9:010		
Amended	2425	See 42 Ky.R.
907 KAR 9:015	2475	See 42 Ky.R.
907 KAR 9:020	2487	See 42 Ky.R.
907 KAR 10:014		
Amended	2428	See 42 Ky.R.
907 KAR 10:016		
Amended	2442	See 42 Ky.R.
907 KAR 10:020	2491	See 42 Ky.R.
907 KAR 10:025	2503	See 42 Ky.R.
907 KAR 10:825		
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907 KAR 10:826*(r)*	2181	10-1-15
907 KAR 10:830	2182	See 42 Ky.R.
907 KAR 15:080	2507	See 42 Ky.R.
907 KAR 15:085	2515	10-2-15
908 KAR 2:220		
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908 KAR 2:230		
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AmComments	2277	
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908 KAR 2:260	1945	
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910 KAR 1:140		
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910 KAR 1:170		
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910 KAR 1:210		
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910 KAR 1:220		
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921 KAR 2:015		
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921 KAR 3:045		
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921 KAR 3:060		
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921 KAR 3:070		
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SYMBOL KEY:
* Statement of Consideration not filed by deadline
** Withdrawn before being printed in Register
**** Emergency expired after 180 days
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS:
(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

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13 KAR 2:045		See 41 Ky.R.
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31 KAR 4:180E		See 41 Ky.R.
Replaced	658	9-4-15
101 KAR 2:210E	1084	9-15-15
103 KAR 3:030E	1996	12-7-15
103 KAR 3:040E	2007	12-7-15
105 KAR 1:145E	2017	12-3-15
200 KAR 5:365E	231	6-16-15
Replaced	1130	11-6-15
201 KAR 2:360E		See 41 Ky.R.
Replaced	273	9-4-15
201 KAR 11:170E	233	6-29-15
Replaced	1466	12-4-15
201 KAR 11:175E	236	6-29-15
Replaced	1468	12-4-15
201 KAR 11:235E	238	6-29-15
Replaced	1473	11-13-15
201 KAR 11:240E	240	6-29-15
Replaced	1475	12-4-15
201 KAR 12:110E	244	6-17-15
Replaced	1132	11-6-15
201 KAR 35:010E	1086	8-25-15
201 KAR 35:015E	1088	8-25-15
201 KAR 35:020E	1089	8-25-15
201 KAR 35:030E	1092	8-25-15
201 KAR 35:040E	1095	8-25-15
201 KAR 35:050E	1098	8-25-15
201 KAR 35:055E	1100	8-25-15
201 KAR 35:060E	1102	8-25-15
201 KAR 35:070E	1104	8-25-15
201 KAR 35:075E	1108	8-25-15
201 KAR 35:090E	1110	8-25-15
301 KAR 2:221E	1699	11-3-15
Replaced	1921	3-4-16
301 KAR 2:222E	1701	11-3-15
Replaced	1923	3-4-16
301 KAR 2:225E	1111	8-21-15
505 KAR 1:100E	246	7-1-15
505 KAR 1:110E	248	7-1-15
505 KAR 1:130E	250	7-1-15
601 KAR 1:113E	252	7-8-15
601 KAR 2:030E	1114	9-1-15
787 KAR 2:040E	6	5-21-15
804 KAR 4:015E	256	6-23-15
804 KAR 4:400E	258	6-23-15
Replaced	527	11-6-15
804 KAR 4:410E	259	7-10-15
Replaced	1177	11-6-15
902 KAR 20:420E	261	6-25-15
Replaced	1202	11-6-15
902 KAR 55:020E	1706	11-4-15
Replaced	1975	3-4-16
906 KAR 1:190E	2022	11-20-15
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921 KAR 3:060E		See 41 Ky.R.
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921 KAR 3:070E		See 41 Ky.R.
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921 KAR 3:090E		7-2-15
922 KAR 1:320E		
Amended	2530	
922 KAR 2:020E		
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922 KAR 2:160E		
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922 KAR 2:260E		
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9 KAR 1:025	2292	
11 KAR 4:080		
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11 KAR 5:145		
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11 KAR 15:090		
Amended	44	
As Amended	1121	10-12-15
11 KAR 15:100	627	See 41 Ky.R.
As Amended	1124	10-12-15
11 KAR 16:060		
Amended	449	
As Amended	1125	10-12-15
13 KAR 2:045		See 41 Ky.R.
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16 KAR 2:020		
Amended	72	
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16 KAR 2:100		
Amended	794	
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16 KAR 2:110		
Amended	796	
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16 KAR 2:140		
Amended	797	
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16 KAR 2:150		
Amended	799	
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16 KAR 2:160		
Amended	801	
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16 KAR 2:170		
Amended	803	
As Amended	1450	12-4-15
16 KAR 2:200		
Amended	805	12-4-15
16 KAR 3:030		
Amended	807	
As Amended	1451	12-4-15
16 KAR 3:040		
Amended	809	
As Amended	1452	12-4-15
16 KAR 4:030		
Amended	74	
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16 KAR 9:030		
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16 KAR 9:040		

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30 KAR 7:010	628	See 41 Ky.R.
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31 KAR 3:040		
As Amended	270	9-4-15
31 KAR 4:120		See 41 Ky.R.
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31 KAR 4:180		See 41 Ky.R.
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101 KAR 1:325		
Amended	1582	
101 KAR 2:020		
Amended	76	10-2-15
101 KAR 2:034		
Amended	78	
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101 KAR 2:046		
Amended	83	
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101 KAR 2:056		
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101 KAR 2:066		
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101 KAR 2:120		
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101 KAR 2:210		
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101 KAR 3:045		
Amended	91	
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102 KAR 1:060		
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102 KAR 1:070		
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102 KAR 1:320		
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103 KAR 3:010		See 41 Ky.R.
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103 KAR 3:030		
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103 KAR 3:040		
Amended	2237	
103 KAR 3:050		
Amended	2614	
105 KAR 1:145	2293	
AmComments	2578	
105 KAR 1:200		
Amended	452	11-6-15
105 KAR 1:370		
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106 KAR 3:010		
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200 KAR 5:021		
Amended	1906	
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200 KAR 5:365		
Amended	456	
As Amended	1130	11-6-15
201 KAR 1:050		
Amended	817	
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201 KAR 1:063		
Amended	819	
As Amended	1457	12-4-15
201 KAR 1:064		
Repealed	1068	12-4-15
201 KAR 1:071*(r)*	1068	12-4-15
201 KAR 1:081		
Amended	820	
As Amended	1458	12-4-15
201 KAR 1:140		
Amended	822	
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201 KAR 1:150		
Amended	823	
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201 KAR 2:015		
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201 KAR 2:220		
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AmComments	1548	
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201 KAR 2:360		See 41 Ky.R.
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201 KAR 2:370	630	
As Amended	1131	11-6-15
Amended	2414	
201 KAR 5:030		
Amended	824	
As Amended	1460	11-18-15
201 KAR 5:110		
Amended	826	
As Amended	1461	11-18-15
201 KAR 6:070		
Amended	828	
As Amended	1462	11-18-15
201 KAR 9:270		
Amended	1907	
201 KAR 9:305		
Amended	460	
As Amended	1464	11-18-15
201 KAR 9:310		
Amended	461	
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201 KAR 9:470	1668	
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201 KAR 11:170		
Amended	463	
AmComments	1219	
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201 KAR 11:175		
Amended	466	
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201 KAR 11:195	631	
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201 KAR 11:210		
Amended	468	
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201 KAR 11:230		
Amended	469	
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201 KAR 11:232	632	
AmComments	1221	
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201 KAR 11:235		
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201 KAR 11:460		
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201 KAR 12:083		See 41 Ky.R
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201 KAR 12:110		
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201 KAR 13:040		
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201 KAR 13:050		
Amended	2624	
201 KAR 16:050		
Amended	1279	
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201 KAR 18:104		
Amended	831	
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201 KAR 18:142		
Amended	833	
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201 KAR 19:035		
Amended	1584	
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201 KAR 19:087		
Amended	1586	
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201 KAR 20:056		
Amended	480	
As Amended	1133	11-6-15
201 KAR 20:057		
Amended	1910	
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201 KAR 20:061		
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201 KAR 20:062		
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201 KAR 20:063		See 41 Ky.R.
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201 KAR 20:064*(r)*	637	11-6-15
201 KAR 20:070		
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201 KAR 20:215		
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201 KAR 20:240		
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201 KAR 20:320		
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201 KAR 20:340		
Amended	2427	
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201 KAR 25:031		
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201 KAR 26:115		
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201 KAR 26:121		
Amended	503	
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201 KAR 26:175		
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201 KAR 26:200		
Amended	507	
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201 KAR 29:015		
Amended	2628	
201 KAR 30:030		
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201 KAR 30:040		
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201 KAR 32:025		
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201 KAR 32:035		
Amended	837	
AmComments	1553	
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201 KAR 32:045		
Amended	840	
AmComments	1555	
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201 KAR 32:060		
Amended	509	
AmComments	1557	
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201 KAR 33:015		
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Amended	1298	
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Amended	1299	
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201 KAR 35:010	1411	
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201 KAR 35:020		
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201 KAR 35:030		
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201 KAR 35:040		
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201 KAR 35:070		
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201 KAR 35:075	1415	
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201 KAR 35:080		
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201 KAR 35:090	1417	
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201 KAR 36:030		
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201 KAR 39:030		
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201 KAR 42:050		
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201 KAR 42:080		
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201 KAR 43:020		
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201 KAR 43:050		
Amended	850	
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201 KAR 43:080		
Amended	854	
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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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164.0062	103 KAR 3:040
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164.7877	11 KAR 15:090
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164.7879	11 KAR 15:090
164.7881	11 KAR 15:090
164.7882	11 KAR 15:100
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164A.580	775 KAR 1:070
164A.585	775 KAR 1:070
164A.590	775 KAR 1:070
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186.442	601 KAR 2:030
186.480	601 KAR 2:030
186.531	601 KAR 2:030
186.560	601 KAR 2:030
186.570	601 KAR 2:030
189.040	601 KAR 2:030
189.125	922 KAR 1:310
189.290	601 KAR 1:113
189A.005	601 KAR 2:030
189A.010	601 KAR 1:113
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189A.070	601 KAR 2:030
189A.085	601 KAR 2:030
189A.090	601 KAR 2:030
189A.103	601 KAR 2:030
189A.105	601 KAR 2:030
189A.107	601 KAR 2:030
189A.200	601 KAR 2:030
189A.240	601 KAR 2:030
189A.250	601 KAR 2:030
189A.345	601 KAR 2:030
189A.400	601 KAR 2:030
189A.410	601 KAR 2:030
189A.420	601 KAR 2:030
189A.440	601 KAR 2:030
189A.500	601 KAR 2:030
194.540	201 KAR 32:060
194A.005	902 KAR 100:037
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194A.030	922 KAR 1:320
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194A.050	900 KAR 10:010
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194A.060	910 KAR 1:240
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196.030	501 KAR 6:241
196.035	501 KAR 2:060
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197	501 KAR 6:020
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197.020	501 KAR 2:060
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197.045	501 KAR 2:060
197.170	501 KAR 6:241
198B.010	815 KAR 7:120
	815 KAR 7:125
198B.040	815 KAR 7:120
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198B.060	815 KAR 7:120
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198B.080	815 KAR 7:120
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198B.700	815 KAR 6:010
198B.706	815 KAR 6:010
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198B.712	815 KAR 6:010
	815 KAR 6:040
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198B.716	815 KAR 6:010
198B.722	815 KAR 6:010
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198B.724	815 KAR 6:010
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198B.730	815 KAR 6:090
198B.738	815 KAR 6:010
198B.990	815 KAR 7:120
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199.430	922 KAR 1:310
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199.464	922 KAR 1:495
199.470	922 KAR 1:310
199.492	922 KAR 1:310
199.493	922 KAR 1:310
199.510	922 KAR 1:310
199.520	922 KAR 1:310
199.555	101 KAR 2:120
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199.570	922 KAR 1:310
199.572	922 KAR 1:310
199.590	922 KAR 1:310
199.640	922 KAR 1:310
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199.894	922 KAR 2:160
199.896	922 KAR 2:160
199.898	922 KAR 2:160
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202A.091	501 KAR 3:020
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205.220	921 KAR 2:050
205.231	921 KAR 2:055
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205.560	907 KAR 1:055
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209.020	922 KAR 1:320
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210.720	908 KAR 3:050
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210.770-210.795	910 KAR 1:270
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214.615	201 KAR 20:070.
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214.620	201 KAR 9:310
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216.300	910 KAR 1:240
216.595	910 KAR 1:240
216.765	908 KAR 2:065
216.789	910 KAR 1:240
216.793	910 KAR 1:240
216.2920-216.2929	900 KAR 7:030
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216B.020	900 KAR 6:090
216B.040	900 KAR 6:090
216B.062	900 KAR 6:070
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216B.090	900 KAR 6:070
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216B.095	900 KAR 6:090
216B.105	902 KAR 20:160
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216B.445	900 KAR 6:075
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217B.520	302 KAR 29:050
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218A.090	902 KAR 55:025
218A.100	902 KAR 55:030
218A.110	902 KAR 55:030
218A.120	902 KAR 55:035
218A.130	902 KAR 55:035
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224.70-100	401 KAR 10:029
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224.70-140	401 KAR 10:026
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227.487	815 KAR 35:020
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230.240	810 KAR 1:018
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230.260	810 KAR 1:018
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230.300	810 KAR 1:028
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230.330	810 KAR 1:070
230.361	810 KAR 1:028
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230.370	810 KAR 1:018
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230.800	810 KAR 1:070
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234.370	103 KAR 3:010
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235.990	301 KAR 1:015
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236.010	815 KAR 15:026
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236.097	815 KAR 15:080
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238.547	820 KAR 1:055
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238.550	820 KAR 1:025
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238.555	820 KAR 1:016
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238.560	820 KAR 1:027
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238.570	820 KAR 1:025
238.995	820 KAR 1:130
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242.125	804 KAR 9:040
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242.127	804 KAR 9:050
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243.030	804 KAR 4:015
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243.040	804 KAR 4:015
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243.050	804 KAR 4:370
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243.090	804 KAR 4:390
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243.230	804 KAR 9:050
243.380	804 KAR 4:400
243.390	804 KAR 4:390
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243.710-243.884	103 KAR 3:050
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281.630	601 KAR 1:113
281.631	601 KAR 1:113
281.640	601 KAR 1:113
281.650	601 KAR 1:113
281.655	601 KAR 1:113
281.656	601 KAR 1:113
281.912	601 KAR 1:113
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309.087	201 KAR 35:010
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309.089	201 KAR 35:010
309.130	902 KAR 20:160
309.304	201 KAR 39:030
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309.355	201 KAR 42:050
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309.0832	201 KAR 35:020
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309.0833	201 KAR 35:020
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309.3631	201 KAR 42:080
310.021	201 KAR 33:015
310.031	201 KAR 33:015
310.041	201 KAR 33:020
310.050	201 KAR 33:030
310.200	815 KAR 20:130
311.530-311.620	201 KAR 9:270
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TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the *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 to show the technical corrections 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
11 KAR 19:030	3/11/2016
13 KAR 2:025	7/15/2015
101 KAR 3:015	9/21/2015
‡ 103 KAR 3:010	2/16/2016
‡ 103 KAR 3:030	2/16/2016
‡ 103 KAR 3:040	1/21/2016
‡ 103 KAR 3:040	2/17/2016
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‡ 201 KAR 2:370	2/15/2016
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‡ 201 KAR 44:050	2/15/2016
201 KAR 46:090	3/11/2016
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