

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 43, NUMBER 4
SATURDAY, OCTOBER 1, 2016

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

ARRS – OCTOBER 11, 2016 TENTATIVE AGENDA	513
REGULATION REVIEW PROCEDURE	516

EMERGENCIES

Personnel Cabinet	517
Board of Durable Medical Equipment Suppliers	519

AS AMENDED

Higher Education Assistance Authority	525
Teachers' Retirement System	528
Board of Physical Therapy	533
Real Estate Appraisers Board	535
Board of Licensure for Marriage and Family Therapists	536
Board of Licensed Diabetes Educators	537
Department of Fish and Wildlife Resources	538
Board of Education	542
Department of Alcoholic Beverage Control	545
Department of Financial Institutions	547
CHFS: Department for Aging and Independent Living	550

AMENDED AFTER COMMENTS

Office of the Attorney General	556
Department of Revenue	563
Board of Barbering	566
CHFS: Department for Public Health	568
CHFS: Office of Inspector General	575
CHFS: Department for Community Based Services	582

PROPOSED AMENDMENTS

Education Professional Standards Board	585
Personnel Cabinet	599
Board of Accountancy	600
Board of Pharmacy	606
Department of Workforce Investment	612
Department of Housing, Buildings and Construction	615
CHFS: Office of Inspector General	629
CHFS: Department for Income Support	631

NEW ADMINISTRATIVE REGULATIONS

Department of Revenue	636
Board of Pharmacy	639
State Board of Licensure for Professional Engineers and Land Surveyors	640
Board of Durable Medical Equipment Suppliers	641

ARRS Report	647
OTHER COMMITTEE REPORTS	651

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates	D - 2
KRS Index	D - 7
Technical Amendments	D - 12
Subject Index	D - 14

MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet October 11, 2016, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages 513-515 of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2016 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

HOW TO CITE: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number. Example: Volume 43, Kentucky Register, page 318 (short form: 43 Ky.R. 318).

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

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

ADMINISTRATIVE REGISTER OF KENTUCKY

(ISSN 0096-1493)

© 2016 Legislative Research Commission, All Rights Reserved

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

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

Chairmen

Senator Robert Stivers
Senate President

Representative Gregory D. Stumbo
House Speaker

Senate and House Members

Senator David P. Givens
President Pro Tempore

Representative Jody Richards
Speaker Pro Tempore

Senator Damon Thayer
Majority Floor Leader

Representative Rocky Adkins
Majority Floor Leader

Senator Ray Jones
Minority Floor Leader

Representative Jeffrey Hoover
Minority Floor Leader

Senator Daniel Seum
Majority Caucus Chair

Representative Sannie Overly
Majority Caucus Chair

Senator Gerald Neal
Minority Caucus Chair

Representative Stan Lee
Minority Caucus Chair

Senator Jimmy Higdon
Majority Whip

Representative Johnny Bell
Majority Whip

Senator Julian Carroll
Minority Whip

Representative Jim DeCesare
Minority Whip

David Byerman, Director
Joe Cox, Printing and Publications Officer

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

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

Staff

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

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

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

AGRICULTURAL EXPERIMENT STATION

Seed

- 12 KAR 1:116. Sampling, analyzing, testing, and tolerances.
- 12 KAR 1:140. Permits, reports, and fees for persons using own tags.
- 12 KAR 1:155. Schedule of charges for samples submitted for testing.

**OFFICE OF THE ATTORNEY GENERAL
Office of Consumer Protection**

Office

- 40 KAR 2:145. Funeral planning declaration form. (Deferred from September)
- 40 KAR 2:150. Cremation forms and inspections. (Amended After Comments)

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue**

Ad Valorem Tax; State Assessment

- 103 KAR 8:160. Valuation of municipal solid waste landfill facilities. (Amended After Comments)

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

Purchasing

- 200 KAR 5:355. Public-private partnership delivery method.

**GENERAL GOVERNMENT CABINET
Board of Barbering**

Board

- 201 KAR 14:125. Teacher requirements. (Amended After Comments)

Board of Nursing

Board

- 201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

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

Game

- 301 KAR 2:049. Small game and furbearer hunting and trapping on public areas.
- 301 KAR 2:251. Hunting and trapping seasons and limits for furbearers.

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

Office of the Secretary

- 501 KAR 6:020. Corrections policies and procedures.

Department of Criminal Justice Training

Law Enforcement Foundation Program Fund

- 503 KAR 5:090. Participation: requirements; application; withdrawal.

**TRANSPORTATION CABINET
Department of Highways**

Nonpublic School Transportation

- 600 KAR 5:011. Repeal of 600 KAR 5:010.

Department of Vehicle Regulation

Motor Carriers

- 601 KAR 1:231. Repeal of 601 KAR 1:025, 601 KAR 1:029, 601 KAR 1:060, 601 KAR 1:075, 601 KAR 1:095, 601 KAR 1:101, 601 KAR 1:110, 601 KAR 1:145, 601 KAR 1:190, and 601 KAR 1:230.

Administration

- 601 KAR 2:011. Repeal of 601 KAR 2:010.
- 601 KAR 2:030 & E. Ignition interlock. ("E" expires 10/25/2016) (Not Amended After Comments) (Deferred from August)

Motor Vehicle Tax

- 601 KAR 9:111. Repeal of 601 KAR 9:010, 601 KAR 9:020, 601 KAR 9:060, 601 KAR 9:065, 601 KAR 9:095, and 601 KAR 9:105.

Transportation of Solid Waste

- 601 KAR 40:011. Repeal of 601 KAR 40:010.

Department of Aviation

Airport Development

- 602 KAR 15:011. Repeal of 602 KAR 15:010.

Airport Safety Standards

- 602 KAR 20:091. Repeal of 602 KAR 20:090.

Department of Highways

Construction and Materials

- 603 KAR 1:031. Repeal of 603 KAR 1:030.

Right-of-way

- 603 KAR 4:046. Repeal of 603 KAR 4:045.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

Traffic

603 KAR 5:311. Repeal of 603 KAR 5:020, 603 KAR 5:030, 603 KAR 5:080, 603 KAR 5:090, 603 KAR 5:240, and 603 KAR 5:301.

Office for Transportation Delivery

Mass Transportation

603 KAR 7:071. Repeal of 603 KAR 7:010, 603 KAR 7:040, 603 KAR 7:050, 603 KAR 7:060, and 603 KAR 7:070.

Department of Highways

Transportation Scholarship Program

603 KAR 8:011. Repeal of 603 KAR 8:010.

Division of Planning

603 KAR 9:021. Repeal of 603 KAR 9:020.

**Department of Vehicle Regulation
Motor Vehicle Commission**

Commission

605 KAR 1:011. Repeal of 605 KAR 1:010.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Board of Education

Department of Education

School Administration and Finance

702 KAR 3:171. Repeal of 702 KAR 3:170.

Instructional Programs

705 KAR 4:231. General program standards for secondary career and technical education programs.

MOREHEAD STATE UNIVERSITY

Board of Regents

Board

755 KAR 1:080. Capital construction procedures. (Deferred from September)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Board of Education

Department of Education

Instructional Programs

780 KAR 4:012. Repeal of 780 KAR 4:010.

LABOR CABINET

Department of Workforce Standards

Division of Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

Occupational Safety and Health

803 KAR 2:180. Recordkeeping, reporting, statistics. (Not Amended After Comments)

PUBLIC PROTECTION CABINET

Department of Alcoholic Beverage Control

Advertising Distilled Spirits and Wine

804 KAR 1:071. Repeal of 804 KAR 1:070, 804 KAR 1:090, and 804 KAR 1:120.

Fair Trade, Pricing and Sales

804 KAR 3:081. Repeal of 804 KAR 3:080.

Licensing

804 KAR 4:041. Repeal of 804 KAR 4:040, 804 KAR 4:050, 804 KAR 4:050, 804 KAR 4:150, 804 KAR 4:310, 804 KAR 4:340, and 804 KAR 4:385.

Conduct of Business; Employees

804 KAR 5:031. Repeal of 804 KAR 5:030 and 804 KAR 5:050.

Retail Premises

804 KAR 7:051. Repeal of 804 KAR 7:050.

Transportation of Alcoholic Beverages

804 KAR 8:041. Repeal of 804 KAR 8:040 and 804 KAR 8:060.

Quotas

804 KAR 9:021. Repeal of 804 KAR 9:020 and 804 KAR 9:030.

804 KAR 11:021. Repeal of 804 KAR 11:020.

**Department of Housing, Buildings and Construction
Division of Building Code Enforcement**

Plumbing

815 KAR 20:020. Parts or materials list.

815 KAR 20:080. Waste pipe size.

815 KAR 20:090. Soil, waste, and vent systems.

815 KAR 20:120. Water supply and distribution.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Public Health

Division of Epidemiology and Health Planning

Communicable Diseases

902 KAR 2:020 & E. Reportable disease surveillance. ("E" Expires 12/12/2016) (Amended After Comments)

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

Office of Inspector General

Health Services and Facilities

902 KAR 20:058. Operation and services; primary care center. (Amended After Comments)

**Department for Income Support
Child Support Enforcement**

Child Support

921 KAR 1:380. Child Support Enforcement Program application and intergovernmental process.

**Department for Community Based Services
Division of Protection and Permanency**

Child Welfare

922 KAR 1:151. Repeal of 922 KAR 1:150, 922 KAR 1:170, 922 KAR 1:210, and 922 KAR 1:230. (Not Amended After Comments)

922 KAR 1:500. Educational and training vouchers. (Amended After Comments)

REMOVED FROM OCTOBER'S AGENDA

PUBLIC PROTECTION CABINET

Boxing and Wrestling Commission

Commission

201 KAR 27:005. Definitions for 201 KAR Chapter 27. (Comments Received, SOC ext.)

201 KAR 27:007. Powers and duties of inspector. (Comments Received, SOC ext.)

201 KAR 27:008. License requirements and fees. (Comments Received, SOC ext.)

201 KAR 27:011. General requirements for boxing and kickboxing shows. (Comments Received, SOC ext.)

201 KAR 27:012. General requirements for wrestling shows. (Comments Received, SOC ext.)

201 KAR 27:016. General requirements for all mixed martial arts matches, shows, or exhibitions. (Comments Received)

201 KAR 27:017. Requirements for elimination events. (Comments Received, SOC ext.)

201 KAR 27:020. Tickets. (Comments Received, SOC ext.)

201 KAR 27:021. Drug testing for boxing, kickboxing, mixed martial arts, and elimination event shows. (Comments Received, SOC ext.)

201 KAR 27:036. Repeal of 201 KAR 27:035, 201 KAR 27:045, 201 KAR 27:050, 201 KAR 27:055, 201 KAR 27:060, 201 KAR 27:065,
201 KAR 27:070, 201 KAR 7:090, and 201 KAR 27:100. (Comments Received, SOC ext.)

201 KAR 27:040. Managers. (Comments Received, SOC ext.)

201 KAR 27:105. Disciplinary action. (Comments Received, SOC ext.)

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Board of Emergency Medical Services

Board

~~202 KAR 7:501. Ambulance and medical first response agencies. (Comments Received, SOC ext. due 9/15/16)(Withdrawn by Agency 9/15/2016)~~

~~202 KAR 7:520. Allocation of block grant funding assistance for emergency medical services. (Comments Received, SOC ext. due 9/15/16)(Withdrawn by Agency 9/15/2016)~~

TRANSPORTATION CABINET

Department of Highways

Professional Engineering and Related Services

600 KAR 6:061. Repeal of 600 KAR 6:020, 600 KAR 6:030, and 600 KAR 6:060. (Withdrawn by Agency 9/22/2016)

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Fire Commission

Commission on Fire Protection Personnel Standards and Education

739 KAR 2:040. Survivor benefits for death of a firefighter. (Comments Received, SOC ext. due 10/15/16)

LABOR CABINET

Department of Workforce Standards

Division of Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

Occupational Safety and Health

803 KAR 2:412. Fall protection. (Deferred from August)

PUBLIC PROTECTION CABINET

Department of Alcoholic Beverage Control

Malt Beverage Equipment, Supplies, and Service

804 KAR 11:010 & E. Equipment and supplies. ("E" Expires 1/11/2017) (Comments Received)

Department of Housing, Buildings and Construction

Division of Building Code Enforcement

Kentucky Building Code

815 KAR 7:120. Kentucky Building Code. (Withdrawn by agency 8/24/2016)

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Community Alternatives

Certified Provider Requirements

~~907 KAR 7:010 & E. Home and community based waiver services version 2. ("E" Expires 12/27/2017) (Comments Received, SOC ext. due 10/15/16) (Withdrawn by Agency 9/15/2016)~~

~~907 KAR 7:015 & E. Reimbursement for home and community based waiver services version 2. ("E" Expires 12/27/2017) (Comments Received, SOC ext. due 10/15/16) (Withdrawn by Agency 9/15/2016)~~

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, mailing address, e-mail 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 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
101 KAR 2:210E

This emergency administrative regulation incorporates by reference the 2017 plan year handbook for the self-insured plan offered to the Public Employee Health Insurance Program, commonly known as the Kentucky Employees' Health Plan. KRS 18A.2254(1) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates the plan year handbook by reference and to file the administrative regulation by September 15 of each year. This emergency administrative regulation is necessary to meet the filing deadline established by state law at KRS 18A.2254(1)(a)3. KRS 18A.2254(1)(a) requires the secretary of the Personnel Cabinet to annually promulgate an administrative regulation to incorporate by reference the plan year handbook. The handbook must contain, at a minimum, the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan provided to public employees covered under the self-insured plan. The 2017 plan year handbook, or Benefits Selection Guide, contains the required and necessary information for public employees to make health insurance coverage decisions during open enrollment in October 2016. This administrative regulation incorporates by reference the 2017 Benefits Selection Guide that will be distributed by the Personnel Cabinet's Department of Employee Insurance to public employees covered under the self-insured plan. An ordinary administrative regulation is not sufficient due to the statutory filing deadlines and handbook distribution requirements. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is not identical to this emergency administrative regulation. This emergency administrative regulation will be in effect for part of the current 2016 plan year. The existing language in the Benefits Selection Guide for the 2016 plan year should remain until such time as the ordinary administrative regulation incorporating the Benefits Selection Guide for plan year 2017 replaces this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
THOMAS B. STEPHENS, Secretary

PERSONNEL CABINET
Office of the Secretary
(Emergency Amendment)

101 KAR 2:210E. 2016 and 2017 Plan Year Handbooks[Handbook] for the Public Employee Health Insurance Program.

RELATES TO: KRS 18A.030, 18A.225, 18A.2254
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)
EFFECTIVE: September 15, 2016
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2016 and 2017 Plan Years[Year] as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2016 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for

each plan provided to the public employees covered under the self-insured plan.

Section 2. (1) The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2017 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

(2) The 2017 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide shall govern the health plan benefits for public employees covered under the self-insured plan beginning January 1, 2017.

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

(a) "2016 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2016 edition; and

(b) "2017 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2017 edition[is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

THOMAS B. STEPHENS, Secretary

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at 11 a.m.

CONTACT PERSON: Sharron Burton, Deputy Executive Director, Office of Legal Services, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email Sharron.Burton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sharron Burton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2017 plan year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to all plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2017.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2017 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2017 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS

18A.2254.

(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 an amendment. The existing administrative regulation incorporates by reference the 2016 plan year handbook which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2016. The amendment adds and incorporates by reference the 2017 plan year handbook which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2017.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2017. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2017 plan year handbook by reference in accordance with KRS 18A.2254.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2017 plan year handbook by reference in accordance with KRS 18A.2254.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 183,098 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects 291,438 members in the self-insured plan including employees and retirees, qualifying beneficiaries, and dependents.

(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: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2017 plan year handbook. The 2017 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2017 plan year.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for

plan year 2017. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2017 plan year handbook into the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For plan year 2017, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. The Public Employee Health Insurance Program will not have any employer contribution adjustments for plan year 2017. There will be a 1% increase to employee contributions for two of the four plans offered in plan year 2017.

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

(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.

(b) On a continuing basis: Costs of implementing this administrative regulation on a continuing basis are believed to be minimal.

(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 the implementation of this administrative regulation will be the Public Employee Health Insurance Trust Fund.

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

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

(9) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect all employees of state and select county and local government entities, including employees of the local school boards and districts that participate in the Public Employee Health Insurance Program. As employers, this administrative regulation will affect state and select county and local government entities as well as local school boards and districts. This administrative regulation also affects certain retirees eligible to participate in the Program.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.225, 18A.2253, 18A.2254, 18A.2255, 18A.2259, 18A.226, 18A.227, 18A.2271, 18A.228, 18A.2286, 18A.2287; 26 U.S.C. 21, 105, 106, 125, 129, 152, and 213 (Internal Revenue Code); Prop. Treas. Reg. 1.125-1 through 7; the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010); and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

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, school 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 departments, school boards or school districts) for the first year? The administrative regulation will not generate any revenues.

(b) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The administrative regulation will not generate any revenues.

(c) How much will it cost to administer this program for the first year? Costs of implementing this program are believed to be similar to previous plan years.

(d) How much will it cost to administer this program for subsequent years? Costs of implementing this program on a continuing basis are believed to be consistent with previous plan years. By law, an amended administrative regulation will be promulgated in 2017 and each subsequent plan year.

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

Revenues (+/-):

Expenditures (+/-)

Other Explanation:

STATEMENT OF EMERGENCY **201 KAR 47:010E**

During its 2016 regular session, the General Assembly passed House Bill 562, the Home Medical Equipment and Services Provider Licensure Act. House Bill 562 amended numerous provisions within the statutory scheme that regulates the home medical equipment and services industry and its participants. See 2016 Kentucky Acts ch. 103. The provisions of House Bill 562 are reflected in KRS 309.400 through 309.422. Home medical equipment and services were previously regulated by the Board of Pharmacy. KRS 309.404 establishes the Kentucky Board of Durable Medical Equipment Suppliers ("Board") to assume this regulatory role. KRS 309.412 mandates that no person shall provide home medical equipment and services without a license issued by the board. KRS 309.416 states that all licenses expire on September 30. This emergency administrative regulation is required to set the licensing criteria and fees for issuing and renewing licenses before the September 30 deadline. This administrative regulation will ensure that prospective providers of home medical equipment and services comply with KRS 309.400 through 309.422 before such equipment and services are provided to the public. Therefore, this action is taken in accordance with KRS 13A.190(1)(a)(3) and (4) to meet a deadline for the promulgation of an administrative regulation that is established by state law and to protect human health. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed simultaneously with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor

JEFF KNIGHT, Chair

APPROVED BY AGENCY: August 19, 2016

FILED WITH LRC: August 25, 2016 at 0 a.m.

GENERAL GOVERNMENT CABINET **Kentucky Board of Durable Medical Equipment Suppliers** **(New Emergency Administrative Regulation)**

201 KAR 47:010E. Home medical equipment and supplier licenses, requirements, and fees.

RELATES TO: KRS 17.500, Chapter 209, 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420, 439.3401

STATUTORY AUTHORITY: KRS 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420

EFFECTIVE: August 25, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.404(4) and 309.406(1)(a) authorize the board to promulgate administrative regulations governing home medical equipment and service providers. This administrative regulation establishes the minimum requirements for the licensing of a home medical

equipment and services provider.

Section 1. License Required. Unless exempted by KRS 309.412(2), a person engaged in providing home medical equipment and services in the commonwealth shall hold a license.

Section 2. Initial License. (1) An applicant for licensure that does not currently hold or that has not previously held a license in the commonwealth shall submit:

(a) An Application for Home Medical Equipment License or Renewal;

(b) A license fee of \$350; and

(c) Evidence of the ability to comply with KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47. To demonstrate the ability to comply with those provisions, the applicant shall:

1. At the time of application, submit proof of accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services that accredits suppliers of durable medical equipment; or

2. Within sixty (60) days of application, submit to an inspection by the board to ensure the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47. The board shall not consider a license application, a license shall not be issued, and the applicant shall not engage in the business of providing home medical equipment or services until the board is provided a final report from the inspector demonstrating the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47.

(2)(a) An applicant issued a license based on proof of accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services shall maintain accreditation during the license period.

1. Each licensee shall advise the board in writing of any change in accreditation, including if the accreditation is revoked, suspended, not renewed, or expires.

2. If the accreditation is revoked, suspended, not renewed, or expires, the licensee shall request and submit to an inspection by the board to ensure the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47.

(b) An applicant that does not maintain an accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services and is issued a license based upon an inspection by the board to ensure the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47 shall submit to an annual inspection by the board.

(c) If the notification required by paragraph (a) of this subsection is not submitted within thirty (30) days of the date on which the licensee's accreditation is revoked, suspended, not renewed, or otherwise expires, the license shall be deemed suspended.

Section 3. License Renewals. A licensee seeking to renew a license shall submit:

(1) An Application for Home Medical Equipment License or Renewal;

(2) The evidence required by Section 2(1)(c) of this administrative regulation; and

(3) A license renewal fee of \$350.

Section 4. Reciprocal Licenses. An applicant seeking licensure pursuant to KRS 309.420 on the basis of reciprocity shall submit:

(1) An Application for Home Medical Equipment License or Renewal;

(2) A certified copy of the applicant's license issued in another state; and

(3) A copy of the applicant's discipline history certified by the licensing authority that issued the license referenced in subsection (2) of this section.

Section 5. (1) Annual Continuing Education Requirement. Persons engaged in the provision of home medical equipment and

services shall complete at least six (6) hours of annual continuing education related to providing home medical equipment and services, which may be provided in-house by the licensee.

(2) The annual educational calendar shall include programs in:

- (a) Infection control and blood borne pathogens;
- (b) OSHA and safety issues to include fire safety, disaster preparedness, and office security;
- (c) HIPAA, privacy and security; and
- (d) Any new home medical equipment or services the licensee plans to provide.

Section 6. Safety Requirements. Each licensee shall:

- (1) Refrain from modifying home medical equipment in a way that might reasonably cause harm to its user;
- (2) Maintain electrical components on licensed premises in a manner to prevent fire or shock hazard;
- (3) Provide adequate lighting for the licensed premises;
- (4) Provide adequate ventilation for the licensed premises;
- (5) If essential to maintain life or if the lack of service might reasonably cause harm to the user, provide services twenty-four (24) hours daily if contracted for by supplier and user;
- (6) Ensure that all home medical equipment is free of defects and operates within the manufacturer's specifications;
- (7) Document the chain of custody and possession of home medical equipment;
- (8) Establish, maintain, and adhere to a protocol for retrieving home medical equipment if a recall is initiated;
- (9) Ensure that home medical equipment bears the appropriate labels, including:
 - (a) Warning labels and tags; and
 - (b) A label that contains the licensee's name, address, and telephone number;
- (10) Maintain in a secure location all home medical equipment stored on the licensed premises;
- (11) Establish, maintain, and adhere to procedures for accurately and precisely tracking records of all home medical equipment shipped or received that includes the home medical equipment purchased or the services rendered in each transaction, the date of the transaction, the quantity of the transaction, and an itemized description of the home medical equipment and services rendered; and
- (12) Establish, maintain, and adhere to procedures that set forth a detailed description of how the operation will comply with applicable federal, state, or local laws or administrative regulations.

Section 7. Sanitation Requirements. A home medical equipment supplier shall:

- (1) Instruct users of the home medical equipment on proper cleaning techniques as specified by the manufacturer;
- (2) Repair and clean all components of home medical equipment in a confined and properly ventilated area;
- (3) Maintain and store home medical equipment to ensure proper lighting, ventilation, temperature, humidity control, sanitation, space, and security; and
- (4) Establish, maintain, and adhere to a protocol for cleaning and disinfecting home medical equipment that addresses both aerobic and anaerobic pathogens. The protocol shall include:
 - (a) Maintain segregated areas on the licensed premises and in delivery vehicles for clean, dirty, and contaminated home medical equipment; and
 - (b) Cleaning and disinfecting home medical equipment according to manufacturer specifications.

Section 8. Record Retention and Inspection. (1) Licensees shall be required to maintain the following records for a period of at least three (3) years:

- (a) Invoices and receipts for all home medical equipment and services provided;
- (b) A complete and accurate list that includes the following information for the licensee's employees:
 - 1. Names;
 - 2. Addresses;
 - 3. Telephone numbers;

4. Criminal history, if any; and

5. Dates of employment;

(c) Records of continuing education completed for each person or employee engaged in the provision of home medical equipment and services, including the names of the persons attending the continuing education, the date of attendance, the title of the course, the entity offering the course, and a certificate of completion or similar document;

(d) Documentation of home medical equipment and services that includes:

- 1. The types of home medical equipment;
- 2. The manufacturer;
- 3. The model number;
- 4. The serial number;
- 5. Date of repair;
- 6. Specific repair made; and
- 7. The name of the person performing the repair;

(e) Documentation of any complaints received and how the complaint was resolved;

(f) Documentation of a function and safety check of home medical equipment that was performed prior to delivery of the home medical equipment and that the user of the home medical equipment is provided instruction on its proper use, safety, and maintenance; and

(g) A material safety data sheet (MSDS) documenting the solutions, products, and procedures used in cleaning and disinfecting home medical equipment.

(2) A licensee shall provide the records required by subsection (1) of this section to the board for inspection within three (3) business days of a request by the board. The board shall specify the location to which the records shall be delivered and if the board shall require electronic or hard copies of the records.

Section 9. Other fees. Pursuant to KRS 309.406(1)(f), the board shall charge the following fees for services:

Service	Fee
Duplicate license	\$15
Discipline history	\$15
Paper copies of documents	\$.10 per page if for a noncommercial purpose; or \$.25 per page if for a commercial purpose
Disks	\$2.00 per disk if for a noncommercial purpose; or \$10.00 per disk if for a commercial purpose
Mailing lists	\$15.00 per list if for a noncommercial purpose; or \$75.00 per list if for a commercial purpose

Section 10. Office of Occupations and Professions. Pursuant to KRS 309.404(9), the board vests in the staff of the Office of Occupations and Professions the authority to grant or deny licenses, accept payments, employ inspectors, receive complaints, take disciplinary action against home medical equipment and service providers, and receive appeals.

Section 11. Incorporation by Reference. (1) "Application for Home Medical Equipment License or Renewal", 2016, is incorporated by reference.

(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, 8:00 a.m. to 4:30 p.m., and is available at <http://kdbdmes.ky.gov/>.

JEFF KNIGHT, Chair

APPROVED BY AGENCY: August 19, 2016

FILED WITH LRC: August 25, 2016 at 9 a.m.

CONTACT PERSON: Carson Kerr, Executive Advisor, Public

Protection Cabinet, Capital Plaza Tower, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969, email Carson.Kerr@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the means, requirements, and fees for acquiring, renewing, and maintaining a home medical equipment and services license in the Commonwealth.

(b) The necessity of this administrative regulation: This regulation is being promulgated to permit the Board to issue and renew licenses for these providers in the interest of public safety. This administrative regulation as promulgated by the Board will subject those market participants to continued licensing, inspection, and afford reinstatement of licenses, and administrative appeals to those who may need such process. It also sets forth the safety, sanitation, and document retention requirements for licensees. This regulation will equip the Kentucky Durable Medical Equipment Suppliers Board with the tools to adequately regulate those market participants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 309.406 the Board may prescribe the means, requirements, and fees for acquiring, renewing, and maintaining a home medical equipment and services license. This administrative regulation complies with KRS 309.406 by establishing the minimum requirements for the licensing of a home medical equipment and services provider. It also complies with KRS 309.414 by setting forth the record retention requirements for licensees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the means, requirements, and fees for acquiring, renewing, and maintaining a home medical equipment and services license in 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: 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: According to the Board of Pharmacy there are approximately 725 persons engaged in the business of providing home medical equipment and services. They include individuals, businesses, and presumably some organizations. A demographic summary of these persons has not been afforded by the Board of Pharmacy, but this information will be aggregated upon initial licensing by the Kentucky Durable Medical Equipment Suppliers 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: Applicants and existing licensees will be required to comply with the newly promulgated regulations regarding application and renewal for licensure. To maintain a license, licensees will be required to comply with the safety, sanitation, and records retention requirements established by the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation requires a \$350 license fee with every application for a two-year home medical equipment

and services license. It is anticipated that most licensees will already comply with similar requirements required to obtain accreditation from national accreditation agencies approved by the Centers for Medicare & Medicaid Services.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Those persons may continue to provide home medical equipment and services.

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

(a) Initially: It will cost approximately \$65,000 in the first year to implement this administrative regulation.

(b) On a continuing basis: It will cost approximately \$65,000 annually on a continuing basis to implement this administrative regulation

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fees collected from licensing.

(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 establishes certain fees for applicants and licensees, consistent with applicable provisions of KRS Chapter 309. The Board does not anticipate the need for additional funding beyond those fees established in this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a licensing fee so that the Board may review license applications, conduct appropriate inspections, and provide administrative hearing when necessary.

(9) TIERING: Is tiering applied? Tiering was not applied because the licensing requirement applies equally to all applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Office of Occupations and Professions, the Kentucky Board of Durable Medical Equipment Suppliers, and the Kentucky Board of Pharmacy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420.

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 board is newly established. Previously the Durable Medical Equipment Suppliers were regulated by the Kentucky Board of Pharmacy. The Kentucky Board of Pharmacy was unable to provide any expenditure data as their accounting system did not differentiate expenditures for inspecting and regulating home medical equipment and service providers from Pharmacies. The Kentucky Durable Medical Equipment Board estimates that expenditures to implement this administrative regulation will be approximately \$65,000 per year. The Kentucky Durable Medical Equipment Board projects its licensing fee will generate revenue of approximately \$250,000 for each two-year licensing period. That revenue will be used to conduct potential administrative hearings, retain inspectors, and for the Board to engage in its oversight role.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate approximately \$250,000 over a two year period.

(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? In subsequent years, the Board anticipates this administrative regulation will generate approximately \$250,000 for each biennium.

(c) How much will it cost to administer this program for the first

year? Initially, it will cost approximately \$65,000 to administer this program in the first year. The Board anticipates that it may incur additional costs to conduct administrative hearings and appeals. However, there is currently no basis to project the rate or expense at which those costs will accrue as no historical information has been provided by the Kentucky Board of Pharmacy.

(d) How much will it cost to administer this program for subsequent years? It will cost approximately \$65,000 annually to administer this program 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 (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation: Not applicable.

STATEMENT OF EMERGENCY 201 KAR 47:020E

During its 2016 regular session, the General Assembly passed House Bill 562, the Home Medical Equipment and Services Provider Licensure Act. House Bill 562 amended numerous provisions within the statutory scheme that regulates the Durable Medical Equipment industry and its participants. See 2016 Kentucky Acts ch. 103. The provisions of House Bill 562 are reflected in KRS Chapter 309.400 through 309.422. Home medical equipment and services were previously regulated by the Board of Pharmacy. KRS 309.404 establishes the Kentucky Board of Durable Medical Equipment Suppliers ("Board") to assume this regulatory role. KRS 309.412 mandates that no person shall provide home medical equipment and services without a license issued by the Board. KRS 309.416 states that all licenses expire on September 30. The Board has separately promulgated an emergency administrative regulation permitting it to issue and renew licenses and setting the method and fees to apply for such a license. This emergency administrative regulation is required to ensure the board is properly equipped to conduct its regulatory role in protecting the public health by inspecting those engaged in providing home medical equipment and services. Therefore, this action is taken in accordance with KRS 13A.190(1)(a)(3) and (4) to meet a deadline for the promulgation of an administrative regulation that is established by state law and to protect human health. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed simultaneously with this emergency regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
JEFF KNIGHT, Chair

GENERAL GOVERNMENT CABINET Kentucky Board of Durable Medical Equipment Suppliers (New Emergency Administrative Regulation)

201 KAR 47:020E. Inspections, discipline, reinstatement, and administrative appeals.

RELATES TO: KRS 17.500, Chapter 209, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420, 439.3401

STATUTORY AUTHORITY: KRS 309.406, 309.412, 309.414, 309.416, 309.418, 309.420

EFFECTIVE: August 25, 2016

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.404(4) and 309.406(1)(a) authorize the board to promulgate administrative regulations governing home medical equipment and services providers. KRS 309.418 authorizes the board to discipline licensees and expunge minor violations. This administrative regulation authorizes the board, its designee, or its inspector to inspect and investigate all persons engaged in providing home medical equipment or services, establishes the process for seeking an expungement of a minor violation, and establishes the process for appeals.

Section 1. Inspections. (1) The board and its inspectors may inspect and investigate all persons engaged in providing home medical equipment or services, as well as their premises and records:

- (a) In conjunction with an application;
 - (b) If the board has grounds to believe that a person's actions are endangering the public;
 - (c) If there is reason to believe a person has violated any provision of KRS Chapter 309.400 through 309.422 or 201 KAR Chapter 47;
 - (d) To investigate a complaint; or
 - (e) To verify that action has been taken to correct a violation.
- (2) If the board conducts an inspection pursuant to subsection (1) of this section, the licensee or applicant shall pay the reasonable costs of the inspection, not to exceed \$350, which shall be:

- (a) The inspector's hourly rate approved by the board; and
- (b) If the inspector is required to travel more than 100 miles from the inspector's regular place of business to conduct an inspection, a reimbursement for the inspector's reasonable costs of accommodations for each day the inspection continues, consistent with the requirements of 200 KAR 2:006.

(3) The board may conduct an unannounced inspection of a licensee's premises and records to ensure compliance with the provisions of KRS 309.400 through 309.422 and 201 KAR Chapter 47. The board shall not charge for an unannounced inspection.

(4) The board may investigate a licensee's or applicant's criminal history or credit history and may obtain those reports as part of the licensure process, an inspection, or during an investigation.

(5)(a) Unless a deficiency threatens the public safety, the licensee or applicant shall be advised in writing of any deficiencies and shall have thirty (30) days to correct the deficiency.

(b) If the inspector determines that a deficiency threatens the public safety, the inspector shall require the licensee or applicant to remediate the deficiency before again providing home medical equipment or services.

Section 2. Reinstatement. (1) A person whose license has been revoked may petition the board for reinstatement of the license. The petition shall include:

- (a) The person's name;
 - (b) The person's license number;
 - (c) A statement of why the license was revoked and if the person's license was revoked because the person was convicted of or entered an Alford plea or plea of nolo contendere to:
 - 1. A sex crime as defined in KRS 17.500;
 - 2. A criminal offense against a victim who is a minor as defined in KRS 17.500;
 - 3. A felony offense under KRS Chapter 209; or
 - 4. An offense that would classify the person as a violent offender under KRS 439.3401;
 - (d) An explanation of how the person has been rehabilitated and is again able to engage in the practice of providing home medical equipment and services with applicable skill, competency, and safety to the public; and
 - (e) A processing fee of twenty-five (25) dollars.
- (2) A reinstated license shall expire two (2) years following the date it was first issued.

Section 3. Permanent Record. The board shall maintain a permanent record of:

- (1) A licensee's violations;
- (2) The date of the violation;
- (3) The disciplinary action taken; and
- (4) The date on which the disciplinary action was completed.

Section 4. Expungement. (1) Except as established in subsection (3)(b) of this section, a licensee may request that the board expunge a minor violation.

- (2) Minor violations shall include:
 - (a) The failure to meet an inspector at a scheduled inspection;

or

(b) A first-time failure to update information provided on an application for licensure.

(3) To request an expungement, a licensee shall provide:

(a) A written request stating with specificity the violation to be expunged;

(b) If not listed as a minor violation in subsection (2) of this section, an explanation of why the violation should be deemed minor based upon the considerations established in KRS 309.418(7)(d); and

(c) A twenty-five (25) dollar processing fee.

Section 5. Appeals. (1) An applicant or licensee may request an administrative hearing before the board within twenty (20) days of the denial, suspension, or revocation of a license.

(2) The appeal shall include:

(a) The name of the licensee;

(b) A copy of the notice of the denial, suspension, or revocation; and

(c) A brief statement of the reasons for the appeal.

(3) Appeals shall be governed by KRS Chapter 13B.

JEFF KNIGHT, Chair

APPROVED BY AGENCY: August 19, 2016

FILED WITH LRC: August 25, 2016 at 9 a.m.

CONTACT PERSON: Carson Kerr, Executive Advisor, Public Protection Cabinet, Capital Plaza Tower, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969, email Carson.Kerr@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the means of inspection, discipline, revocation, reinstatement, and administrative appeals for the issuance of home medical equipment and services providers licenses in the Commonwealth.

(b) The necessity of this administrative regulation: All home medical equipment and services providers licenses in the Commonwealth of Kentucky will expire on September 30, 2016. The Kentucky Board of Durable Medical Equipment Suppliers issues and renew licenses for these providers in the interest of public safety. This administrative regulation will subject those market participants to inspection and discipline, and afford a process for reinstatement of licenses, expungement of minor violations, and administrative appeals. This administrative regulation will equip the Board with the tools to enforce the Home Medical Equipment and Services Provider Licensure Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 309.418, the Board may prescribe the means of inspection, discipline, reinstatement of, and administrative appeals surrounding the issuance, suspension and revocation of home medical equipment licenses in the Commonwealth. This administrative regulation complies with KRS 309.406 by requiring licensees to pay the reasonable costs of inspections. It complies with KRS 309.418 by setting forth the process for reinstatement of a license and the means of expunging minor violations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulations permits the board to conduct inspections of market participants, including applicant and licensees, sets forth the criteria for reinstatement of licenses and expungement of minor violations, and the appeals process.

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

(a) How the amendment will change this existing administrative regulation: 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: According to the Board of Pharmacy there are approximately 725 persons engaged in the business of providing home medical equipment and services. They include individuals, businesses, and presumably some organizations. A demographic summary of these persons has not been afforded by the Board of Pharmacy. However, this information will be aggregated by the Office of Occupations and Profession upon initial licensing conducted by the Kentucky Durable Medical Equipment Suppliers 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: Market participants, applicants, and existing licensees will be required to comply with this administrative regulation by submitting to the required inspections or following the appeals, expungement, or reinstatement processes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation requires applicants and licensees to pay the inspector's approved hourly rate to complete an inspection, not to exceed \$350. If the inspector is required to travel in excess of 100 miles from the inspector's regular place of business to conduct the inspection, the applicant will be required to reimburse the Board for the reasonable costs of the inspector's accommodations for each day the inspection continues, consistent with the requirements of 200 KAR 2:006.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This regulation clearly states for licensees the bases for inspections and the appeals process. This regulation will ensure that licensees may appeal certain actions by the board and expunge minor violations. This accountability required by this regulation will secure for licensees the confidence of the public.

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

(a) Initially: Initially: It will cost approximately \$65,000 annually to implement this administrative regulation.

(b) On a continuing basis: It will cost approximately \$65,000 annually on a continuing basis to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fees collected from licensing, fees collected for the services of the inspectors, and fees from penalties collected for noncompliance. The General Assembly set the maximum fee for a two-year license application in KRS 309.414. In doing so it also provided a rate at which the Board may at its discretion increase that fee.

(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 establishes certain fees for applicants and licensees, consistent with applicable provisions of KRS Chapter 309. At this time, the Board does not anticipate the need for additional funding beyond those fees established in this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes fees for the reasonable cost to complete inspections when needed.

(9) TIERING: Is tiering applied? Tiering was not applied because the licensing requirement applies equally to all applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Occupations and Professions, The Kentucky Board of Durable Medical Equipment Suppliers, and the Kentucky Board of Pharmacy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.406, 309.412, 309.414, 309.416, 309.418, 309.420.

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 Kentucky Durable Medical Equipment Board projects its licensing fee will generate revenue of approximately \$250,000 for each two-year licensing period. That revenue will be used to conduct potential administrative hearings, retain inspectors, and for the Board to engage in its oversight role. will be used to cover the costs of administrative hearings.

(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 Kentucky Durable Medical Equipment Board projects its licensing fee will generate revenue of approximately \$250,000 for each two-year licensing period. That revenue will be used to conduct potential administrative hearings, retain inspectors, and for the Board to engage in its oversight role. will be used to cover the costs of administrative hearings.

(c) How much will it cost to administer this program for the first year? Initially, it will cost approximately \$65,000 to administer this program in the first year. The Board anticipates that it may incur additional costs to conduct administrative hearings and appeals. However, there is currently no basis to project the rate or expense at which those costs will accrue as no historical information has been provided by the Kentucky Board of Pharmacy.

(d) How much will it cost to administer this program for subsequent years? Approximately \$65,000 annually to administer this program 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 (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation: Not applicable.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(As Amended at ARRS, September 13, 2016)

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

RELATES TO: KRS 154A.130(4), 156.010, 158.007(8),
164.002(1), (2), 164.7871, 164.7874, 164.7877, 164.7879,
164.7881, 164.7885, 164.7889

STATUTORY AUTHORITY: KRS 164.7874(3), (16),
164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (c), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS
164.7877(3) requires the Kentucky Higher Education
Assistance Authority to administer the Kentucky Educational
Excellence Scholarship (KEES) trust fund. KRS 164.7874(16)
requires the authority to promulgate administrative regulations
establishing[determine] the KEES curriculum's courses of study.
KRS 164.7879(3)(e)(d) requires the authority to determine the
eligibility of a noncertified, nonpublic high school graduate and of a
GED recipient for a supplemental award. KRS 164.7874(3)
requires the authority to establish score equivalents between the
SAT and ACT[a table to convert an SAT score to an ACT
score]. KRS 164.7881(6) requires the authority to promulgate
administrative regulations establishing[establish] a five (5)
year postsecondary education program standard. KRS
164.7881(4)(a) requires the authority to establish overall award
levels for the program. KRS 164.7879(2)(c) requires the authority
to promulgate administrative regulations
determining[determine] eligibility for children of parents who are
in the military and who claim Kentucky as their home of record.
KRS 164.7881(4)(c) requires the authority to promulgate
administrative regulations identifying[identify] equivalent
undergraduate programs of study. This administrative regulation
establishes those requirements relating to the Kentucky
Educational Excellence Scholarship (KEES) Program.

Section 1. Definitions. (1) "Academic term" means the fall or
spring semester or their equivalence under a trimester or quarter
system at a postsecondary education institution and does not
include summer sessions.

(2) "Accredited out-of-state high school" means a high school
that is:

(a) Located in a state other than Kentucky or in another
country; and

(b) A member of an organization belonging to the Commission
on International and Trans-Regional Accreditation.

(3) "ACT" means the test:

(a) Administered to a student for entrance to a Kentucky
postsecondary education institution; and

(b) Owned by the ACT Corporation of Iowa City, Iowa.

(4) "Advanced placement" or "AP" is defined by KRS
164.002(1).

(5) "Cambridge Advanced International" or "CAI" is defined by
KRS 164.002(2).

(6) "Course" means the equivalent of one (1) credit as
determined by the Kentucky Department of Education (KDE) in 704
KAR 3:305.

(7) "Department of Defense school" means a school operated
by the U. S. Department of Defense for the purpose of providing a
high school education to a child whose custodial parent or
guardian is in active military or diplomatic service in a state other
than Kentucky or in another country.

(8) "Dual credit" is defined by KRS 158.007(8).

(9) "Enrolled" means the status of a student who has
completed the registration requirements, except for the payment of
tuition and fees, at a participating postsecondary education

institution that the student is attending.

(10) "Free and Reduced Price Lunch" means the National
School Lunch program established by the United States
Department of Agriculture to provide subsidized meals to lower
income students.

(11) "GED" means a general educational development diploma
awarded to a student.

(12) "International Baccalaureate" or "IB" is defined by KRS
164.002(7).

(13) "SAT" means the test:

(a) Administered to a student for entrance to a Kentucky
postsecondary education institution; and

(b) Owned by the College Board.

Section 2. High School Grade Point Average Calculation and
Reporting. (1) An eligible high school student's grade point
average for an academic year shall be calculated using each letter
grade awarded for all courses taken during an academic year. The
grading scale cutoff scores used to determine the letter grade for
each course shall be the same as those used to determine the
letter grade for each course reported on the student's official high
school transcript.

(2)(a) Except as provided in paragraphs (b) and (c) of this
subsection, an eligible high school student's grade point average
shall be calculated by:

1. Taking the number of units in a course multiplied by the
course grade as expressed on a 4.0 point grading scale where 4.0
is an "A", 3.0 is a "B", 2.0 is a "C", 1.0 is a "D", and 0.0 is an "F";

2. Adding the total number of points accumulated for an
academic year; and

3. Dividing the total number of points accumulated in
subparagraph 2 of this paragraph by the total number of units for
the academic year.

(b) For an eligible high school student taking an AP, IB, or CAI
course during the academic year, the course grade assigned shall
be calculated using a 5.0 point scale where 5.0 is an "A", 4.0 is a
"B", 3.0 is a "C", 2.0 is a "D", and 1.0 is an "F".

(c) Beginning with the academic year 2015-2016, for an eligible
high school student taking a dual credit course during the
academic year, the course grade assigned shall be calculated
using a 5.0 point scale where 5.0 is an "A", 4.0 is a "B", 3.0 is a
"C", 2.0 is a "D", and 1.0 is an "F". This weighted scale shall not be
applicable to a remedial course.

(3) The grade point average reported for an eligible high school
student for each academic year shall include all information as set
forth in KRS 164.7885(1) and be submitted to the authority in either
an electronic or hard copy format.

(4) A high school student who participated in an educational
high school foreign exchange program or the Congressional Page
School that was approved by the student's local high school shall
have the student's grade point average reported in accordance
with KRS 164.7879(2)(b).

Section 3. High School Students of Custodial Parents or
Guardians in Active Military Service. (1)(a) For purpose of
determining eligibility under the provisions of KRS 164.7879(2)(c),
a high school student shall establish that the custodial parent or
guardian meets the requirements of KRS 164.7879(2)(c) 1.a. and
b.[1a and b] and shall submit the Home of Record Certification
form to the authority.

(b) The authority annually shall notify the eligible high school
student and the custodial parent or guardian of the student's
eligibility.

(2)(a) A high school student, determined to be eligible for the
KEES program under the terms of KRS 164.7879(2)(c) and
subsection (1)(a) of this section, shall be responsible for
requesting:

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

1. Grade and curriculum information from the local school; and
2. That the local school submit the information to the authority using the Curriculum Certification form and the Data Submission form.

(b) Upon receipt of curriculum and grade information from an accredited out-of-state high school or Department of Defense school for a student determined to be eligible for the KEES Program under this section, the authority shall:

1. Verify that the submitted curriculum meets the requirements of Section 4 of this administrative regulation;
2. Verify that the out-of-state high school or Department of Defense school is an accredited high school; and
3. Retain the Curriculum Certification form on file until the student's eligibility has expired.

Section 4. Postsecondary Student Eligibility and KEES Curriculum. (1) A Kentucky postsecondary student shall be eligible to receive a base scholarship award if the student:

- (a) Has earned a base scholarship award in high school;
- (b) Has completed the KEES curriculum as set forth in subsection (2) of this section;
- (c) Has graduated from a Kentucky high school, except as provided in Section 2(4) or 3 of this administrative regulation; and
- (d) Is enrolled in a participating institution in an eligible program.

(2) Except as provided in subsection (4) of this section, the KEES curriculum shall consist of the curriculum standards established in 704 KAR 3:305.

(3) A student who graduates from high school at the end of the fall semester of his or her senior year and who meets the requirements of KRS 164.7874(7) shall be eligible to earn a KEES award for that year upon:

- (a) Completion of no fewer than three (3) courses of study; and
- (b) Satisfying the provisions of KRS 164.7879.

(4) Except as provided in subsection (5) of this section, a high school may substitute an integrated, applied, interdisciplinary, or higher level course for a required course or required academic and career interest standards-based learning experience if the course:

- (a) Provides the same or greater academic rigor and the course covers or exceeds the minimum required content areas established in 703 KAR 4:060; or
- (b) Is an honors course, cooperative education course, AP course, IB course, CAI course, dual credit course, or a course taken at a postsecondary education institution.

(5) Beginning with the 2012-2013 academic year, only one (1) cooperative education course per academic year shall count for

purposes of satisfying KEES curriculum requirements.

(6) A high school annually shall provide written documentation to a student advising if the student's schedule of coursework meets the requirements of the KEES curriculum.

Section 5. Eligible Postsecondary Education Programs. (1) An eligible program shall be a certificate or degree program offered by a participating institution and recognized by the authority pursuant to 11 KAR 15:010, Section 1(10).

(2) Except as established in subsection (4) of this section, an eligible program at an out-of-state participating institution shall be limited to those programs that qualify through the Academic Common Market administered by the Southern Regional Education Board.

(3) Pursuant to KRS 164.7881(6), the following academic programs at Kentucky postsecondary education institutions shall be approved as five (5) year baccalaureate degree programs:

(a) Landscape architecture (04.0601); and

(b) For students that graduated from high school not later than the 2004-2005 academic year, engineering if enrollment in the engineering program has been continuous (14.0101, 14.201, 14.0301, 14.401, 14.501, 14.0701, 14.0801, 14.0901, 14.1001, 14.1201, 14.1301, 14.1401, 14.1701, 14.1801, 14.1901, 14.2101, 14.2301, 14.2401, 14.2801, 14.9999.01, 14.3501).

(4) Pursuant to KRS 164.7881(4)(c)1, an academic program shall be designated as an equivalent undergraduate program of study if the student in the program of study:

(a) Has not received eight (8) academic terms of a KEES award;

(b) Is classified by an institution as a graduate or professional student and is enrolled in one (1) of the following academic programs:

1. Pharm. D;
2. The optometry or veterinary medicine programs at an institution, which is a part of the Kentucky Contract Spaces Program; or
3. A program contained on the Equivalent Undergraduate Programs List; and

(c) Has not completed a baccalaureate degree.

Section 6. SAT Conversion Table. (1) Pursuant to KRS 164.7874(3), the following SAT to ACT Conversion Table shall be used to convert scores for SAT exams taken prior to the 2011-2012 academic year:

SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite
1600	35-36	1370	31	1140	25	910	19	680	14
1590	35	1360	31	1130	25	900	19	670	14
1580	35	1350	30	1120	24	890	18	660	14
1570	35	1340	30	1110	24	880	18	650	13
1560	35	1330	30	1100	24	870	18	640	13
1550	34	1320	30	1090	24	860	18	630	13
1540	34	1310	29	1080	23	850	17	620	13
1530	34	1300	29	1070	23	840	17	610	13
1520	34	1290	29	1060	23	830	17	600	13
1510	34	1280	29	1050	22	820	17	590	13
1500	33	1270	28	1040	22	810	17	580	12
1490	33	1260	28	1030	22	800	16	570	12
1480	33	1250	28	1020	22	790	16	560	12
1470	33	1240	28	1010	21	780	16	550	12
1460	33	1230	27	1000	21	770	16	540	12
1450	32	1220	27	990	21	760	16	530	12
1440	32	1210	27	980	21	750	15	520	12
1430	32	1200	26	970	20	740	15	510	11
1420	32	1190	26	960	20	730	15	500	11
1410	32	1180	26	950	20	720	15		

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

1400	31	1170	26	940	20	710	15		
1390	31	1160	25	930	19	700	14		
1380	31	1150	25	920	19	690	14		

This table may be used to relate SAT I V+M scores to ACT Composite scores.

The estimates are based on the test scores of 103,525 students from fourteen (14) universities and two (2) states who took both the ACT and the SAT I between October 1994 and December 1996. Because the ACT and the SAT I have different content, students' actual scores on the ACT could differ significantly from the concordance estimates in the table.

Source: ACT, Inc. Questions about the concordance study may be directed to ACT's Research Division (319/337-1471).

January 1998

(2) Pursuant to KRS 164.7874(3), the SAT to ACT Conversion Table included in this subsection shall be used to convert scores for SAT exams taken during or after the 2011-2012 academic year, but prior to March 2016. Only the scores from the critical reasoning and mathematics sections of the SAT within a single exam administration shall be considered for KEES supplemental awards.

Table C-2 Concordance Between SAT I Recentered CR+M Score and ACT Composite Score									
SAT I CR+M	ACT Composite	SAT CR+M	ACT Composite	SAT CR+M	ACT Composite	SAT CR+M	ACT Composite	SAT CR+M	ACT Composite
1600	36	1370	31	1140	25	910	19	680	14
1590	35	1360	31	1130	25	900	19	670	14
1580	35	1350	30	1120	24	890	18	660	13
1570	35	1340	30	1110	24	880	18	650	13
1560	35	1330	30	1100	24	870	18	640	13
1550	35	1320	29	1090	24	860	18	630	13
1540	35	1310	29	1080	23	850	17	620	13
1530	34	1300	29	1070	23	840	17	610	12
1520	34	1290	29	1060	23	830	17	600	12
1510	34	1280	28	1050	23	820	17	590	12
1500	34	1270	28	1040	22	810	16	580	12
1490	34	1260	28	1030	22	800	16	570	12
1480	33	1250	28	1020	22	790	16	560	12
1470	33	1240	27	1010	21	780	16	550	11
1460	33	1230	27	1000	21	770	16	540	11
1450	33	1220	27	990	21	760	15	530	11
1440	33	1210	27	980	21	750	15	520	11
1430	32	1200	26	970	20	740	15	510	11
1420	32	1190	26	960	20	730	15		
1410	32	1180	26	950	20	720	15		
1400	32	1170	26	940	20	710	14		
1390	31	1160	25	930	19	700	14		
1380	31	1150	25	920	19	690	14		

This table may be used to relate SAT CR+M scores to ACT Composite scores.
The estimates are based on the test scores of 300,437 students who took both the ACT and the SAT CR+M between September 2004 and June 2006. Because the ACT and the SAT CR+M have different content, students' actual scores on the ACT could differ significantly from the concordance estimates in the table.
Source: ACT, Inc. Questions about the concordance study may be directed to ACT's Research Division (319/337-1471).
June, 2008

(3) Pursuant to KRS 164.7874(3), the SAT and ACT Conversion Table included in this subsection shall be used to convert scores for SAT exams taken during or after March 2016. Only the scores from the Evidence-Based Reading and Writing Sections (ERW+M) of the SAT within a single exam administration shall be considered for KEES supplemental awards.

Table C-2 Concordance Between SAT ERW+M Score and ACT Composite Score									
SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite	SAT ERW+M	ACT Composite
1600	36	1380	29	1160	23	940	17	720	12
1590	35	1370	29	1150	23	930	17	710	12
1580	35	1360	29	1140	23	920	17	700	12
1570	35	1350	28	1130	22	910	17	690	12
1560	34	1340	28	1120	22	900	16	680	12
1550	34	1330	28	1110	22	890	16	670	11
1540	34	1320	28	1100	21	880	16	660	11
1530	33	1310	27	1090	21	870	16	650	11
1520	33	1300	27	1080	21	860	15	640	11
1510	33	1290	27	1070	21	850	15	630	11
1500	33	1280	26	1060	20	840	15	620	11

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

1490	32	1270	26	1050	20	830	15	610	11
1480	32	1260	26	1040	20	820	14	600	11
1470	32	1250	25	1030	20	810	14	590	11
1460	31	1240	25	1020	19	800	14		
1450	31	1230	25	1010	19	790	14		
1440	31	1220	25	1000	19	780	14		
1430	31	1210	24	990	19	770	13		
1420	30	1200	24	980	18	760	13		
1410	30	1190	24	970	18	750	13		
1400	30	1180	24	960	18	740	13		
1390	29	1170	23	950	18	730	12		

Section 7. Criteria for Supplemental Award to Noncertified, Nonpublic High School Students and to GED Students. (1) A Kentucky resident who is a citizen, national, or permanent resident of the United States and who graduates from a nonpublic Kentucky high school not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

- (a) The student is not a convicted felon;
- (b) The date of the student's graduation is May 1999 or thereafter;

(c) The student takes the ACT or SAT and has at least a minimum score as established by KRS 164.7879(3); and

(d) The student enrolls in a participating institution within five (5) years after graduation from high school.

(2) A Kentucky resident who is a citizen, national, or permanent resident of the United States and who has not graduated from either a certified Kentucky high school or a nonpublic Kentucky high school that is not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

- (a) The student is not a convicted felon;
- (b) The student's 18th birthday occurs on or after January 1, 1999;

(c) The student takes and receives a GED diploma in Kentucky within five (5) years of attaining eighteen (18) years of age;

(d) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and

(e) The student enrolls in a participating institution after July 1, 1999, and within five (5) years of receiving the GED diploma.

(3) A student who graduates from or attends an accredited out-of-state high school or Department of Defense school shall qualify for a supplemental award if:

(a) The parents meet the provisions of KRS 164.7879(2)(c) **1.a. and b. [1a and b];**

(b) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and

(c) The student enrolls in a participating institution within five (5) years of graduating from or attending the accredited out-of-state high school or Department of Defense school.

(4) A student requesting a supplemental award under this section shall notify the participating institution where the student has or intends to enroll.

(5)(a) Residency shall be determined by a participating institution in accordance with 13 KAR 2:045.

(b) A participating institution shall determine a student's eligibility for a supplemental award under this section and shall notify the authority of the student's eligibility.

Section 8. Supplemental Award. An eligible high school student who receives a supplemental award as a result of taking and receiving a GED within five (5) years of attaining eighteen (18) years of age shall have a maximum of five (5) years eligibility beyond the date the GED is received.

Section 9. Supplemental Award for Achievement on Examinations. (1) Pursuant to KRS 164.7879(3)(c) and (d), a supplemental award shall be provided for achievement on AP, IB, or CAI examinations to an eligible high school student whose family was eligible for free and reduced price lunch during any year

of high school.

(2)(a) An eligible high school shall report the status of each student as eligible or ineligible for free and reduced price lunch to the authority on an annual basis.

(b) In determining a high school student's free and reduced price lunch eligibility, the high school shall utilize the income eligibility guidelines published each year by the United States Department of Agriculture, Food and Nutrition Service, **available at www.fns.usda.gov/school-meals/income-eligibility-guidelines**.

Section 10. Administrative Responsibilities and Expenses of Program. (1) The authority annually shall determine the level of funding for expenses associated with the program and shall allocate funds from the ["Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund"] described in KRS 164.7877(1) and (3).

(2) The authority annually shall adopt a budget proposal indicating the amount of funds available and a detailed listing of the expenditures necessary to operate the program.

(3) The authority shall develop an allotment schedule for the release of the administrative funds.

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

- (a) "Home of Record Certification", June 2005;
- (b) "Curriculum Certification", June 2005;
- (c) "Data Submission", June 2005; and
- (d) "Equivalent Undergraduate Programs List", June 2005.

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

ERICA L. HORN, Chair

APPROVED BY AGENCY: May 26, 2016

FILED WITH LRC: June 14, 2016 at 10 a.m.

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.

FINANCE AND ADMINISTRATION CABINET Teachers' Retirement System (As Amended at ARRS, September 13, 2016)

102 KAR 1:165. Surviving children's benefits.

RELATES TO: KRS 161.520

STATUTORY AUTHORITY: KRS 161.310, **161.520(7), (8)**

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 161.310 requires the Board of Trustees of the Kentucky Teachers' Retirement System (TRS) to promulgate administrative regulations for the administration of funds of the retirement system and for the transaction of business. KRS 161.520(8) requires the board [of Trustees of Teachers' Retirement System of the State of Kentucky (TRS)] to promulgate administrative regulations for the administration of survivor's benefits for a deceased member's child. KRS 161.520(7) provides that the Board of Trustees of TRS may require application for survivor's**

~~benefits. [KRS 161.520(3)(a) provides that survivor's benefits may be provided to a disabled, adult child. KRS 161.520(6) provides that survivor's] [survivors] [benefits for a dependent child may be extended to age twenty-three (23) if the child is a full-time student in a recognized educational program beyond the high school level.]~~ This administrative regulation defines~~[serves to define]~~ "recognized educational program," and establishes~~[to set up]~~ specific guidelines for administering survivor's benefits and this authorized extension of the benefit period.

Section 1. Definitions. (1) "Full-time student" means a student who is in full-time attendance in a recognized educational program and is carrying a subject load ~~that~~^{which} is considered full time for day students under the standards and practices of the educational institution.

(2) "Recognized educational program" means an educational program beyond the high school level that has been approved by a state, or accredited by a state or nationally-recognized accrediting agency.

Section 2. (1) An application for survivor's benefits for a minor child shall be filed on the Application for Survivor Benefits form and shall include a photocopy of:

- (a) The child's Social Security card; and
- (b) The child's certified birth certificate.

(2) If the application is approved, the minor child's monthly payment shall continue until one (1) of the conditions for termination of benefits in KRS 161.520(6) is met.

Section 3. (1) If a child meets the requirements set forth in KRS 161.520(3)(a), an Application for Adult Disabled Child Benefit form may be filed and shall include:

- (a) A photocopy of the child's Social Security card;
- (b) A photocopy of the child's certified birth certificate;
- (c) A copy of the most recent Federal Income Tax Return listing the child as a dependent;
- (d) Report of Physician for Applicant/Disabled Child Benefit form; and
- (e) Authorization for Direct Deposit of \$200 Adult Disabled Child Benefit form.

(2) If the application is approved, the adult child's monthly payment shall continue until one (1) of the conditions for termination of benefits in KRS 161.520(3)(a) is met.

Section 4. A minor child receiving payment of survivor's~~[survivors]~~ benefits shall be paid in full for any month in which some payment is due. If the child is, or plans to be, a full-time student in a recognized educational program~~[beyond the high school level]~~, he may apply for continuation or restoration of his monthly benefit. If the child's application is approved, his monthly payment shall continue until one (1) of the conditions for termination of benefits in KRS 161.520(6) is met~~[he attains age twenty-three (23) unless he marries or stops attending school on a full-time basis]~~.

Section 5.~~[3.]~~ If the child is a full-time student in a recognized educational program ~~when~~^{beyond the high school level at the time} he reaches age eighteen (18), he shall make application for continuation of his benefit at least thirty (30) days prior to his 18th birthday. A child who is accepted as a full-time student in a recognized educational program after he attains age eighteen (18) shall make application for restoration of his monthly benefit at least thirty (30) days prior to his registration as a student.

Section 6.~~[4.]~~ Benefit payments for a properly qualified student shall begin with the first month in which he is in full-time attendance at a recognized educational program~~[institution]~~. The student shall be eligible for a full monthly benefit for his first month of attendance.

Section 7.~~[5.]~~ Proof of full-time school attendance shall be required if a child has reached age eighteen (18) but not age

twenty-three (23). If the child is eighteen (18) and in high school, within ten (10) days of receipt, the child shall complete and file the Student's Statement Regarding School Attendance form~~[supply the necessary information on form SUR-1 (Student's Statement Regarding School Attendance, Revised 12/2000)]~~. If the child is a student in a recognized educational program, the child shall provide proof of continuing full-time school attendance by completing and filing the Student's Information Update Form after he has attended his first day of class~~[on form SUR-2 (Student Information Update Form)]~~. The information supplied by the child~~[student]~~ shall be corroborated by either a Verification of Full-Time High School Attendance form or a Verification of Full-Time College Attendance form completed and filed by the appropriate high school or recognized educational program~~[a written statement from the school involved]~~.

Section 8.~~[6.]~~ Benefit payments may continue through the normal school vacation periods if the child was a full-time student immediately prior to the vacation period and he intends to continue full-time or actually does attend full-time after the end of the vacation period. Benefit payments shall not be made for more than four (4) months of vacation time during a school year. Benefit payments shall not be made during the summer vacation periods or the following school semesters until the Student's Statement Regarding School Attendance form~~[application for benefits on a form prescribed by the Board of Trustees of the Teachers' Retirement System]~~ is received by the retirement system.

Section 9. If TRS verifies that a child has received survivor's benefits for a period in which the child was either no longer dependent or not enrolled as a full-time student in a recognized educational program, TRS shall seek reimbursement of the benefits paid for that period.

Section 10.~~[7.]~~ A child eighteen (18) and younger may be entitled to benefits retroactively to the date of the member's death. A full-time student in a recognized educational program~~[child]~~ may be entitled to benefits retroactively for as many as six (6) months~~[before the month in which he files the application for benefits. A child shall be entitled to benefits]~~ beginning with the first month in the six (6) month retroactive period in which he met all the requirements to be entitled to benefits except for the filing of an application.

Section 11.~~[8.]~~ When a child attains age eighteen (18) and continues to be entitled to benefits as a full-time student, the person who has been receiving the benefit payments shall continue to receive the payments unless it is deemed advisable to make payment directly to the child or in some other manner.

Section 12.~~[9.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Application for Survivor Benefits" form (Form 15), 2016;
- (b) "Student's Statement Regarding School Attendance" form (SUR-1), 2016;
- (c) "Student Information Update Form" (SUR-2), 2016;
- (d) "Verification of Full-Time College Attendance" form (SUR-3), 2016;
- (e) "Verification of Full-Time High School Attendance" form (SUR-4), 2016;
- (f) "Application for Adult Disabled Child Benefit" form (Form 19), 2016;
- (g) "Report of Physician for Applicant/Disabled Child Benefit" form~~[Form 20]~~, 2016; and
- (h) "Authorization for Direct Deposit of \$200 Adult Disabled Child Benefit" form, 2016~~[SUR-1 (Student's Statement Regarding School Attendance, Revised 12/2000); and~~
- (b)" SUR-2 (Student Information Update Form, 3/2003)".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601-3800, Monday through Friday, 8 a.m. to 5~~[4:30]~~ p.m.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

ARTHUR GREEN, Chairperson

APPROVED BY AGENCY: June 20, 2016

FILED WITH LRC: July 15, 2016 at 8 a.m.

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199, or email at Beau.Barnes@trs.ky.gov.

FINANCE AND ADMINISTRATION CABINET Teachers' Retirement System (As Amended at ARRS, September 13, 2016)

102 KAR 1:290. Disability retirement application, review, and examinations.

RELATES TO: KRS 161.661, 161.663(1), (10)

STATUTORY AUTHORITY: KRS 161.310, 161.661(14)(1), 161.663(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310 requires the Board of Trustees of the Teachers' Retirement System of the State of Kentucky (TRS) to promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business. KRS 161.661(14) authorizes the board to promulgate administrative regulations regarding procedures for a medical review committee to follow when reviewing applications for disability retirement. [KRS 161.661(1) and (14) provide that an application for disability retirement shall be timely submitted for review and disposition by the medical review committee.] KRS 161.661(10) provides that members retired by reason of disability shall undergo periodic examinations at the discretion of the board of trustees to determine whether the disability retirement allowance shall be continued. [KRS 161.663 provides that members with less than five (5) years of Kentucky service credit may file an application for disability retirement if the member meets the requirements set forth in KRS 161.663 and 161.661.] This administrative regulation establishes sets forth guidelines for filing an application for disability retirement and the required periodic examinations.

Section 1. To qualify for disability retirement, a member shall meet the requirements set forth in KRS 161.661(1) and (9) or KRS 161.663. A member who requests an application shall be given a copy of:

(1) Disability Retirement Information You Should Know;

(2) Disability New Retiree Health Insurance Information for Plan Year 2016; and

(3) Wage Bracket Method Tables for Income Tax Withholding.

Section 2. Administrative Provisions. (1) An application for disability retirement shall be filed on the Application for Disability Retirement (application) and shall include:

(a) A photocopy of the member's certified birth certificate;

(b) A photocopy of the member's signed Social Security card;

(c) A voided or cancelled check from the institution where monthly disbursements shall be electronically transmitted;

(d) If applicable, a photocopy of the member's certified marriage certificate;

(e) A photocopy of the primary beneficiary's certified birth certificate; and

(f) A photocopy of the primary beneficiary's signed Social Security card.

(2) The Report of Physician and supporting documentation regarding the member's physical or mental condition shall be submitted with the application.

(3) TRS shall submit the application, Applicant Statement of Disability, Report of Physician, and supporting documentation to the medical review committee for evaluation and written disposition as required by KRS 161.661(14).

(4) If the application is approved, payment of disability benefits shall be effective on the applicable date set forth in KRS

161.661(11).

Section 3. A member's receipt of disability benefits shall be subject to the restrictions set forth in KRS 161.661(12).

Section 4. A member retired by reason of disability shall undergo examinations on an annual basis to determine whether the member's disability retirement allowance shall[should] be continued, except that, on the recommendation of the medical review committee, a member's examinations may be less frequent, but not less than once every five (5) years.

Section 5. If either of the conditions in KRS 161.661(16) is met, a member may seek reinstatement of disability benefits by filing an application as required in Section 2 of this administrative regulation. Application shall be made within the time frame set forth in KRS 161.661(16).

Section 6. Incorporation by reference. (1) The following material is incorporated by reference:

(a) "Application for Disability Retirement", July 2016;

(b) "Applicant Statement of Disability", D-1, July 2016;

(c) "Disability Retirement Information You Should Know", ~~DB-1(D-2)~~, July 2016;

(d) "Report of Physician", D-3, July 2016;

(e) "Disability New Retiree Health Insurance Information for Plan Year 2016", ~~(July)~~ 2016; and

(f) "Wage Bracket Method Tables for Income Tax Withholding", 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at 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: June 20, 2016

FILED WITH LRC: July 15, 2016 at 8 a.m.

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199 or email at Beau.Barnes@trs.ky.gov.

FINANCE AND ADMINISTRATION CABINET Teachers' Retirement System (As Amended at ARRS, September 13, 2016)

102 KAR 1:320. Qualified domestic relations orders.

RELATES TO: KRS 161.220-~~f~~, 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 (TRS)~~[(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 ~~TRS~~~~[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 TRS~~[KTRS]~~ who terminates employment in a TRS~~[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, TRS[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 TRS[KTRS] to the alternate payee as either:^{1/2/}

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 TRS[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 TRS[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 TRS[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 Retirement 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 TRS[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" [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 TRS[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 TRS[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 TRS[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 TRS[KTRS] Authorization for Release of Information form with the request.

(3) For a QDRO directed to an active account from which a participant is not currently receiving a retirement allowance, TRS[KTRS] may, for the current fiscal year, provide the unaudited salary information electronically submitted to TRS[KTRS] by the participant's employer upon receipt of the written request and release.

(4) If the QDRO is directed to an account from which the participant is not currently receiving a retirement allowance, TRS[KTRS] shall not project future earnings or future service. TRS[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 TRS[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, TRS[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. TRS[KTRS] shall not decide whether, or if, any portion of the participant's account is marital and potentially subject to division.

(6) The participant, alternate payee, or legal counsel shall submit a Qualified Domestic Relations Order to Divide[Kentucky] Teachers' Retirement System Benefits form to TRS[KTRS] for review forty-five (45) days prior to filing the QDRO with the court. If more than one (1) of the participant's accounts is subject to classification and division as marital property, a separate QDRO shall be issued for each TRS[KTRS] account.

(7) TRS[KTRS] shall not review the QDRO unless it is accompanied by the following:

(a) The TRS[KTRS] Administrative Regulatory Compliance form, or the draft QDRO, which has been approved by the:

1. Participant or legal counsel; and

2. Alternate payee or legal counsel;

(b) A ~~\$300~~^{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 TRS[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) TRS[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 TRS[KTRS] Military Service Certification and Affidavit form, with a copy of the discharge papers.

(8) Within twenty (20) days of receipt of the QDRO, TRS[KTRS] shall notify the participant and alternate payee in writing whether the QDRO meets TRS[KTRS] requirements. If the QDRO meets TRS[KTRS] requirements, TRS[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. TRS[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 TRS[KTRS] requirements, TRS[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 TRS[KTRS] for review and approval prior to filing with the court.

(10) TRS[KTRS] shall reject any QDRO entered by a court that[which] has not been reviewed or approved by TRS[KTRS] prior to its submission to the court. TRS[KTRS] shall notify the participant, the alternate payee, or their legal counsel, and the court in writing, identifying those provisions that[which] are not in compliance and the amendments needed to bring the QDRO into compliance before it shall be accepted by TRS[KTRS].

(11) If the QDRO is subsequently amended before filing with the court, the amended QDRO shall be resubmitted to TRS[KTRS] with a ~~\$150~~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 TRS[KTRS].

(a) The QDRO shall not become effective until the certified copy is received by TRS[KTRS].

(b) Upon receipt of the certified copy, TRS[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 TRS[KTRS], if the alternate payee has supplied a correctly executed W-4P form. If the alternate payee either fails to return the W-4P or does not correctly execute the form, TRS[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, TRS[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, the provisions of 102 KAR 1:060, setting 102 KAR 1:060 sets forth the requirements for processing payment of the refund to the participant and the alternate payee, shall be followed.

(13) If TRS[KTRS] is enforcing a QDRO that[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 TRS[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 TRS[KTRS] of any change in name, mailing address, or banking information.

(a) TRS[KTRS] shall provide a Name or Change of Address form or Authorization for Direct Deposit form upon request.

(b) TRS[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 (b) of this subsection, TRS[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 TRS[KTRS] of an address change or if the bank notifies TRS[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) TRS[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 TRS[KTRS] in writing of an event that[which] causes benefit payments to the alternate payee spouse, child, or other dependent[,] to cease.

(a) The participant shall provide TRS[KTRS] with a certified copy of the alternate payee's death certificate or marriage certificate. TRS[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 TRS's receipt of the participant's written notification.

(b) The alternate payee shall also be responsible for notifying TRS[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) TRS[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 TRS[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 TRS[KTRS] service credit through the date of retirement.

(b) The resulting fraction shall be converted to a percentage that[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 TRS[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 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 TRS[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 TRS[KTRS] service credit as determined by TRS[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 that[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 that[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 and[that] 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, TRS[KTRS] shall reduce the amount to be paid to the alternate payee under the QDRO by the amount of the discounts.

(b) TRS[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.

Section 8. Any person who attempts to make TRS[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 TRS[KTRS] for its costs and legal fees.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Teachers' Retirement System[TRS][KTRS] Authorization for Release of Information/QDRO", July 2016[15 January 2013];

(b) "Qualified Domestic Relations Order to Divide[Kentucky] Teachers' Retirement System Benefits", July 2016[14 March 2014];

(c) "Teachers' Retirement System[TRS][KTRS] Administrative Regulatory Compliance, Qualified Domestic Relations Order", July 2016[14 July 2010];

(d) "Teachers' Retirement System[TRS][KTRS] Confidential Information/QDRO", July 2016[14 January 2013];

(e) "Teachers' Retirement System[TRS][KTRS] Authorization for Direct Deposit/QDRO", July 2016[14 July 2010];

(f) "Teachers' Retirement System[TRS][KTRS] Military Service Certification and Affidavit-QDRO", July 2016[14 July 2010];

(g) "Teachers' Retirement System[TRS][KTRS] Name or Change of Address/QDRO", July 2016[14 July 2010];

(h) "Change of Option Following Termination of Marriage", July 2016[15 February 2002];

(i) "Change of Retirement Beneficiary", July 2016[February 2002];

(j) "Designation of Beneficiary for TRS[KTRS] Life Insurance Benefit", July 2016[15 January 2013];

(k) "Designation of Beneficiary for TRS[KTRS] Retirement Account Balance", July 2016[15 January 2013]; and

(l) "Withholding Certificate for Pension or Annuity Payments" or "W-4P", 2016["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/fw4p.pdf or www.irs.gov/pub/irs-pdf/w4p.pdf.

ARTHUR GREEN, Chairperson

APPROVED BY AGENCY: June 20, 2016

FILED WITH LRC: July 15, 2016 at 8 a.m.

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199 or email at Beau.Barnes@trs.ky.gov.

**GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(As Amended at ARRS, September 13, 2016)**

201 KAR 22:045. Continued competency requirements and procedures.

RELATES TO: KRS 12.355, 327.010(1), (2), 327.070

STATUTORY AUTHORITY: KRS 327.040(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(10) authorizes the board to promulgate administrative regulations establishing a measure of continued competency as a condition of license renewal. This administrative regulation establishes continued competency requirements and procedures.

Section 1. Definitions. (1) "Contact hour" means a credit earned based on sixty (60) minutes of participation in a physical therapy-related activity.

(2) "Continued competency" means a planned learning experience relating to the scope of "physical therapy" practice as defined by KRS 327.010(1) if the subject is intervention, examination, research, documentation, education, or management of a health care delivery system.

(3) "Jurisprudence Examination" means an open book tutorial provided by the board on KRS Chapter 327 and 201 KAR Chapter 22.

Section 2. (1) A credential holder applying for renewal shall

have completed the continued competency requirements established in subsections (2) and (3) of this section during the preceding renewal period. Continued competency shall be based on contact hours awarded.

(a) For a physical therapist, the board shall require thirty (30) contact hours as a condition of licensure renewal. These hours shall be obtained as established in subparagraphs 1. through 3. of this paragraph.

1. Two (2) hours shall be awarded for the successful completion of the Jurisprudence Examination per biennium.

2. At least eighteen (18) hours shall be earned from Category 1 as established in subsection (2) of this section.

3. Hours may be earned from Category 2. If hours are earned from Category 2, hours shall be as established in subsection (3) of this section. Hours earned from Category 2 over ten (10) hours shall not be awarded.

(b) For a physical therapist assistant, the board shall require twenty (20) contact hours as a condition of renewal. These hours shall be obtained as established in subparagraphs 1. through 3. of this paragraph.

1. Two (2) hours shall be awarded for the successful completion of the Jurisprudence Examination per biennium.

2. At least ten (10) hours shall be earned from Category 1 as established in subsection (2) of this section.

3. Hours may be earned from Category 2. If hours are earned from Category 2, hours shall be as established in subsection (3) of this section. Hours earned from Category 2 over eight (8) hours shall not be awarded.

(c) A participant shall not be awarded contact hours for a course that is repeated more than once in the same biennium.

(2) Category 1 continued competency shall be:

(a) Completion of courses, seminars, workshops, symposia, or home study courses consisting of at least three (3) contact hours that have been approved by the board, the board's designee, Federation of State Boards of Physical Therapy (FSBPT), the American Physical Therapy Association (APTA) or its components, or another physical therapy licensing agency;

(b) Completion of courses, seminars, workshops, symposia, or home study courses consisting of less than three (3) contact hours that have been produced and developed by the American Physical Therapy Association (APTA) or its state chapters and sections;

(c) Completion or auditing of an accredited postsecondary educational institution credit course meeting continued competency as defined by Section 1(2) of this administrative regulation.

1. Twelve (12) contact hours shall be awarded for each semester credit hour completed; and

2. Eight (8) contact hours shall be awarded for each quarter credit hour completed;

(d) Presentation of a continued competency course, workshop, seminar, or symposium that has been approved by the board or its designee. Contact hours shall be awarded equal to contact hours awarded to a participant with a maximum of two (2) events of the same course per biennium;

(e) Authorship of a research article, manuscript, or scientific paper, published in the biennium and related to physical therapy. Fifteen (15) contact hours shall be awarded per event with a maximum of two (2) events per biennium;

(f) A presented scientific poster or scientific platform presentation related to physical therapy. Ten (10) contact hours shall be awarded per event with a maximum of two (2) events per biennium;

(g) Teaching part of a physical therapy or physical therapist assistant credit course if that teaching is not the primary employment of the credential holder. A maximum of twenty (20) contact hours per biennium shall be awarded;

(h) American Board of Physical Therapy Specialties (ABPTS) certification. Twenty-eight (28) contact hours shall be awarded per biennium;

(i) ABPTS recertification or other certifications and recertifications within the scope of physical therapy practice. A maximum of twenty-eight (28) contact hours per biennium shall be awarded;

(j) Completion of a clinical residency program or clinical

fellowship program. Not more than five (5) contact hours shall be awarded for each week of residency with a maximum of twenty-eight (28) contact hours per program per biennium;

(k) Engaging in the practice of "physical therapy" as defined by KRS 327.010(1) at least 1,000 hours per biennium. Five (5) ~~contact~~ hours per biennium shall be awarded ~~per biennium~~;

(l) Engaging in the instruction in a CAPTE-accredited physical therapy or physical therapist assistant program at least 1,000 hours per biennium. Five (5) contact hours shall be awarded per biennium;

(m) Appointment to the Kentucky Board of Physical Therapy. Four (4) contact hours shall be awarded per biennium;

(n) Election or appointment to a position of the Kentucky Physical Therapy Association, APTA, or FSBPT as an officer or committee chair. Four (4) contact hours shall be awarded per biennium; or

(o) Member of a committee or task force for one (1) of the organizations in paragraph (m) or (n) of this subsection. One (1) contact hour shall be awarded per biennium.

(3) Category 2 continued competency shall be:

(a) Self-instruction from reading professional literature. One (1) contact hour shall be awarded per biennium;

(b) Attendance at a scientific poster session, lecture, panel, or symposium. One (1) contact hour shall be awarded for each hour of activity. A maximum of two (2) contact hours shall be awarded per biennium;

(c) Clinical instructor for a CAPTE-approved educational program or an APTA credentialed residency or fellowship program. Continued competency shall be one (1) contact hour per sixteen (16) hours of student supervision;

(d) Participation in a physical therapy in-service or study group consisting of two (2) or more physical therapists or physical therapist assistants. A maximum of two (2) contact hours shall be awarded per biennium;

(e) Completion of other unapproved applicable courses. One (1) contact hour for each hour of credit shall be awarded up to a maximum of three (3) hours per course;

(f) Participation in community service related to health care. One (1) contact hour for each hour of participation shall be awarded up to a maximum of two (2) hours per biennium;

(g) Member of the APTA. One (1) contact hour shall be awarded per year and a maximum of two (2) contact hours per biennium;

(h) Completion of cardiopulmonary resuscitation initial certification or re-certification. A maximum of two (2) contact hours shall be awarded per biennium; or

(i) Completion of a HIV/AIDS course. A maximum of two (2) contact hours shall be awarded per biennium.

(4) Documentation of compliance.

(a) Each licensee shall retain independently verifiable documentation of completion of all continued competency requirements of this administrative regulation for a period of at least three (3) years from the end of the biennium.

(b) The licensee shall, within thirty (30) days of a written request from the board, provide evidence of continued competency activities to the board.

(c) A licensee who fails to provide evidence of the continued competency activities or who falsely certifies completion of continued competency activities shall be subject to disciplinary action pursuant to KRS 327.070.

(5) Exemption and extension.

(a) A licensee shall be granted a temporary hardship extension for an extension of time, not to exceed one (1) renewal cycle, if the licensee:

1. Files a completed Exemption or Extension for Completion of Continued Competency Form by April 30 of the odd-numbered year in the renewal cycle for which the extension is sought, including a plan describing how the required credits will be met, by April 30 of the odd-numbered year in the renewal cycle for which the extension is sought; and

2. Submits documentation showing evidence of undue hardship by reason of the licensee's:

a. Age;

- b. Disability;
- c. Medical condition;
- d. Financial condition; or
- e. Other clearly mitigating circumstance.

(b) A licensee shall be granted a temporary nonhardship extension of time if the licensee cannot show undue hardship and if the licensee:

1. Files a completed Exemption or Extension for Completion of Continued Competency Form, including a plan describing how the required credits will be met, by March 31 of the odd-numbered year in the renewal cycle for which the extension is sought;
2. Pays a fee of \$250;
3. Has not received a temporary nonhardship extension of time in the prior renewal cycle; and
4. Files proof of compliance with the continued competency requirements by the following July 1.

(c) A licensee on active military duty shall be granted an exemption from continued competency requirements as established in KRS 12.355.

Section 3. Incorporation by Reference. (1) "Exemption or Extension for Completion of Continued Competency Form", September 2016~~June 2012~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable law, at the Kentucky Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

LOUIS D. KELLY, General Counsel

APPROVED BY AGENCY: July 13, 2016

FILED WITH LRC: July 14, 2016 at 8 a.m.

CONTACT PERSON: Scott D. Majors, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 429-7140, fax (502) 429-7142, email ScottD.Majors@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(As Amended at ARRS, September 13, 2016)**

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure.

RELATES TO: KRS 324A.010, 324A.030, 324A.035(1), (3), 324A.040(2), 324A.052

STATUTORY AUTHORITY: KRS 324A.035(1), (3), 12 U.S.C. 3331 - 3351

NECESSITY, FUNCTION, AND CONFORMITY: 12 U.S.C. 3331 through 3351 requires the board to promulgate administrative regulations for certification and licensure of appraisers of real property in federally related transactions. This administrative regulation establishes the types of appraisers required in federally related transactions, scope of the practice, and general requirements for certification or licensure.

Section 1. Types of Appraisers. An appraiser for a federally related transaction shall be a:

- (1) Certified general real property appraiser;
- (2) Certified residential real property appraiser;
- (3) Licensed real property appraiser; or
- (4) Associate real property appraiser.

Section 2. Scope of Practice. (1) Certified general real property appraiser. A certified general real property appraiser may perform appraisals of all types of real property.

(2) Certified residential real property appraiser. A certified residential real property appraiser may perform residential appraisals of one (1) to four (4) units.

(3) Licensed real property appraiser. A licensed real property appraiser may perform appraisals of:

(a) Noncomplex, one (1) to four (4) residential units with a transaction value less than \$1,000,000; and

(b) Complex, one (1) to four (4) residential units with a transaction value less than \$250,000.

(4) ~~[(a)]~~ Associate.

(a) An associate real property appraiser may perform an appraisal of property that the supervising appraiser of the associate may appraise and shall be subject to the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040.

(b) A separate appraisal log shall be maintained for each supervising appraiser.

(c) The associate shall record in the log for each appraisal the following:

1. Type of property;
2. Client name and address;
3. Address of appraised property;
4. Description of work performed by the associate;
5. Scope of the review;
6. Scope of the supervision by the supervising appraiser;
7. Number of actual hours worked by the associate on the assignment; and
8. Signature and state certification number of the supervising appraiser.

(d) The associate shall be entitled to obtain copies of the appraisal reports he or she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.

(e) The supervising appraiser shall:

1. Have been a state certified real property appraiser~~by the board~~ for a period of at least three (3) years;

2. Be certified by the board prior to applying to become a supervising appraiser;

3. Be in good standing~~[with the board]~~ and shall not have received a suspension, a revocation, or other sanction that limited or prohibited that licensee's practice of real property appraising within the three (3) year period immediately prior to applying to become a supervising~~[supervision]~~ appraiser; and

4.~~[3.]~~ Be responsible for the training and supervision of the associate.

(f) Only a certified general real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise a person acquiring experience toward a Certified General Real Property Appraiser certificate.

(g) Any certified general real property appraiser or a certified residential real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise a person acquiring experience toward a Certified Residential Real Property Appraiser certificate.

(h) The supervising appraiser shall:

1. Accept responsibility for an associate's appraisal report by signing and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040;

2. Review reports by the associate;

3. Personally inspect each appraised property and the comparable sales with the associate on the associate's first fifty (50) real property appraisal assignments, to ensure that the associate is competent and is acting in accordance with the competency provision of the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040, for the property type;

4. Allow an associate who has completed the fifty (50) appraisal assignments required by subparagraph 3. of this paragraph to inspect properties located within fifty (50) miles of the supervisor's office without being accompanied by the supervisor, if the supervisor has determined pursuant to this administrative regulation that the associate is competent to perform an appraisal;

5. For the twelve (12) months following the date of issuance of an associate license, accompany the associate and inspect each appraised property and the comparable sales on each appraisal assignment located more than fifty (50) miles from the supervisor's office;

6. Be limited to a maximum of three (3) real property associates at a time; and

7. Notify the board immediately if the supervision of a real property associate has terminated; and

8. Not be employed by an associate or by a company, firm, or partnership in which the associate has a controlling interest.

(i) A person otherwise qualified for supervising appraiser who has been disciplined by the board under KRS 324A.050 shall be subject to one (1) or more of the following, according to the severity of the prior violation:

1. Prohibited from supervising associates;

2. Limited to the number of associates to supervise; or

3. Be required to take additional courses approved by the board before being permitted to supervise an associate.

(j) An associate shall submit to the board two (2) complete summary appraisal reports.

1. The first report shall be submitted to the board six (6) months following the date of issuance of the associate license. The second report shall be submitted to the board twelve (12) months following the date of issuance of the associate license.

2. If necessary to determine the competency of the associate, the board shall request additional reports from the associate.

(5)(a) A first time supervisor and a new associate shall attend the board-approved course in supervision practices prior to beginning supervision or training.

(b) To be eligible to provide supervision, a supervisor shall attend the board-approved course in supervision practices every three (3) years.

(c) To continue logging credible experience, an associate shall attend the board-approved course in supervision practices every three (3) years.

(d) A first time applicant shall attend the board-approved course in supervision-training practices prior to being issued an associate license.

Section 3. General Requirements for Certification or Licensure. Except as provided by Section 4 of this administrative regulation, certification or licensure, as appropriate, of the types of appraisers specified in Section 1 of this administrative regulation, shall be granted if an applicant:

(1) Has met the examination, education, experience, and fee requirements established by 201 KAR 30:050, 30:060, and 30:190; and

(2) Applies to the board on the notarized Appraiser License/Certification Application.

Section 4. Armed Forces Exemption. An applicant who was a member of a Reserve component of the US Armed Forces, who was pursuing an appraiser licensure or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the examination, education, and experience requirements under the 2008 Real Property Appraiser Qualification Criteria instead of the requirements under Section 3(1) of this administrative regulation for a time period equal to the applicant's time of active duty, plus twelve (12) months.

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

(a) "Appraiser License/Certification Application", KREAB Form APP100, 1/09; and

(b) "Real Property Appraiser Qualification Criteria", 1/08.

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

LARRY DISNEY, Executive Director

APPROVED BY AGENCY: July 12, 2016

FILED WITH LRC: July 12, 2016 at 11 a.m.

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Real Estate Appraisers Board, 135 W. Irvine Street,

Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598, email address Larry.Disney@ky.gov.

**GENERAL GOVERNMENT CABINET
Board of Licensure For Marriage and Family Therapists
(As Amended at ARRS, September 13, 2016)**

201 KAR 32:030. Fees.

RELATES TO: KRS 335.330, 335.340(1), (3), **335.342**

STATUTORY AUTHORITY: KRS 335.320(4), 335.330, 335.340(1), (3), **335.348**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.330 requires the board to promulgate an administrative regulation establishing the initial fee for licensure required to be paid by an applicant for licensure and requires an applicant to pass a written examination prescribed by the board. KRS 335.340(1) requires that all licenses issued under KRS 335.330 shall be renewed annually, and that the board promulgate an administrative regulation establishing the fee for licensure renewal. KRS 335.340(3) requires the board to promulgate an administrative regulation establishing the late renewal fee. This administrative regulation establishes fees for licensure as a marriage and family therapist or marriage and family therapist associate.

Section 1. Initial Application Fee. The initial application fee for licensure as a marriage and family therapist shall be:

(1) Fifty (50) dollars;

(2) Nonrefundable; and

(3) Payable to the Kentucky State Treasurer.

Section 2. Initial Licensure Fee. The initial fee for licensure as a marriage and family therapist shall be:

(1) \$175;

(2) Nonrefundable; and

(3) Payable to the Kentucky State Treasurer.

Section 3. **Initial Application. (1) An applicant for licensure as a marriage and family therapist shall submit a completed Licensure as a Marriage and Family Therapist Application to the board in accordance with KRS 335.330 and with the fees required under Sections 1 and 2 of this administrative regulation.**

(2) The applicant shall complete six (6) hours of training in the field of suicide assessment, treatment, and management every six (6) years as required by 201 KAR 32:060, Section 1(4).

(3) The applicant shall complete the three (3) hours of training in the field of domestic violence within three (3) years of licensure as required by 201 KAR 32:060, Section 1(5).

(4) The applicant shall document professional experience obtained as a marriage and family therapist associate, including 1,000 client hours over a minimum of two (2) years, and verify clinical supervision as required by 201 KAR 32:035.

Section 4. Examination Fee. (1) An applicant shall pass the National Marital and Family Therapy Examination administered and verified by the Association of Marital and Family Therapy Regulatory Boards[Professional Examination Service].

(2) The applicant shall pay the required examination fee[directly to Professional Examination Service].

Section **5.[4.]** Renewal Fee. (1) A licensed marriage and family therapist shall submit a completed **Licensure as a Marriage and Family Therapist**[License] Renewal Application to the board in accordance with KRS 335.340.

(2) The fee for renewal of licensure as a marriage and family therapist shall be:

(a) \$150 annually;

(b) Nonrefundable; and

(c) Payable to the Kentucky State Treasurer.

(3) The licensee shall complete six (6) hours of training in

~~the field of suicide assessment, treatment, and management every six (6) years as required by 201 KAR 32:060, Section 1(4).~~

~~(4) The licensee shall complete the three (3) hours of training in the field of domestic violence within three (3) years of licensure as required by 201 KAR 32:060, Section 1(5).~~

~~(5) The licensee shall submit proof of completion of the continuing education requirements under 201 KAR 32:060.~~

Section ~~6.[5.]~~ Late Renewal Fees. (1) A licensee who renews a license during the ninety (90) day grace period provided by KRS 335.340(3) shall pay a late renewal fee of seventy-five (75) dollars in addition to the payment of the renewal fee as established in Section ~~5[4]~~ of this administrative regulation.

(2) The fee shall be:

- (a) Nonrefundable; and
- (b) Payable to the Kentucky State Treasurer.

Section ~~7.[6.]~~ Administrative Fine. A licensee who fails to meet the continuing education unit requirements as set forth in 201 KAR 32:060, by the renewal date, shall pay an additional administrative fine of seventy-five (75) dollars.

Section ~~8.[7.]~~ Reinstatement of Expired License. (1) ~~In accordance with KRS 335.340,~~ an expired license shall be reinstated by:

(a) Submitting a completed Application for License Reactivation[Reinstatement Application];

(b) Paying of the renewal fee as established in Section ~~5[4]~~ of this administrative regulation for each year since the date of last active licensure;

(c) Paying of a reinstatement fee of \$100, which shall be:

- 1. Nonrefundable; and
- 2. Payable to the Kentucky State Treasurer; and

(d) Meeting all other requirements of this section of this administrative regulation.

(2) The applicant for reinstatement of an expired license shall submit proof of:

(a) Completion of fifteen (15) hours of continuing education for each year since the date of last active licensure as required by 201 KAR 32:060;

(b) Completion of six (6) hours of training in the field of suicide assessment, treatment and management every six (6) years as required by 201 KAR 32:060, Section 1(4); and

(c) Completion of three (3) hours of training in the field of domestic violence within three (3) years of licensure as required by 201 KAR 32:060, Section 1(5).

Section ~~9.[8.]~~ Fees for Providers[Sponsors] of Continuing Education. (1) There shall be a nonrefundable fee of fifty (50) dollars per day for six (6) continuing education workshops or less offered a single time.

(2) There shall be a nonrefundable fee of \$125 per day for seven (7) or more continuing education workshops offered a single time.

(3) There shall be a nonrefundable fee of \$250 for a single continuing education workshop offered unlimited times in a calendar year, January 1 to December 31.

(4) The provider shall submit the Continuing Education Program Provider Approval Application with the applicable fee required under subsections (1) through (3) of this section.

(5) The marriage and family therapist, and the marriage and family therapist associate shall submit the Application for Continuing Education Program Approval Individual for post approval only[\$100 per day][twenty-five (25) dollars][for each live, online synchronous continuing education application for less than seven (7) hours][of one (1) to four (4) hours][submitted by a provider][sponsor].

(2) There shall be a nonrefundable fee of \$200 per day for each live, online synchronous continuing education application of seven (7) to ten (10)[five (5) to nine (9)][hours submitted by a provider][sponsor].

(3) There shall be a nonrefundable fee of \$250 per day for

~~each live, online synchronous continuing education application of greater than ten (10)[plus][hours submitted by a provider.~~

~~(4) There shall be a nonrefundable fee of \$300 for each single day online asynchronous continuing education application with unlimited offerings between January 1 and December 31][For a sponsor submitting multiple applications in one (1) month, the fee shall not exceed \$250].~~

Section ~~10.[9.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Licensure as a Marriage and Family Therapist Application", July 2016;

(b) "Licensure as a Marriage and Family Therapist Renewal Application", July 2016;

(c) "Application for License Reactivation[Reinstatement]", July 2016;

(d) "Continuing Education Program Provider[Sponsor] Approval Application", September 2016; and

(e) "Application for Continuing Education Program Approval Individual[Application]", 2016["Marriage and Family Therapist License Renewal Application", 2009;

(b) "License Reinstatement Application", 2009; and

(c) "Application for Continuing Education Program Approval", 2009].

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

MARY BADAMI, Chairperson

APPROVED BY AGENCY: 7/14/2016

FILED WITH LRC: July 15, 2016 at 11 a.m.

CONTACT PERSON: Nicole Sergent Biddle, Counsel for Kentucky Board of Licensure for Marriage and Family Therapists, C/O Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-5463, email Nicole.Biddle@ky.gov.

GENERAL GOVERNMENT CABINET Kentucky Board of Licensed Diabetes Educators (As Amended at ARRS, September 13, 2016)

201 KAR 45:110. Supervision and work experience.

RELATES TO: KRS 309.331

STATUTORY AUTHORITY: KRS 309.331(1), 309.334(2)(a)

NECESSITY, FUNCTION AND CONFORMITY: KRS 309.331(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.325 to 309.339. KRS 309.334(2)(a) requires the board to promulgate administrative regulations to establish the duties of the apprentice diabetes educator supervisor. This administrative regulation establishes the amount of work experience required for licensure and the qualifications to be a supervisor.

Section 1. Accumulation of Work Experience. An apprentice diabetes educator shall accumulate at least 750 hours of supervised work experience within five (5) years from the date of application for licensure, of which 250 hours shall have been obtained within the last twelve (12) months preceding licensure application.

Section 2. Supervision. (1)(a) The supervisor[apprentice diabetes educator] shall:

1. Interact with the supervisor no less than two (2) hours per month in any month in which the apprentice accumulates work experience to discuss the apprentice diabetes educator's work with clients; and

2. review the apprentice diabetes educator's provision of diabetes self-management education.

(b) The apprentice diabetes educator shall interact with the supervisor no less than two (2) hours quarterly, one (1) hour of which shall be while being physically present in the same room.

(c)1. Prior to the apprentice applying for licensure, the supervisor shall observe the apprentice providing diabetes education to a patient while the supervisor is physically present in the same room on at least two (2) separate occasions, for a combined total of at least four (4) hours, two (2) hours of which shall have occurred within the last twelve (12) months preceding licensure application.

2. The apprentice shall be responsible for obtaining any permissions, releases, or waivers required by law in order for the supervisor to observe the apprentice providing diabetes education to a patient.

(2) The hours of work experience and verification by the apprentice diabetes educator and supervisor shall be documented on the Application for Licensure, Form DE-01.

(3) A supervisor shall not serve as a supervisor for more than four (4) apprentice diabetes educators at a time.

(4) The supervision process shall focus on:

(a) Identifying strengths, developmental needs, and providing direct feedback to foster the professional development of the apprentice diabetes educator;

(b) Identifying and providing resources to facilitate learning and professional growth;

(c) Developing awareness of professional and ethical responsibilities in the practice of diabetes education; and

(d) Ensuring the safe and effective delivery of diabetes education services and fostering the professional competence and development of the apprentice diabetes educator.

Section 3. Documentation Requirements. The documentation required by the Supervised Work Experience Report, Form DE-05 shall be maintained for a period of five (5) years and provided to the board at the request of the board.

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

(a) "Application for Licensure", Form DE-01, 01/2015; and

(b) "Supervised Work Experience Report", Form DE-05, **9/2016[06/2014]**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Diabetes Educators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

KIM DECOSTE, Chairperson

APPROVED BY AGENCY: August 13, 2015

FILED WITH LRC: August 13, 2015 at 4 p.m.

CONTACT PERSON: Matt James, Board Counsel, Asst. Attorney General, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-9380.

**TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, September 13, 2016)**

301 KAR 1:201. Taking of fish by traditional fishing methods.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.340, 150.620, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate creel limits and methods of take, and to make these requirements apply to a limited area. KRS 150.470 authorizes the department to promulgate administrative regulations for creel and size limits for fish. This administrative regulation establishes fish size limits, daily creel limits, and possession limits for fishing.

Section 1. Definitions. (1) "Artificial bait" means a lure, bare hook, or fly made of wood, metal, plastic, feathers, preserved pork rind, or a similar inert material.

(2) "Chumming" means placing substances in the water for the purpose of attracting fish to a particular area.

(3) "Culling" means releasing a previously caught fish that an angler has kept as a part of a daily creel limit and replacing it with another fish of the same species.

(4) "Daily creel limit" means the maximum number of a particular species or group of species a person may legally take in one (1) calendar day while fishing.

(5) "Lake" means impounded waters from the dam upstream to the first riffle on the main stem river and tributary streams.

(6) "Possession limit" means the maximum number of unprocessed fish a person may hold after two (2) or more days of fishing.

(7) "Processed fish" means a fish that has been gutted and head removed.

(8) "Release" means to return a fish to the water from which it was taken immediately after removing the hook.

(9) "Single hook" means a hook with no more than one (1) point.

(10) "Size limit" means the minimum legal length of a fish that is measured by laying the fish flat on a ruler with the mouth closed and tail lobes squeezed together.

(11) "Slot limit" means a size range of a fish species that shall be released by an angler.

(12) "Traditional fishing methods" means the act of taking or attempting to take for noncommercial purposes any freshwater fish species using:

(a) Hook and line in hand; or

(b) Rod in hand.

(13) "Unprocessed fish" means the whole fish prior to being processed.

Section 2. Statewide Limits and Requirements. (1) A person taking fish from public or private waters using traditional fishing methods shall observe the daily creel limits and size limits established in paragraphs (a) through ~~(j)~~~~(k)~~ of this subsection, except as established in Section 3 of this administrative regulation or pursuant to 301 KAR 1:180:

(a) Black bass daily creel limit, six (6).

1. Largemouth bass and smallmouth bass size limit, twelve (12) inches.

2. Kentucky bass and Coosa bass, no size limit;

(b) Rock bass daily creel limit, fifteen (15);

(c) Sauger, walleye, and their hybrids daily creel limit, singly or in combination, six (6); size limit, walleye and their hybrids, fifteen (15) inches; no size limit for sauger;

(d) Muskellunge daily creel limit, one (1); size limit, thirty (30) inches;

(e) Chain pickerel daily creel limit, five (5); no size limit;

(f) White bass and hybrid striped bass daily creel limit, singly or in combination, fifteen (15); size limit, no more than five (5) fish in a daily creel limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer;

(g) Striped bass daily creel limit, five (5); size limit, fifteen (15) inches;

(h) Crappie daily creel limit, thirty (30); no size limit;

(i) Trout.

1. No culling statewide.

2. Rainbow trout and brown trout daily creel limit, singly or in combination, eight (8), no more than three (3) of which shall be brown trout.

3. No size limit on rainbow trout.

4. Twelve (12) inch size limit on brown trout.

5. Brook trout, catch and release only; and

(j) Redear sunfish daily creel limit, twenty (20); no size limit[; and

~~(k) Yellow bass daily creel limit, thirty (30); no size limit].~~

(2) The possession limit shall be two (2) times the daily creel limit, except as established in Section 3 of this administrative regulation.

(3) A person shall release grass carp caught from a lake owned or managed by the department.

(4) A person shall release any:

(a) Lake sturgeon; or

(b) Alligator gar.

(5) A person shall release fish:

(a) Below the minimum size limits established by this administrative regulation;

(b) Within a protected slot limit established by this administrative regulation; or

(c) Of a particular species if a person already possesses the daily creel limit for that species.

(6) A person shall not possess more than one (1) daily creel limit of processed or unprocessed fish while:

(a) Fishing;

(b) On the shoreline; or

(c) On the water.

(7) A fishing tournament organizer or representative, excluding a tournament angler, may possess more than the daily creel limit of tournament caught fish:

(a) At the weigh-in site;

(b) At the release site; or

(c) While transporting live fish from a remote weigh-in site back to the water body of origin for release.

(8) A fishing tournament organizer or representative, excluding a tournament angler, may possess more than the daily creel limit of unprocessed tournament caught fish that expired at the sites established in subsection (7) of this section for subsequent disposal by one (1) of the methods established in paragraphs (a) through (c) of this subsection:

(a) Bagged, sealed, and placed in a garbage dump;

(b) Donated to a charity for the purposes of human consumption; or

(c) Transferred to a conservation officer or another agent of the department.

(9) A person shall not remove the head or tail of any fish for which a size limit or daily creel limit exists while:

(a) Fishing;

(b) On the shoreline; or

(c) On the water.

(10) A person may possess sport fish below the size limit or beyond the possession limit if the person:

(a) Obtains the fish from a licensed fish propagator or other legal source; and

(b) Retains a receipt or other written proof that the fish were legally acquired.

(11) A person shall release all caught trout unless the person:

(a) Has a valid trout permit;

(b) Is exempted from trout permit requirements pursuant to KRS 150.170(2); or

(c) Is fishing in a licensed pay lake stocked with trout by the lake operator.

(12) A person fishing in an artificial bait-only area shall not attach any of the items established in paragraphs (a) through (h) of this subsection to the artificial bait:

(a) An insect;

(b) Minnow;

(c) Fish egg;

(d) A worm;

(e) Corn;

(f) Cheese;

(g) Cut bait; or

(h) A similar organic bait substance including dough bait and putty or paste-type bait designed to attract fish by taste or smell.

(13) The fishing season shall be open year round.

Section 3. Exceptions. All other provisions of this administrative regulation shall apply to the bodies of water listed in this section, with the exceptions established in subsections (1) through (78) of this section.:

(1) Bad Branch, Letcher County. A person shall only fish with artificial bait with a single hook;

(2) Barkley Lake.

(a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.

(b) Crappie size limit, ten (10) inches; daily creel limit, twenty (20).

(c) Sauger size limit, fourteen (14) inches;

(3) Barren River Lake.

(a) Crappie size limit, nine (9) inches.

(b) Largemouth and smallmouth bass size limit, fifteen (15) inches, except that a person may keep one (1) bass under fifteen (15) inches within a daily creel limit.

(c) Barren River Lake shall extend up:

1. Barren River to the Highway 100 bridge;

2. Long Creek to the Highway 100 bridge;

3. Beaver Creek to the Highway 1297 bridge;

4. Skaggs Creek to the Mathews Mill Road bridge; and

5. Peter Creek to the Peter Creek Road bridge;

(4) Beaver Lake, Anderson County.

(a) Largemouth bass size limit, fifteen (15) inches.

(b) Channel catfish size limit, twelve (12) inches.

(c) A person shall not possess shad or use shad as bait;

(5) Bert Combs Lake, Clay County. A person shall not possess shad or use shad as bait;

(6) Beshears Lake, Caldwell County. Channel catfish size limit, twelve (12) inches;

(7) Boltz Lake, Grant County.

(a) A person shall not possess shad or use shad as bait.

(b) Channel catfish size limit, twelve (12) inches;

(8) Briggs Lake, Logan County. A person shall not possess shad or use shad as bait;

(9) Buckhorn Lake.

(a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.

(b) Muskellunge size limit, thirty-six (36) inches.

(c) Crappie size limit, nine (9) inches;

(10) Bullock Pen Lake, Grant County. Channel catfish size limit, twelve (12) inches;

(11) Carnico Lake, Nicholas County. Largemouth bass size limit, fifteen (15) inches;

(12) Carpenter Lake, Daviess County. A person shall not possess shad or use shad as bait;

(13) Carr Creek Lake.

(a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.

(b) Crappie size limit, nine (9) inches;

(14) Carter Caves State Park Lake, Carter County.

(a) Fishing shall be during daylight hours only.

(b) Largemouth bass.

1. There shall be a slot limit between twelve (12) and fifteen (15) inches.

2. The daily creel limit shall not include more than one (1) fish greater than fifteen (15) inches.

(c) A person shall not possess shad or use shad as bait;

(15) Cave Run Lake.

(a) Largemouth bass. There shall be a slot limit between thirteen (13) and sixteen (16) inches.

(b) Smallmouth bass size limit, eighteen (18) inches.

(c) Muskellunge size limit, thirty-six (36) inches;

(16) Cedar Creek Lake, Lincoln County.

(a) Largemouth bass size limit, twenty (20) inches; daily creel limit, one (1).

(b) Channel catfish size limit, twelve (12) inches;

(17) Chimney Top Creek, Wolfe County. Brown trout size limit, sixteen (16) inches; daily creel limit, one (1); artificial bait only;

(18) Corinth Lake, Grant County.

(a) A person shall not possess shad or use shad as bait.

(b) Channel catfish size limit, twelve (12) inches;

(19) Cumberland Lake.

(a) 1. Largemouth bass size limit, fifteen (15) inches.

2. Smallmouth bass size limit, eighteen (18) inches.

3. Striped bass size limit, twenty-two (22) inches; daily creel limit, two (2).

4. Crappie size limit, ten (10) inches.

(b) Cumberland Lake shall extend up:

1. The Cumberland River to Cumberland Falls;
 2. The Big South Fork to Devils Jump;
 3. The Rockcastle River to The Narrows; and
 4. The Laurel River to Laurel River Dam;~~1.]~~
- (20) Cumberland River downstream from Barkley Lake Dam. Sauger size limit, fourteen (14) inches;
- (21) Cumberland River from Wolf Creek Dam downstream to the Kentucky-Tennessee state line and tributaries, except~~[for a portion of]~~ Hatchery Creek in Russell County as established in ~~subsections~~~~[subsection]~~ (37) and (38) of this section.
- (a) Brown trout size limit, twenty (20) inches; daily creel limit one (1).
- (b) Brook trout size limit, fifteen (15) inches; daily creel limit one (1).
- (c) Rainbow trout. There shall be a slot limit between fifteen (15) and twenty (20) inches; daily creel limit five (5), which shall not include more than one (1) fish greater than twenty (20) inches.
- (d) A trout permit shall be required in order to fish the Cumberland River below Wolf Creek Dam to the Tennessee state line including the Hatchery Creek and all other tributaries upstream to the first riffle.
- (e) Chumming shall not be permitted in the Cumberland River below Wolf Creek Dam to the Tennessee state line including the Hatchery Creek and all other tributaries upstream to the first riffle;
- (22) Dale Hollow Lake.
- (a) Smallmouth bass. There shall be a slot limit between sixteen (16) and twenty-one (21) inches. The daily creel limits shall not include more than one (1) fish less than sixteen (16) inches long and one (1) fish greater than twenty-one (21) inches long.
- (b) Walleye and any walleye hybrid daily creel limit, five (5); size limit, sixteen (16) inches.
- (c) Sauger daily creel limit, ten (10); size limit, fourteen (14) inches.
- (d) Rainbow trout and brown trout, no size limit; daily creel limit, seven (7), singly or in combination.
- (e) Largemouth bass size limit, fifteen (15) inches.
- (f) Black bass aggregate daily creel limit, five (5), no more than two (2) of which shall be smallmouth bass.
- (g) Crappie size limit, ten (10) inches; daily creel limit, fifteen (15);
- (23) Dewey Lake.
- (a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.
- (b) Blue and channel catfish aggregate creel limit of fifteen (15), only one (1) of which shall be longer than twenty-five (25) inches.
- (c) Muskellunge size limit, thirty-six (36) inches;
- (24) Dix River for two (2) miles downstream from Herrington Lake Dam. A person shall only fish with artificial bait;
- (25) Doe Run Lake, Kenton County.
- (a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).
- (b) Channel catfish daily creel limit, four (4).
- (c) A person shall not possess shad or use shad as bait;
- (26) Dog Fork, Wolfe County. A person shall only fish with an artificial bait with a single hook;
- (27) Elkhorn Creek downstream from the confluence of the North and South forks to the first shoal located 3,400 feet above its confluence with the Kentucky River, as posted with signs. Largemouth bass and smallmouth bass.
- (a) There shall be a slot limit between twelve (12) and sixteen (16) inches.
- (b) The daily creel limit shall not include more than two (2) fish greater than sixteen (16) inches;
- (28) Elmer Davis Lake, Owen County.
- (a) Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches.
- (b) Channel catfish size limit, twelve (12) inches.
- (c) A person shall not possess shad or use shad as bait;
- (29) Fishtrap Lake.
- (a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.
- (b) Crappie size limit, nine (9) inches.
- (c) Blue and channel catfish aggregate daily limit of fifteen (15), only one (1) of which shall be longer than twenty-five (25) inches;
- (30) Floyd's Fork Creek, from Highway 60 downstream to Bardstown Road in Jefferson County. Largemouth and smallmouth bass size limit, fifteen (15) inches; daily creel limit, one (1);
- (31) Golden Pond at the Visitors' Center at Land Between the Lakes. Channel catfish, daily limit, five (5); size limit, fifteen (15) inches;
- (32) General Butler State Park Lake, Carroll County.
- (a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).
- (b) Channel catfish daily creel limit, four (4).
- (c) A person shall not possess shad or use shad as bait;
- (33) Grayson Lake. Largemouth bass and smallmouth bass size limit, fifteen (15) inches;
- (34) Greenbo Lake, Greenup County.
- (a) A person shall not possess shad or use shad as bait.
- (b) Bluegill and sunfish daily and possession limit, fifteen (15) fish;
- (35) Green River Lake.
- (a) Crappie size limit, nine (9) inches.
- (b) Muskellunge size limit, thirty-six (36) inches;
- (36) Guist Creek Lake, Shelby County. Channel catfish size limit twelve (12) inches;
- (37) Hatchery Creek, upper section as established by signs, Russell County. Rainbow trout, brown trout, and brook trout, no size limit; daily creel limit, five (5), singly or in combination;
- (38) Hatchery Creek, lower section as established by signs, Russell County. (a) A person fishing for trout in the upper rip-rap area of the creek shall follow the size and creel limits for trout for the Cumberland River below Wolf Creek Dam established in subsection (21) of this section.
- (b) A person fishing for trout in the lower portion of the creek, as denoted by signs, shall:
- (a) 1.] Only use artificial bait; and
- (b) 2.] Release all trout;
- (39) [(38)] Jerrico Lake, Henry County.
- (a) Largemouth bass size limit, fifteen (15) inches.
- (b) A person shall not possess shad or use shad as bait;
- (40) [(39)] Kentucky Lake and the canal connecting Kentucky and Barkley lakes.
- (a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.
- (b) Crappie size limit, ten (10) inches; daily limit, twenty (20).
- (c) Sauger size limit, fourteen (14) inches;
- (41) [(40)] Kentucky River WMA, Boone Tract, Benjy Kinman Lake.
- (a) Largemouth bass. Catch and release only.
- (b) Crappie daily creel limit, fifteen (15).
- (c) Sunfish daily creel limit, fifteen (15).
- (d) Catfish daily creel limit, four (4);
- (42) [(41)] Kentucky River WMA, Boone Tract, excluding Benjy Kinman Lake.
- (a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, one (1).
- (b) Crappie daily creel limit, fifteen (15).
- (c) Sunfish daily creel limit, fifteen (15).
- (d) Catfish daily creel limit, four (4);
- (43) [(42)] Kincaid Lake, Pendleton County. Channel catfish size limit, twelve (12) inches;
- (44) [(43)] Lake Blythe, Christian County. Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;
- (45) Lake Chumley, and the department-owned property surrounding the lake, Boyle and Lincoln counties. Closed to public access from one-half hour (1/2) after sunset through one-half (1/2) hour before sunrise;
- (46) [(44)] Lake Malone, Muhlenberg and Logan counties [County].
- (a) Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches.
- (b) Channel catfish size limit, twelve (12) inches;
- (47) [(45)] Lake Mingo, Jessamine County. A person shall not

possess shad or use shad as bait;

~~(48)~~~~(46)~~ Lake Pollywog, Grant County. A person shall not possess shad or use shad as bait;

~~(49)~~~~(47)~~ Lake Reba, Madison County.

(a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches; daily creel limit three (3).

(b) Channel and blue catfish size limit, twelve (12) inches.

(c) A person shall not possess shad or use shad as bait;

~~(50)~~~~(48)~~ Lake Shelby, Shelby County.

(a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).

(b) Channel catfish daily creel limit, four (4).

(c) A person shall not possess shad or use shad as bait;

~~(51)~~~~(49)~~ Laurel River Lake.

(a) Largemouth bass size limit, fifteen (15) inches.

(b) Smallmouth bass size limit, eighteen (18) inches; daily creel limit, two (2).

(c) Crappie size limit, nine (9) inches; daily creel limit, fifteen (15);

~~(52)~~~~(50)~~ Lebanon City Lake (Fagan Branch), Marion County. Largemouth bass and smallmouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;

~~(53)~~~~(51)~~ Leary Lake, Grant County.

(a) A person shall not fish except during daylight hours.

(b) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).

(c) Channel catfish daily limit, four (4);

~~(54)~~~~(52)~~ Lincoln Homestead Lake, Washington County.

(a) A person shall not fish except during daylight hours.

(b) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).

(c) Channel catfish daily creel limit, four (4).

(d) A person shall not possess shad or use shad as bait;

~~(55)~~~~(53)~~ Marion County Lake.

(a) Largemouth bass size limit, fifteen (15) inches.

(b) A person shall not possess shad or use shad as bait;

~~(56)~~~~(54)~~ McNeely Lake, Jefferson County.

(a) Channel and blue catfish size limit, twelve (12) inches.

(b) A person shall not possess shad or use shad as bait;

~~(57)~~~~(55)~~ Mill Creek Lake, Powell County.

(a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).

(b) A person shall not possess shad or use shad as bait;

~~(58)~~~~(56)~~ New Haven Optimist Lake, Nelson County.

(a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, three (3).

(b) Channel catfish daily creel limit, four (4).

(c) A person shall not possess shad or use shad as bait;

~~(59)~~~~(57)~~ Nolin River Lake shall extend up Bacon Creek to Highway 178 and to Wheelers Mill Road Bridge on the Nolin River.

(a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches except that the daily creel limit may contain one (1) bass under fifteen (15) inches.

(b) Crappie size limit, nine (9) inches;

~~(60)~~~~(58)~~ Ohio River.

(a) Walleye, sauger, and any hybrid thereof, no size limit; daily creel limit, ten (10), singly or in combination.

(b) White bass, striped bass, and any hybrid thereof, daily creel limit, thirty (30), no more than four (4) in the daily creel limit shall be fifteen (15) inches or greater.

(c) The blue catfish daily creel limit shall be unlimited, except that no more than one (1) fish in the daily creel limit shall be thirty-five (35) inches or longer.

(d) The channel catfish daily creel limit shall be unlimited, except that no more than one (1) fish in the daily creel limit shall be twenty-eight (28) inches or longer.

(e) The flathead catfish daily creel limit shall be unlimited, except that no more than one (1) fish in the daily creel limit shall be thirty-five (35) inches or longer;

~~(61)~~~~(59)~~ Otter Creek, Meade County.

(a) Smallmouth and largemouth bass. There shall be a slot limit between twelve (12) and sixteen (16) inches.

(b) Daily limit shall not include more than one (1) smallmouth

or largemouth bass over sixteen (16) inches;

~~(62)~~~~(60)~~ Paint Creek between upper Highway 460 Bridge and Highway 40 Bridge, Johnson County. Trout size limit, sixteen (16) inches; daily creel limit, one (1); artificial bait only;

~~(63)~~~~(61)~~ Paintsville Lake.

(a) Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches.

(b) Smallmouth bass size limit, eighteen (18) inches;

~~(64)~~~~(62)~~ Parched Corn Creek, Wolfe County. A person shall only fish with an artificial bait with a single hook;

~~(65)~~~~(63)~~ Pennyrite Lake, Christian County. Largemouth bass. There shall be a slot limit between twelve (12) and fifteen (15) inches;

~~(64)~~ Pikeville City Lake, Pike County. A person shall release largemouth bass;

~~(66)~~~~(65)~~ Poor Fork and its tributaries in Letcher County downstream to the first crossing of Highway 932. A person shall only fish with an artificial bait with a single hook;

~~(67)~~~~(66)~~ Reformatory Lake, Oldham County. Channel and blue catfish size limit, twelve (12) inches;

~~(68)~~~~(67)~~ Rough River Lake.

(a) Crappie size limit, nine (9) inches.

(b) Largemouth bass and smallmouth bass size limit, fifteen (15) inches, except that the daily creel limit may contain one (1) bass under fifteen (15) inches;

~~(69)~~~~(68)~~ Shanty Hollow Lake, Warren County.

(a) Largemouth bass size limit, fifteen (15) inches.

(b) Channel catfish size limit, twelve (12) inches.

(c) A person shall not possess shad or use shad as bait;

~~(70)~~~~(69)~~ Shillalah Creek, Bell County, outside the Cumberland Gap National Park. A person shall only fish with an artificial bait with a single hook;

~~(71)~~~~(70)~~ Sportsman's Lakes, Franklin County. A person shall not possess or use shad as bait;

~~(72)~~~~(71)~~ Spurlington Lake, Taylor County. A person shall not possess shad or use shad as bait;

~~(73)~~~~(72)~~ Sympson Lake, Nelson County. Largemouth bass size limit, fifteen (15) inches;

~~(74)~~~~(73)~~ Taylorsville Lake, including the impounded waters of the lake to Dry Dock Road Bridge on the Salt River.

(a) Largemouth bass and smallmouth bass size limit, fifteen (15) inches.

(b) Blue and channel catfish:

1. Aggregate daily creel limit of fifteen (15); and

2. Only one (1) fish of either species in the aggregate daily creel limit shall be longer than twenty-five (25) inches.

(c) Crappie size limit, nine (9) inches; daily creel limit, fifteen (15);

~~(75)~~~~(74)~~ Tennessee River downstream from Kentucky Lake Dam. Sauger size limit, fourteen (14) inches;

~~(76)~~~~(75)~~ Trammel Creek, Allen County.

(a) Brown trout size limit, sixteen (16) inches; daily creel limit, one (1).

~~(b)~~ Rainbow trout daily limit, five (5);

~~(77)~~~~(76)~~ Wood Creek Lake. Largemouth and smallmouth bass size limit, fifteen (15) inches; and

~~(78)~~~~(77)~~ Yatesville Lake: Largemouth bass and smallmouth bass size limit, fifteen (15) inches.

Section 4. Creel and Size Limits for Waters Containing Rockcastle Strain Walleye. (1) Rockcastle Strain Walleye Waters.

(a) Barren River and tributaries upstream from Lock and Dam 1, including Barren River Lake;

(b) Cumberland River and tributaries above Cumberland Falls;

(c) Kentucky River and tributaries upstream from Lock and Dam 14;

(d) Middle Fork Kentucky River and tributaries;

(e) North Fork Kentucky River below Carr Creek Dam and tributaries;

(f) South Fork Kentucky River and tributaries;

(g) Levisa Fork River and tributaries upstream from Fishtrap Lake, including Fishtrap Lake;

(h) Martins Fork Lake; and

- (i) Wood Creek Lake.
- (2) There shall be a slot limit between eighteen (18) and twenty-six (26) inches and a daily creel limit of two (2) for walleye in the waters established in subsection (1) of this section.

Section 5. Seasonal Catch and Release for Trout. (1) There shall be a catch and release trout season from October 1 through March 31 for the bodies of water established in subsection (3) of this section.

- (2) A person shall:
 - (a) Only use artificial bait; and
 - (b) Release all trout.
- (3) The streams established in paragraphs (a) through (n) of this subsection shall be open for the catch and release trout season:
 - (a) Bark Camp Creek in Whitley County;
 - (b) Beaver Creek from Highway 90 Bridge upstream to Highway 200 Bridge in Wayne County;
 - (c) Big Bone Creek within Big Bone Lick State Park in Boone County;
 - (d) Cane Creek in Laurel County;
 - (e) Casey Creek in Trigg County;
 - (f) Clear Creek from mouth upstream to 190 Bridge in Bell County;
 - (g) East Fork of Indian Creek in Menifee County;
 - (h) Elk Spring Creek in Wayne County;
 - (i) Floyd's Fork Creek in Jefferson County from Highway 60 downstream to Bardstown Road;
 - (j) Left Fork of Beaver Creek in Floyd County from Highway 122 Bridge upstream to the headwater;
 - (k) Middle Fork of Red River in Natural Bridge State Park in Powell County;
 - (l) Otter Creek in Meade County on the Fort Knox Reservation and Otter Creek Park;
 - (m) Rock Creek from the Bell Farm Bridge to the Tennessee state line in McCreary County; and
 - (n) Trammel Creek in Allen County.
- (4) There shall be a seasonal catch and release trout season for Swift Camp Creek in Wolf County from October 1 through May 31.

Section 6. Special Limits for Fishing Events. (1) The commissioner may establish special limits for fishing events including:

- (a) Size limits for selected species;
- (b) Daily creel limits for selected species;
- (c) Eligible participants; and
- (d) Dates and times of special limits.
- (2) An event sponsor shall post signs informing anglers of any special limits for a minimum of twenty-four (24) hours before the event.

Section 7. Creel and Size Limits for Special Lakes and Ponds. (1) The requirements established in paragraphs (a) through (d) of this subsection shall apply to all bodies of water established in subsection (2) of this section:

- (a) Largemouth bass size limit, fifteen (15) inches; daily creel limit, one (1);
- (b) Catfish daily creel limit, four (4);
- (c) Sunfish or bream daily creel limit, fifteen (15); and
- (d) Rainbow trout daily creel limit, five (5).
- (2) Special lakes and ponds:
 - (a) Alexandria Community Park Lake, Campbell County;
 - (b) Anderson County Community Park Lake, Anderson County;
 - (c) Bloomfield Park Lake, Nelson County;
 - (d) Bob Noble Park Lake, Nelson County;
 - (e) Brickyard Pond, Knox County;
 - (f) Camp Ernst, Boone County;
 - (g) Carlson Lake, Meade County in Fort Knox;
 - (h) Cherokee Park Lake, Jefferson County;
 - (i) Dickerson Lake, Meade County in Fort Knox;
 - (j) Easy Walker Park Pond, Montgomery County;
 - (k) Fisherman's Park lakes, Jefferson County;

- (l) ~~Kingdom Come State Park Lake, Harlan County;~~
- (m) ~~Jacobsen Park Lake, Fayette County;~~
- (n) ~~James D. Beville Park Lake, Grayson County;~~
- (o) ~~Kentucky Horse Park lakes, Fayette County;~~
- (p) ~~Kingdom Come State Park Lake, Harlan County;~~
- (q) ~~Lake Mingo, Jessamine County;~~
- (r) ~~Lake Pollywog, Grant County;~~
- (s) ~~Lower Sportsman's Lake, Franklin County;~~
- (t) ~~Lusby Lake, Scott County;~~
- (u) ~~Madisonville City Park lakes, Hopkins County;~~
- (v) ~~Martin County Lake, Martin County;~~
- (w) ~~Maysville-Mason County Recreation Park Lake, Mason County;~~
- (x) ~~Middleton Mills Long Pond, Kenton County;~~
- (y) ~~Middleton Mills Shelterhouse Pond, Kenton County;~~
- (z) ~~Mike Miller Park Lake, Marshall County;~~
- (aa) ~~Miles Park lakes, Jefferson County;~~
- (ab) ~~Millennium Park Pond, Boyle County;~~
- (ac) ~~Panther Creek Park Lake, Daviess County;~~
- (ad) ~~Prisoners Lake, Kenton County;~~
- (ae) ~~Scott County Park Lake, Scott County;~~
- (af) ~~Southgate Lake, Campbell County;~~
- (ag) ~~Three Springs Lake, Warren County;~~
- (ah) ~~Tom Wallace Park Lake, Jefferson County;~~
- (ai) ~~Upper Sportsman's Lake, Franklin County;~~
- (aj) ~~Watterson Park Lake, Jefferson County;~~
- (ak) ~~Waverly Park Lake, Jefferson County;~~
- (al) ~~Waymond Morris Park Lake, Daviess County;~~
- (am) ~~Whitehall Park Lake, Madison County; and~~
- (an) ~~Yellow Creek Park Lake, Daviess County.~~

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: July 6, 2016

FILED WITH LRC: July 13, 2016 at 10 a.m.

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, September 13, 2016)

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.

RELATES TO: KRS 61.805 - 61.850, 156.070(2), 160.380, 160.445, 20 U.S.C. 1681

STATUTORY AUTHORITY: KRS 156.070(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education ~~to~~ **board[KBE]** to manage and control the common schools, including interscholastic athletics in the schools. KRS 156.070(2) authorizes the **board[KBE]** to designate an agency to manage athletics. This administrative regulation designates an agent for middle and high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures, and rules of the agent.

Section 1. Definitions. (1) "Contact" means that drills are run at Level 3, thud, or Level 4, live action.

(2) **"KBE" means Kentucky Board of Education.**

(3) **"KHSAA" means Kentucky High School Athletics Association.**

(4) "Level 0" or "air" means that players run a drill unopposed and without contact.

(5) ~~(3)~~ "Level 1" or "bags" means that a drill is run against a bag or another soft contact surface.

(6) ~~(4)~~ "Level 2" or "control" means that a drill is run at the assigned speed until the moment of contact; one (1) player is

predetermined the winner by the coach; contact remains above the waist; and players stay on their feet.

~~(7)(5)~~ "Level 3" or "thud" means that a drill is run at the assigned speed through the moment of contact; there is not a predetermined winner; contact remains above the waist; players stay on their feet; and a quick whistle ends the drill.

~~(8)(6)~~ "Level 4" or "live action" means that a drill is run in game-like conditions and is the only time that players are taken to the ground.

~~(9)(7)~~ "Non-contact" means that drills are run at Level 0, air; Level 1, bags; or Level 2, control.

~~(10) "OCR" means Office for Civil Rights.~~

Section 2. The ~~KHSAA~~Kentucky High School Athletic Association (KHSAA) shall be the Kentucky Board of Education's agent to manage interscholastic athletics at the middle and high school level in the common schools, including a private school desiring to associate with KHSAA or to compete with a common school.

Section 3.2. To remain eligible to maintain the designation as the agent to manage interscholastic high school athletics, the KHSAA shall:

(1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its high school Board of Control;

(2) Sponsor an annual meeting of its member high schools;

(3) Provide for each member high school to have a vote on KHSAA constitution and bylaw changes submitted for consideration;

(4) Provide for high school regional postseason tournament net revenues to be distributed to the member high schools in that region participating in that sport, utilizing a share approach determined by the high schools within that region playing that sport;

(5) Provide for students desiring to participate at the high school level (regardless of level of play) to be enrolled in at least grade seven (7) unless the student has participated at the high school level prior to the 2014 - 2015 school year;

(6) Require its governing body to annually establish goals and objectives for its commissioner and perform a self-assessment and submit the results annually to the KBE by December 31;

(7) Advise the Department of Education of all legal action brought against the KHSAA;

(8) Permit a board of control member to serve a maximum of two (2) consecutive four (4) year terms with no region represented for more than eight (8) consecutive years;

(9) Employ a commissioner and evaluate that person's performance annually by October 31, and establish all staff positions upon recommendation of the commissioner;

(10) Permit the commissioner to employ other personnel necessary to perform the staff responsibilities;

(11) Permit the Board of Control to assess fines on a member high school;

(12) Utilize a trained independent hearing officer instead of an eligibility committee for a high school athletic eligibility appeal;

(13) Establish a philosophical statement of principles to use as a guide in a high school eligibility case;

(14) Conduct continual cycles of field audits of the association's entire high school membership which provides that each high school is audited regarding each school's compliance with 20 U.S.C. Section 1681 (Title IX) and submit annual summary reports, including the highlighting of any potential deficiencies in OCR compliance to the Kentucky Board of Education;

(15) As a condition precedent to high school membership, require each member high school and superintendent to annually submit a written certification of compliance with 20 U.S.C. Section 1681 (Title IX);

(16) Conduct all meetings related to high school athletics in accordance with KRS 61.805 through 61.850;

(17) Provide written reports of any investigations into possible violations of statute, administrative regulation, KHSAA Constitution, KHSAA Bylaws, and other rules governing the conduct of high school interscholastic athletics conducted by KHSAA or their

designees to the superintendent and principal of the involved school district and school prior to being made public; and

(18) Not punish or sanction, in any manner, a school, student, coach, or administrator for allowing a student to play in an athletic contest or practice with the team during a time when an order of a court of competent jurisdiction permits the student to participate or otherwise stays or enjoins enforcement of a KHSAA final decision on eligibility.

Section 4.3. To remain eligible to maintain the designation as the agent to manage interscholastic athletics at the middle school level, the KHSAA shall implement the following requirements for all participants in middle school interscholastic athletics,and distribute these requirements to all middle schools, and publish via the KHSAA Web site:

(1) Require that these provisions apply to all middle school interscholastic athletics. The following indicates that a team is representative of a school and classified as middle school athletics:

(a) The contest, event, or tournament is sponsored by a school or combined group of schools;

(b) Competitors wear a school issued uniform;

(c) The contest, event, or tournament is sponsored by an outside entity as a school entry event, which is ~~not~~ advised or promoted as a school event, whether or not an entry fee is required;

(d) A school entity pays an entry fee, for the student or team, including payment by booster organizations;

(e) A school representative accompanies the student-athlete or transports the student-athlete to the contest, event, or tournament;

(f) A designated or hired member of a school coaching staff ~~designated or hired~~, whether paid or unpaid, is present and offering instruction, advice, evaluation, or refinement of skills or exercising other duties defined as coaching within the sport rules;

(g) Transportation to or from the contest, event, or tournament utilizes school provided or approved transportation;

(h) Competitors in the contest, event, or tournament wear apparel identifying them by the name of the school, including the formal name, informal name, or team nickname ~~(formal, informal, or team nickname)~~;

(i) Competitors in the contest, event, or tournament are provided promotional or other resources ~~(promotional or otherwise)~~ by the school including school media recognition, signage, and items clearly indicative of school representation;

(j) Competition in a contest, event, or tournament has, in any form, jurisdiction of the local school board or school based decision making body, including financial or other approval control; or

(k) Competition in a contest, event, or tournament is covered by any school or school system provided or procured insurance policy;

(2) Require that any head or assistant coach, whether paid or unpaid, ~~(head or assistant, paid or unpaid)~~ desiring to coach interscholastic athletics at the middle school level:

(a) Meet the requirements of KRS 156.070(2)(f)2.;

(b) Meet the requirements of and KRS 160.380(4) and (6); and

(c) Provide to the school documentation of successful completion of a C.P.R. course including the use of an automatic external defibrillator and the first aid training, conducted by an instructor or program approved by a college or university, the American Red Cross, the ~~or~~ American Heart Association, or other bona fide accrediting agency that is approved by the KHSAA based upon industry standards. Initial certification shall use in-person instruction and certification shall be updated as required by the approving agency;

(3) Require the adherence to the following items regarding safety, sports medicine, and risk minimization for all interscholastic athletics at the middle school level:

(a) Each student, prior to trying for a place on a middle school athletic team, shall provide an annual medical examination, in accordance with KRS 156.070(2)(d), and shall use the KHSAA form PPE ~~(form approved for use at the middle school level)~~;

(b) All participants at the middle school level shall adhere to all sports medicine and risk minimization policies in use at the high

school level that may be supplemented by the school, school district, conference, or association including:

1. Heat index and heat illness programs;
2. Wrestling weight management programs;[and]
3. Concussion and other head injury policies including policies for minimizing impact exposure and concussion risks;

4. The following football drill work and practice activity limitations:

a. Football contact and non-contact practice shall use the appropriate clothing and equipment for the level of drill, including:

(i) A drill conducted in helmets-only shall be a Level 0, air, or Level 1, bags;

(ii) A drill conducted in shells (shorts, shoulder pads, and helmets) shall be a non-contact drill; and

(iii) A contact drill shall be conducted in full equipment;

b. Middle school football shall practice a minimum of eleven (11) days before engaging another group or opponent in full contact, using the following minimum schedule:

(i) Five (5) days in helmets;

(ii) Followed by three (3) days in helmets and shoulder pads; and

(iii) Concluding with three (3) days in full equipment practice; and

c. Contact drills shall not be conducted more than twenty-one (21) days before the first regular season contest; and

5. Beginning with the 2017-2018 school year, teams participating in middle school athletics as defined by subsection (1) of this section shall use KHSAA licensed officials in the sports of baseball, basketball, field hockey, football, soccer, softball, and volleyball;

(4) Create a permanent Middle School Athletics Advisory Committee. This committee shall:

(a) Be autonomous with respect to the Board of Control of the KHSAA;

(b) Be composed of no less than three (3) middle school representatives from each Supreme Court district as well as no less than three (3) at large representatives from throughout the state;

(c) Provide an opportunity for nonprofit athletic groups, parents, and others to participate and provide input on the sport, athletic event, or athletes involved in interscholastic activities through local school districts;

(d) Meet not less than twice annually to review current programs and policies; make recommendations for improvements to and participation in middle school interscholastic activities, as well as any changes in statute, administrative regulation, or policy related to middle school interscholastic athletics; and assist in the development of model guidelines for schools, districts, conferences, and associations to be used in implementing a middle school athletic program; and

(e) Report regularly, not less than annually, to the commissioner of the KHSAA and issue, in conjunction with the commissioner, a formal written report annually to the **KBE[Kentucky Board of Education]** with recommendations for changes in statute, administrative regulation, or policy;

(5) Require any organization conducting a school based event at the middle school level to submit the following, which shall be published and listed on the KHSAA Web site:

(a) Annual financial reports of all sanctioned and approved events sponsored by the organization; and

(b) Documentation of financial accountability including verification of federal status and tax documents including an annual IRS Form 990;

(6) Provide notice to the middle schools related to any program conducted by KHSAA related to educating school administrators about the provisions of 20 U.S.C. 1681, Title IX;

(7) Provide educational materials and a mechanism to facilitate the monitoring and tracking capabilities for the middle schools to ensure compliance with the provisions of KRS 160.445~~[f]~~ and other requirements for coaches at the middle school level;

(8)~~[Beginning with the 2015-2016 school year,]~~ Require any student enrolled initially in grade five (5) through eight (8)~~[during the 2015-2016 school year or thereafter]~~ who is repeating a

grade for any reason, to be ineligible, during the school year that the grade is repeated, to compete in interscholastic competition involving students enrolled in grades six (6) through eight (8);

~~(9)[Beginning with the 2015-2016 school year,]~~ Require that any student who turns:

(a) Fifteen (15) years of age prior to August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades eight (8) and below;

(b) Fourteen (14) years of age prior to August 1 of the current year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades seven (7) and below; and

(c) Thirteen (13) years of age prior to August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades six (6) and below;

(10) Require each school, school district, conference, or association of schools to develop rules and limitations regarding student participation at the middle school level to include:

(a) A defined age limitation for participating students;

(b) A policy regarding the participation of students below grade six (6);

(c) A limitation on practice time prior to the season in any sport or sport activity which shall not exceed the practice time adopted for play at the high school level;

(d) A limitation on the number of school based scrimmages and regular season, school based contests in each sport or sport-activity, which shall not include post season contests and shall not exceed the allowable number of contests for that sport or sport-activity at the high school level; and

(e) A limitation on the length of the regular competitive season in each sport or sport-activity, not including any post season activities, which shall not exceed the length for that sport or sport-activity at the high school level;

(11) Conduct all meetings related to middle school athletics in accordance with KRS 61.805 through 61.850;

(12) Issue an annual report to the **KBE[Kentucky Board of Education]** on the status of interscholastic athletics at the middle school level, including any recommendations for changes in statute, administrative regulation, or policy;~~[and]~~

(13) Allow a school or school district to join a conference or association that has developed rules for any particular sport or sport-activity to satisfy the requirements of this administrative regulation; and

(14) Beginning in June~~[f]~~ 2017, the period of June 25 to July 9, ~~[(inclusive,)]~~ shall be a dead period for middle school athletics. During the dead period:

(a) Students shall not receive coaching or training from school personnel, ~~whether ~~[(either)]~~ salaried or non-salaried~~[(f)]~~~~;

(b) School facilities, uniforms, nicknames, transportation, or equipment shall not be used;

(c) School funds shall not be expended in support of interscholastic athletics; and

(d) A postseason wrap-up activity, celebration, or recognition event relating to a spring sports team at a school may be held.

Section 5.4- Financial Planning and Review Requirements.

(1) KHSAA shall annually submit the following documents to the KBE by October 31:

(a) Draft budget for the next two (2) fiscal years, including the current year;

(b) End-of-year budget status report for the previous fiscal year;

(c) Revisions to the KHSAA Strategic Plan as a result of an annual review of the plan by the KHSAA governing body;

(d) A summary report of operations including summaries of financial, legal, and administrative actions taken and other items ongoing within KHSAA. This report shall also include a summary of items affecting:

1. Athletic appeals and their disposition, including the name of the individual, grade, school, and the action taken by KHSAA;

2. Eligibility rules;

3. Duties of school officials;
4. Contests and contest limitations;
5. Requirements for officials and coaches; and
6. Results of a biennial review of its bylaws that results in a recommendation for a change, directing any proposals for change in association rules to be considered for vote by the member schools at the next legislative opportunity; and

(e) A review of all items which have been submitted to the membership for approval through the processes established in the KHSAA Constitution and the result of the voting on those issues.

(2) The KHSAA shall annually submit at the next meeting of the Kentucky Board of Education following receipt and adoption by the Board of Control, audited financial statements with the KHSAA Commissioner's letter addressing exceptions or notes contained in management correspondence, if any.

Section 6.[5.] Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "KHSAA Constitution", 6/2013;
- (b) "KHSAA Bylaws", 9/2016/6/2016[8/2/2015];
- (c) "KHSAA Due Process Procedure", 6/2014;
- (d) "KHSAA Board of Control and Officials Division Policies", 6/2016[8/2/2015];
- (e) "KHSAA Form BA101- Baseball Pitching Limitation", 6/2016[4/2009];
- (f)[KHSAA Form FB102- Football Financial Report", 9/7/2009;
- (g) KHSAA Form GE01, "Application for Renewal of Membership", 5/2015;
- (q)[(h)] KHSAA Form GE02, "Application for New Membership", 5/2015;
- (h)[(i)] KHSAA Form GE04, "Athletic Participation Form, Parental and Student Consent and Release for High School Level (grades 9 - 12) Participation", 4/2015;
- (i)[(j)] KHSAA Form GE06, "Transfer Form – Citizens of the U.S. or U.S. Territories", 9/2016/8/2/2015;
- (j)[(k)] KHSAA Form GE07, "Application for Foreign Exchange Student (Non Domestic) Eligibility", 6/2016[8/2/2015];
- (k)[(l)] KHSAA Form GE08, "Application for Foreign Student, Non-Exchange (Non Domestic) Eligibility", 6/2016[8/2/2015];
- (l)[(m)] "KHSAA Form GE14- Contract for Athletic Contests", 4/2014;
- (m)[(n)] KHSAA Form GE16, "Request for Statutory Waiver of Bylaw 2", 6/2016 [4/2014];
- (n)[(o)] "KHSAA Form GE19-Title IX Procedures Verification", 5/2011;
- (o)[(p)] KHSAA Form GE20, "Heat Index Measurement and Record", 4/2014;
- (p)[(q)] KHSAA Form GE35, "Request for Waiver of 20 Day Notice", 4/2014;
- (q)[(r)] "KHSAA Form GE36- Add. Info for Appeal", 6/2016[5/2011];
- (r)[(s)] "KHSAA Form GE52- District Tournament Financial Report", 4/2014;
- (t) KHSAA Form GE53, "KHSAA Regional Tournament Financial Report", 6/2015;
- (u) "KHSAA Form GE69- Waiver – 15 Day Exceptions", 6/2016[5/2011];
- (s)[(v)] KHSAA Form PPE/Physical Exam, "PPE- Physical Exam History/Physician Clearance Form (Grades 6 - 12)", 4/2015;
- (t)[(w)] KHSAA Form PPE/Supplemental, "PPE- Physical Exam History Supplemental Form for Athletes With Special Needs (Grades 6 - 12)", 4/2015;
- (x) KHSAA Form SO112, "Semi-State Tournament Financial Report", 6/2015;
- (y) KHSAA Form WR111, "Wrestling Skin Condition", 6/2015;
- (z) KHSAA Form WR126, "Minimum Weight Certification Program Assessor Designation", 4/2014;] and
- (u)[(aa)] "KHSAA Form MS01- Athletic Participation Parental and Student Consent and Release for Middle School (grades 5-8) Participation", 4/2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Legal and Legislative Services, Department of Education, First Floor, Capital

Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner of Education
WILLIAM TWYMAN, Chairperson

APPROVED BY AGENCY: August 12, 2016

FILED WITH LRC: August 12, 2016 at noon

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email kevin.brown@education.ky.gov.

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS, September 13, 2016)

804 KAR 4:390. License renewals.

RELATES TO: KRS 243.090(1)

STATUTORY AUTHORITY: KRS 241.060(1), 243.090(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 243.090(1) requires the Department of Alcoholic Beverage Control to establish a year-round system for renewal of licenses. This administrative regulation establishes the system for license renewal.

Section 1. Definition. "Batch renewal" means the simultaneous renewal of multiple licenses held by a licensee for more than two (2) premises.

Section 2. All licenses in Ballard, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Cumberland, Daviess, Edmonson, Fulton, Graves, Grayson, Green, Hancock, Hardin, Hart, Henderson, Hickman, Larue, Livingston, Lyon, Marshall, McCracken, McLean, Meade, Metcalfe, Monroe, Ohio, Owen, Spencer, Trigg, Trimble, Union, and Webster Counties shall have an annual term beginning February 1 and ending January 31 of the following year and shall be renewed[renew] in the month of January.

Section 3. All licenses in Adair, Allen, Barren, Bath, Bell, Boyle, Breathitt, Casey, Clark, Clay, Clinton, Elliott, Estill, Fleming, Floyd, Garrard, Harlan, Harrison, Hopkins, Jackson, Jessamine, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Logan, Madison, Magoffin, Marion, Martin, McCreary, Menifee, Mercer, Montgomery, Morgan, Muhlenberg, Nelson, Owsley, Perry, Powell, Pulaski, Rockcastle, Russell, Simpson, Taylor, Todd, Warren, Washington, Wayne, and Whitley Counties shall have an annual term beginning May 1 and ending April 30 of the following year and shall be renewed[renew] in the month of April.

Section 4. All licenses in Anderson, Bourbon, Boyd, Bracken, Carroll, Carter, Franklin, Gallatin, Grant, Greenup, Henry, Lewis, Mason, Nicholas, Oldham, Pendleton, Pike, Robertson, Rowan, Scott, Shelby, Wolfe, and Woodford Counties shall have an annual term beginning July 1 and ending June 30 of the following year and shall be renewed[renew] in the month of June.

Section 5. All licenses in Jefferson County shall have an annual term beginning November 1 and ending October 31 of the following year and shall be renewed[renew] in the month of October.

Section 6. All licenses in Boone, Campbell, Fayette, and Kenton Counties shall have an annual term beginning December 1 and ending November 30 of the following year and shall be renewed[renew] in the month of November.

Section 7. The license of a statewide or out-of-state licensee shall have an annual term beginning January 1 and ending December 31 of the ~~same~~following year and shall be renewed~~renew~~ in December.

Section 8. All batch renewals shall have an annual term beginning September 1 and ending August 31 of the following year and shall be renewed~~renew~~ in August.

Section 9. Unless a licensee notifies the department of its intent to renew premises licenses by batch as provided in Section 10 of this administrative regulation, a licensee that holds multiple licenses that cover multiple premises shall renew its licenses using the license expiration date based on the county of each premises.

Section 10. A licensee that holds multiple licenses for more than two (2) premises may renew the licenses by batch at the same time. A licensee who wants to renew premises by batch shall notify the department in writing. Upon written notification, the licenses shall then be renewed in August, as provided in Section 8 of this administrative regulation.

Section 11. A licensee that holds multiple licenses for more than two (2) premises shall not be required to send a letter requesting that its licenses be renewed separately unless the licensee wishes to change its current renewal schedule from batch to separate or from separate to batch~~elects to do batch renewal may return to separate monthly renewal by sending a letter to the department requesting the change~~.

Section 12. All small farm winery, microbrewery, and Class B Craft distiller's licenses shall submit required production reports~~required by 27 C.F.R. Part 19, 24, or 25~~ with their renewal application forms. Small farm wineries shall submit copies of their federal Report of Wine Premises Operation, TTB F 5120.17, for time periods identified on renewal application forms.~~[These forms are available in accordance with 27 C.F.R. 19.15, 24.20, and 25.3.]~~ Microbreweries shall submit copies of their federal Brewer's Report of Operations, TTB F 5130.9, for time periods identified on renewal application forms. Class B Craft Distilleries shall submit copies of their federal Monthly Report of Production Operations, TTB F 511.40, for time periods identified on renewal application forms.

Section 13. The department may elect to not renew a license if the licensee exceeds a production limit for its license type or fails to meet food sales percentages required for its license type, or if renewal of the license would otherwise be contrary to law.

Section 14. If a licensee fails to renew its license by the expiration date, the department shall grant not more than one (1) extension which shall not exceed thirty (30) days from the original expiration date. The licensee shall not conduct any activity related to alcoholic beverages during the extension. A license not renewed during the thirty (30) day extension period shall not be renewed thereafter for any reason and the licensee shall reapply for a new license.

STEVEN A. EDWARDS, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: July 14, 2016

FILED WITH LRC: July 15, 2016 at 11 a.m.

CONTACT PERSON: Melissa McQueen, Staff Attorney, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 782-7906, fax (502) 564-7479, email Melissa.McQueen@ky.gov.

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS, September 13, 2016)

804 KAR 4:400. ABC basic application and renewal form incorporated by reference.

RELATES TO: KRS 164.772, 241.060(1), 243.090, 243.380, 243.390

STATUTORY AUTHORITY: KRS 241.060(1), 243.380, 243.390

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate reasonable administrative regulations governing procedures relative to the applications for and revocation of licenses. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license application form. This administrative regulation prescribes the ~~[basic]~~ forms to be used to apply for and renew an alcoholic beverage license.

Section 1. Initial Application for Alcoholic Beverage License. An applicant for an alcoholic beverage license shall complete and submit to the department~~[of Alcoholic Beverage Control]~~ the Basic Application for Alcoholic Beverage License, with the exception of an applicant for:

(1) A special agent/solicitor license, out-of-state producer/supplier of distilled spirits/wine license,~~[or]~~ out-of-state producer/supplier of malt beverage license, or a transporter license; or

(2) A temporary license~~;~~ or

~~(3) An extended hours, supplemental bar, special Sunday, or sampling license.~~

Section 2. Application for License Renewal.~~[In addition to the Basic Application for Alcoholic Beverage License required by Section 1 of this administrative regulation, an applicant shall complete and submit to the Department of Alcoholic Beverage Control the special application form required by 804 KAR 4:410 if applicable.~~

~~Section 3.]~~ A licensee seeking to renew~~[who is renewing]~~ a license pursuant to KRS 243.090 shall complete and submit to the department~~[of Alcoholic Beverage Control]~~ the Application for License Renewal.

Section 3.~~[4.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Basic Application for Alcoholic Beverage License", September~~[July]~~ 2016~~[June 2015]~~; and

(b) "Application for License Renewal", May~~[July]~~ 2016~~[June 2015]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov/>.

STEVEN A. EDWARDS, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: July 14, 2016

FILED WITH LRC: July 15, 2016 at 11 a.m.

CONTACT PERSON: Melissa McQueen, Staff Attorney, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 782-7906, fax (502) 564-7479, email Melissa.McQueen@ky.gov.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS, September 13, 2016)

804 KAR 4:410. Special applications and registration forms incorporated by reference.

RELATES TO: KRS 241.060(1)

STATUTORY AUTHORITY: KRS 241.060(1), 243.380, 243.390

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate reasonable administrative regulations governing procedures relative to the applications for licensing. This administrative regulation incorporates by reference additional[special] application forms for specific licenses and required registration forms.

Section 1. Additional[Special] Application Forms. An applicant applying for an alcoholic beverage license not included in 804 KAR 4:400 shall complete and submit to the Department of Alcoholic Beverage Control the applicable additional[special] application form for the specific license type for which the application is made. The additional[special] application forms are listed below:

- (1) ~~Transporter/Solicitor/Out-Of-State[Special Agent/Solicitor, Out-of-State Producer/Supplier of Distilled Spirits/Wine, Out-of-State Producer/Supplier of Malt Beverage]~~ Application;
- (2) Special Temporary License Application;
- (3) Supplemental License Application; or
- (4) Rectifier's[Distiller's] License: Change of License Application.

Section 2. Registration Forms. ~~If[An]~~ applicable, a licensee shall complete and submit the ~~following registration forms:~~

- (1) ~~Microbrewer's Retail Gross Receipts Report to Distributor to be submitted to the Department of Revenue; or~~

- (2) Product Registration Online form. **The form shall/it may** ~~be completed electronically at:~~

~~(1)[(a)]~~

~~https://www.productregistrationonline.com/GetStarted/Ky#selectPermit;~~

- ~~(2)[(b)]~~ <https://www.productregistrationonline.com/distributor/login>; or

- ~~(3)[(c)]~~ <https://www.productregistrationonline.com/producer/login>.

Section 3. Additional Forms. An applicable licensee shall complete and submit the following additional forms:

- (1) Dormancy Request for Quota Retail Licenses;
- (2) Amendment to Application Authorization Form;
- (3) ABC Retailer Sampling Notification[Request];
- (4) Request for Minors on Premises;
- (5) Affidavit of Ownership;
- (6) Affidavit of Non-Transfer;
- (7) Notice of Surrender of License(s);
- (8) Request to Participate in the Master File Licensing Process;
- (9) Application Request for Approval of Partial Transfer of Ownership to my Original License Application; ~~or~~

- (10) Remittance Form;

(11) Order Form; or

(12) Presentation/Speaker Request Form.

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

- (a) ~~"Transporter/Solicitor/Out-Of-State[Special Agent/Solicitor, Out-of-State Producer/Supplier of Distilled Spirits/Wine, Out-of-State Producer/Supplier of Malt Beverage]~~ Application", July 2016[September 2014];

- (b) "Special Temporary License Application", September[July] 2016[September 2014];

- (c) "Supplemental License Application", September[July] 2016[2015];

- (d) "Presentation/Speaker Request Form", March 2016[Microbrewer's Retail Gross Receipts Report to Distributor",

June 2015];

- (e) "Product Registration Online", September 2014;

- (f) "Rectifier's[Distiller's] License: Change of License Application", June[May] 2016[July 2014];

- (g) "Dormancy Request for Quota Retail Licenses", June 2013;

- (h) "Amendment to Application Authorization Form", May 2016[July 2014];

- (i) "ABC Retailer Sampling Notification[Request]", September[May] 2016[June 26, 2013];

- (j) "Request for Minors on Premises", June 2013;

- (k) "Affidavit of Ownership", June 2013;

- (l) "Affidavit of Non-Transfer", June 2013;

- (m) "Notice of Surrender of License(s)", June 2013;

- (n) "Request to Participate in the Master File Licensing Process", June 2013;

- (o) "Application Request for Approval of Partial Transfer of Ownership to my Original License Application", June 2013; ~~and~~

- (p) "Remittance Form", February 2016; and

- (q) "Order Form", 2015[3/27/2015].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov>.

STEVEN A. EDWARDS, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: July 14, 2016

FILED WITH LRC: July 15, 2016 at 11 a.m.

CONTACT PERSON: Melissa McQueen, Staff Attorney,
Department of Alcoholic Beverage Control, 1003 Twilight Trail,
Frankfort, Kentucky 40601, phone (502) 782-7906, fax (502) 564-7479, email Melissa.McQueen@ky.gov.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Division of Depository Institutions
(As Amended at ARRS, September 13, 2016)

808 KAR 1:160. Fees for services rendered to banks and trust companies.

RELATES TO: KRS 286.3-010, 286.3-020, 286.3-050, 286.3-095, 286.3-135, 286.3-140, 286.3-145, 286.3-146, 286.3-170, 286.3-172, 286.3-174, 286.3-180, 286.3-185, 286.3-450, 286.3-480, 286.3-530, 286.3-820, 286.3-920

STATUTORY AUTHORITY: KRS 286.1-020(1), 286.3-145, 286.3-146, 286.3-480

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations to interpret and carry out the provisions and intent of KRS Chapter 286. KRS 286.3-145 and 286.3-146 authorize the commissioner to prescribe filing fees for trust companies that want ~~provide for fees that shall be paid~~ to establish or acquire and maintain a trust office or trust representative office. KRS 286.3-480 requires the commissioner to establish fees for certain investigations, applications, examination of assets, and extraordinary services performed for any financial institution ~~provides for fees that shall be paid for various services that are rendered by the commissioner~~. This administrative regulation establishes the fees for these services.

Section 1. Definitions. (1) "Applicant" means a person or institution submitting a written application, plan, or notice pursuant to KRS Chapter 286.3.

- (2) "Commissioner" is defined by KRS 286.3-010(7).

- (3) "Department" is defined by KRS 286.3-010(8).

- (4) "Extraordinary services performed" means:

- (a) Review of a request for approval of a change of control made pursuant to KRS 286.3-095(1), unless the request was made concurrently with an application made pursuant to KRS 286.3-905;

or

(b) A special examination.

(5) "Institution" means an institution that is subject to examination pursuant to KRS 286.3-450 or KRS 286.3-530.

(6) "Special examination" means:

(a) An abbreviated on-site review conducted in conjunction with a formal or informal enforcement action to determine an institution's progress in achieving compliance with laws or administrative regulations or to address unsafe and unsound banking practices;

(b) An off-site review of progress reports submitted by an institution to the commissioner in conjunction with a formal or informal enforcement action; or

(c) A second examination conducted within the twenty-four (24) month timeframe set forth in KRS 286.3-450(1) that results from an institution failing to comply with laws or administrative regulations relating to banks or trust companies or from an institution engaging in unsafe and unsound banking practices.

Section 2. Fees. An applicant or institution shall pay the department a fee for the services identified in the following table:

Service	Fee
Review of application submitted pursuant to KRS 286.3-020	\$5,000, plus the hourly fee established in Section 3 of this administrative regulation for each examiner that conducts an investigation of the applicant.
Review of application submitted pursuant to KRS 286.3-135	\$5,000, plus the hourly fee established in Section 3 of this administrative regulation for each examiner that conducts an investigation of the applicant.
Review of plan submitted pursuant to KRS 286.3-172	\$5,000, plus the hourly fee established in Section 3 of this administrative regulation for each examiner that conducts an investigation of the applicant.
Review of amendments submitted pursuant to KRS 286.3-050(4) if at least one (1) amendment is being made pursuant to KRS 286.3-140(1)	\$1,000
Review of amendments submitted pursuant to KRS 286.3-050(4) <u>if none of the amendments are unless at least one (1) amendment is</u> being made pursuant to KRS 286.3-140(1)	\$250
Review of application required pursuant to KRS 286.3-180 unless the application is being made concurrently with an application required pursuant to KRS 286.3-920(2)	\$500
Review of application required pursuant to KRS 286.3-820	\$500
Review of application required pursuant to KRS 286.3-920(2) or 286.3-920(3) unless the application is being made concurrently with an application required pursuant to KRS 286.3-905	\$2,500
Review of notice required pursuant to KRS 286.3-145(4)	\$500
Review of notice required pursuant to KRS 286.3-145(5) or 286.3-146(4)	\$1,000
Review of application required pursuant to KRS 286.3-185	\$500
Examination conducted	The hourly fee established in

pursuant to KRS 286.3-480(1)(c)	Section 3 of this administrative regulation for each examiner that conducts the examination.
Extraordinary services performed	The hourly fee established in Section 3 of this administrative regulation for each examiner that conducts the review or special examination.

Section 3. Hourly Fee. The hourly fee shall be fifty-five (55) dollars per hour.

Section 4. Payment Terms. (1) Except for hourly fees, a fee shall be paid by the applicant at the time a written application, plan, or notice is made.

(2) An hourly fee shall be paid within thirty (30) days of the date a fee invoice is mailed to the applicant or institution.

(3) Except for clerical errors, a fee paid pursuant to this administrative regulation shall be nonrefundable.

CHARLES A. VICE, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: July 13, 2016

FILED WITH LRC: July 14, 2016 at 9 a.m.

CONTACT PERSON: Jessica R. Sharpe, General Counsel, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390, fax (502) 573-8787, email Jessica.Sharpe@ky.gov.

**PUBLIC PROTECTION CABINET
Department of Financial Institutions
Division of Nondepository Institutions
(As Amended at ARRS, September 13, 2016)**

808 KAR 12:055. Uniform standards for mortgage loan processor applicant employee background checks.

RELATES TO: KRS 286.8-010, 286.8-255(9), 15 U.S.C. 1681, et seq.

STATUTORY AUTHORITY: KRS 286.8-140(1), 286.8-255(9)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.8-140(1) authorizes the commissioner to promulgate administrative regulations necessary to accomplish the basic purposes of KRS Chapter 286.8. Prior to hiring a mortgage loan processor applicant, KRS 286.8-255(9) requires licensees to perform an employee background check in accordance with uniform standards established by the commissioner demonstrating that the mortgage loan processor applicant has not been convicted of, pled guilty to, or pled nolo contendere to certain felonies and that the mortgage loan processor applicant has demonstrated financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan processor applicant will operate honestly, fairly, lawfully, and efficiently within the purposes of KRS Chapter 286.8. This administrative regulation establishes the uniform standards for these employee background checks.

Section 1. Definitions. (1) "Adverse action" means a denial of employment based in whole or in part on information obtained from an employee background check conducted pursuant to KRS 286.8-255(9) and this administrative regulation.

(2) ~~["Commissioner"] is defined by KRS 286.8-010(3).~~

~~(3)]~~ "Consumer report" means a consumer report as defined by section 603(d) of the federal Fair Credit Reporting Act, 15 U.S.C. 1681a(d).

~~(3)](4)~~ "Department" is defined by KRS 286.8-010(2).

~~(5)]~~ "Governmental agency" means any executive, legislative, or judicial agency, department, authority, political subdivision, or instrumentality of a state, the United States, or a foreign government.

~~(4)](6)]~~ "Licensee" is defined by KRS 286.8-010(15).

~~(5)](7)]~~ "Mortgage loan processor" is defined by KRS 286.8-

010(22).

[6]([8]) "Mortgage loan processor applicant" means a person making an application with a licensee to be employed by the licensee as a mortgage loan processor.

[7]([9]) "Nationwide consumer reporting agency" means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined by section 603(p) of the federal Fair Credit **Reporting[Report]** Act, 15 U.S.C. 1681a(p).

Section 2. Uniform Standards for Mortgage Loan Processor Employee Background Checks. (1) Each background check conducted by a licensee pursuant to KRS 286.8-255(9) shall:

- (a) Be in writing;
- (b) Be conducted no earlier than six (6) months prior to hiring a mortgage loan processor applicant; and
- (c) At a minimum include the following:
 1. A consumer report compiled by a nationwide consumer reporting agency that includes information reflecting the mortgage loan processor applicant's credit history;
 2. A report detailing the search for any publicly available criminal records of the mortgage loan processor applicant involving felonies in Kentucky and in all other states or foreign jurisdictions where the mortgage loan processor applicant has resided or worked and any records found or obtained; and
 3. A report detailing the search for any publicly available criminal records of the mortgage loan processor applicant involving misdemeanors of which an essential element is fraud, breach of trust, or dishonesty in Kentucky and in all other states or foreign jurisdictions where the mortgage loan processor applicant has resided or worked for the five (5) years preceding the date of application and any records found or obtained.

(2) In obtaining the information required by subsection (1) of this section, a licensee may reasonably rely upon written reports, statements, or records obtained from any of the following:

- (a) A governmental agency;
- (b) A nationwide consumer reporting agency; or
- (c) A search firm that:
 1. **Conducts[Is properly authorized to conduct]** background investigations in accordance with all applicable law; and
 2. Produces a written investigative report that contains the date the report was prepared, the scope of the search, the results of the search, and a statement indicating that the report is accurate and complete to the best of the firm's knowledge and belief.

(3) When conducting the employee background check and making the determinations required by KRS 286.8-255(9) and this administrative regulation, each licensee shall comply with the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq., and all other applicable state or federal laws.

Section 3. Factors Used to Make the Determinations Required by KRS 286.8-255(9). (1) A licensee shall determine whether a mortgage loan processor applicant has demonstrated financial responsibility pursuant to KRS 286.8-255(9)(b) after review of:

- (a) All information obtained from the mortgage loan processor applicant; and
- (b) The mortgage loan processor applicant's consumer report for the following information:
 1. Any outstanding judgments, excluding judgments arising solely from medical expenses for the mortgage loan processor applicant or an immediate family member;
 2. Any outstanding tax liens or other governmental liens;
 3. Any foreclosures occurring within five (5) years of the date of the consumer report;
 4. Any bankruptcies occurring within five (5) years of the date of the consumer report; and
 5. Any delinquent accounts occurring within five (5) years of the date of the consumer report.

(2) A licensee shall determine whether a mortgage loan processor applicant has demonstrated character and general fitness pursuant to KRS 286.8-255(9)(b) after review of all information obtained from the mortgage loan processor applicant and the employee background check conducted in accordance with this administrative regulation, including information shown on

the mortgage loan processor applicant's consumer report.

(3) Prior to conducting the reviews required by subsections (1) and (2) of this section, **and in accordance with subsection (4) of this section**, the licensee, at a minimum, shall obtain the following information and disclosures from the mortgage loan processor applicant:

- (a) A complete residential and employment history for the ten (10) years preceding the date of application;
- (b) Whether a bonding company has ever denied, paid, or revoked a bond for the following:
 1. The mortgage loan processor applicant; or
 2. An entity in which the mortgage loan processor applicant acted as a control person if the denial, payment, or revocation was based on acts that occurred while the mortgage loan processor applicant exercised control;
- (c) Whether the mortgage loan processor applicant has ever been convicted of, pled guilty to, or pled nolo contendere to the following in any domestic, foreign, or military court:
 1. Any felony during the seven (7) year period preceding the date of application made with the licensee;
 2. Any felony, regardless of the date of conviction or pleading, if the felony involved an act of fraud or dishonesty, a breach of trust, or money laundering; or
 3. Any misdemeanor for which an essential element is fraud, breach of trust, or dishonesty during the five (5) year period preceding the date of application made with the licensee;
- (d) Whether there are any pending charges against the mortgage loan processor applicant involving a crime referenced in paragraph (c) of this subsection;
- (e) Whether any domestic or foreign court ever found, or there is pending in any court an action alleging, that the mortgage loan processor applicant violated or was involved in a violation of a financial services-related statute or regulation;
- (f) Whether any governmental agency or self-regulatory organization ever entered an order or made a finding determining, or there is pending an action initiated by any agency or organization alleging, that the following person or entity made a false statement, engaged in dishonest, unfair, or deceptive conduct or practices, engaged in fraudulent conduct, or violated or was involved in the violation of a financial services-related statute or regulation:
 1. The mortgage loan processor applicant; or
 2. An entity in which the mortgage loan processor applicant acted as a control person if the order, finding, or action was based on acts that occurred while the mortgage loan processor applicant exercised control;
- (g) Whether the following person or entity has had a license, registration, or claim of exemption related to the financial services industry denied, suspended, or revoked under the laws of any state or the United States, or has surrendered or terminated any license, registration, or claim of exemption issued by any state or the United States under threat of administrative action:
 1. The mortgage loan processor applicant; or
 2. An entity in which the mortgage loan processor applicant acted as a control person if the denial, suspension, revocation, or termination was based on acts that occurred while the mortgage loan processor applicant exercised control;
- (h) Whether the mortgage loan processor applicant has ever been named as a respondent or defendant in a financial services-related consumer-initiated arbitration or civil action that resulted in an arbitration award, civil judgment, or settlement involving the payment of money or taking of corrective action by the mortgage loan processor applicant;
- (i) Whether the mortgage loan processor applicant has ever been found to have violated or is the subject of a pending investigation involving the violation of any rule of conduct for test takers of the S.A.F.E. Mortgage Loan Originator Test administered by the Nationwide Mortgage Licensing System and Registry; and
- (j) Complete details of all events and proceedings disclosed by the mortgage loan processor applicant.
- (4) Any conviction, plea, denial, suspension, revocation, surrender, termination, order, or finding that has been formally vacated or set aside shall not be deemed a conviction, plea, denial,

suspension, revocation, surrender, termination, order, or finding for the purposes of subsection (3) of this section.

Section 4. Mortgage Loan Processor Applicant's Right to Review and Submit. If information is discovered or obtained by a licensee concerning a mortgage loan processor applicant that may result or contribute to an adverse action by the licensee concerning the mortgage loan processor applicant, the mortgage loan processor applicant shall be given a minimum of ten (10) days to do the following prior to the making of a final employment decision by the licensee:

- (1) Review the information and any documents relating to the information;
- (2) Dispute the accuracy of the information; and
- (3) Submit additional, corrected, or mitigating explanation, information, or documents for the licensee's review.

CHARLES A. VICE, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: June 15, 2016

FILED WITH LRC: June 15, 2016 at 9 a.m.

CONTACT PERSON: Jessica R. Sharpe, General Counsel, or Gary Stephens, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390, fax (502) 573-8787.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Operations and Support
(As Amended at ARRS, September 13, 2016)**

910 KAR 1:210. Kentucky Long-term Care Ombudsman Program.

RELATES TO: KRS 205.201, 209.030(5), 216.535, 216.540-216.543, 42 U.S.C. 3001 et seq.

STATUTORY AUTHORITY: KRS 194A.050, 205.204

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, requires states to establish and operate, either directly or by contract, a long-term care ombudsman program to protect the rights of older individuals. KRS 194A.050 requires the secretary for the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act of 1965, as amended, in Kentucky. This administrative regulation establishes a statewide Long-term Care Ombudsman Program.

Section 1. Definitions. (1) "Access" means the right to enter a long-term care facility, meet with the residents, and review the records of a resident.

(2) "Administrator" means any person charged with the general administration or supervision of a long-term care facility without regard to whether the person has an ownership interest in the facility or to whether the person's functions and duties are shared with one (1) or more other persons.

(3) "Case" means each inquiry brought to, or initiated by, the ombudsman on behalf of a resident or group of residents involving one (1) or more complaints and includes an ombudsman investigation or strategy to resolve and follow-up.

(4) "Certification" means the official notification by the Kentucky long-term care ombudsman that local long-term care ombudsman individual staff are qualified and acceptable to function in that capacity.

(5) "Complaint" means an allegation filed by residents or on behalf of residents relating to the health, safety, welfare, and rights of a resident.

(6) "Complaint resolution" means either corrective action taken in regard to an allegation or a determination as to the validity of the allegation.

(7) "Complaint verification" means a determination through investigative means that allegations relating to the health, safety, welfare, and rights of a patient are generally accurate.

(8) "DAIL" means the Department for Aging and Independent Living.

(9) "Designation" means formal notification by the Kentucky long-term care ombudsman that a district program meets requirements and shall be considered a subdivision of the state office.

(10) **"Designee" means an individual who is chosen to act on behalf of the KLTCO and who meets the same qualifications as the KLTCO pursuant to Section 8 of this administrative regulation.**

(11) "District ombudsman" means that individual certified by the Kentucky long-term care ombudsman to implement the ombudsman provisions of the approved contract agency plan.

(12)(11) "Educational or experiential equivalent" means:

(a) Two (2) semesters totaling at least twenty-four (24) hours of course work; and

(b) At least 400 documented hours of experience assisting aging or disabled individuals through:

1. Practicum placement;
2. Clinicals; or
3. Volunteerism.

(13)(12) "Evaluation" means periodic analysis and review conducted by the Kentucky long-term care ombudsman of district, regional, and state ombudsman programs, including quality assurance and outcome measures pertaining to individual and programmatic performance.

(14)(13) "Friendly visitor" means a trained non-certified volunteer who visits residents in long-term care facilities to assist the district long-term care ombudsman program.

(15)(14) "Investigation" means the formal response by a long-term care ombudsman to complaints of issues involving the health, safety, welfare, and rights of a resident.

(16)(15) "Kentucky long-term care ombudsman" or "KLTCO" means the individual charged with the administration of the Kentucky Long-term Care Ombudsman Program under the provisions of the Older Americans Act of 1965, as amended.

(17)(16) "Long term care facility" is defined by KRS 216.510(1).

(18)(17) "Monitoring" means periodic review measuring ombudsman program's adherence to approved plans, including analysis of non-client specific data relating to program performance.

(19)(18) **"Primary client group" means residents of long-term care facilities and those persons making application for admission to long-term care facilities and their families.**

(20)(19) "Referral" means the appropriate channeling of information so as to effect a desired outcome.

(20)(21)(20) "Regional long-term care ombudsman" means ombudsmen who operate directly from the Kentucky Long-term Care Ombudsman Program and whose responsibilities include coordination of a multi-area development district area.

(21)(22)(21) **"Resident representative" is defined by 45 C.F.R. 1324.1(1327-1).**

(22)(21)(22) "Volunteer ombudsman" means a certified unpaid individual serving within a district program to assist a district ombudsman.

Section 2. Responsibilities of Kentucky Long-term Care Ombudsman. (1) The Kentucky Long-term Care Ombudsman Program shall be administered by a full time ombudsman operated by DAIL or through a contracted entity.

(2) The Kentucky Long-term Care Ombudsman shall be responsible for the:

(a) Design, implementation, and management of a statewide uniform system for receiving, investigating, resolving, and reporting complaints on behalf of residents in long-term care facilities and provide ongoing support to assist in the resolution of those complaints;

(b) Investigation of complaints made by or on behalf of residents in long-term care facilities from areas of the state

temporarily without local ombudsman programs if a local backup ombudsman is not available;

(c) Development and implementation of policies and procedures for operation of the program, including those related to:

1. Receipt, investigation, verification, and resolution of complaints;

2. Protecting confidentiality of records and identity of complainants;

3. Establishing the right of public access to information regarding conditions in long-term care facilities; and

4. Securing ombudsman access to long-term care facilities, residents, and residents' personal and medical records;

(d) Development and management of a system for the operation of a statewide network of district programs, including:

1. Designation of district programs through:

a. Reviewing applications for designation of district ombudsman contained in their plans for operating either directly or under subcontract;

b. Providing written confirmation of the designation; and

c. Administration of certification and training requirements;

2. Development of district program operating procedures and reporting requirements; and

3. Establishment of a communications link between the Kentucky long-term care ombudsman and district programs;

(e) Establishment and maintenance of program official files and adoption of procedures to protect the confidentiality of those files;

(f) Provision of information and education concerning:

1. Program activities;

2. The long-term care system; and

3. The rights and concerns of residents and potential residents of long-term care facilities;

(g) Provision of assistance to citizen organizations, consumer groups, and other interested community organizations to enhance the rights of residents in long-term care facilities;

(h) Promotion of the development of citizen organizations at the state and local level to participate in the program;

(i) Use of publicity and outreach efforts directed at long-term care residents and families, network staff, and the general public about the availability of the program to receive and investigate complaints;

(j) Review of complaint, case, and issue data submitted by the district programs and analysis for trends, patterns [pattern], and issue identification;

(k) Annual National Ombudsman Reporting System (NORS) report to the Administration on Community Living;

(l) Assistance to the district ombudsman to establish, develop, and coordinate ombudsman activities;

(m) Development of agreements and working relationships with relevant agencies to encourage their cooperation and assistance with the program at the state and local levels;

(n) Development of agreements and working relationships with legal services programs, particularly those funded by the Older Americans Act of 1965, as amended;

(o) Development and provision of training on an ongoing basis for regional and district ombudsman program staff and volunteers;

(p) Identification and development of additional funding and staffing resources for the long-term care ombudsman program;

(q) Support and promotion of the formation of resident councils in long-term care facilities;

(r) Development and provision of testimony and comment on proposed legislation, administrative regulations, policies, and rule changes affecting the long-term care residents[institutionalized elderly];

(s) Conduction of other activities related to the protection and dignity of residents of long-term care facilities;[and]

(t) Performance of other activities required by the Administration on Community Living;

(u) Policy that shall require the district ombudsman program to perform the functions and responsibilities of the ombudsman pursuant to 45 C.F.R. 1324.13[42 C.F.R. 1327.13] and adhere to the requirements of section 712 of the Older Americans Act of 1965, as amended;

(v) Policy and procedure clarifying the local ombudsman shall

have access to the agencies programmatic fiscal information; and
(w) Policy and procedure for the receipt and review of grievances received regarding the determination or action of the ombudsman and representatives.

Section 3. Responsibilities of the Regional Long-term Care Ombudsman. The regional long-term care ombudsman shall be staff of, and report directly to, the Kentucky long-term care ombudsman and shall have the following responsibilities:

(1) Receive, investigate, and resolve complaints;

(2) Provide technical assistance and coordination of district programs;

(3) Assist in training of volunteers and local program personnel;

(4) Provide information to public agencies regarding problems of long-term care residents;

(5) Abide by established policies and procedures related to reporting and confidentiality; and

(6) Perform other job duties as required by the Kentucky long-term care ombudsman.

Section 4. Designation of District Programs. (1) The Kentucky long-term care ombudsman shall designate district entities throughout the state to operate the long term care ombudsman program.

(2) The district ombudsman program entity shall submit a plan which shall serve as the application for designation of a district ombudsman. The application shall include:

(a) Definition of program in terms of the following personnel:

1. Program supervisor;

2. Ombudsman advisory council;

3. District ombudsman;

4. Friendly visitors; and

5. Volunteer ombudsman;

(b) Agency to conduct the program;

(c) Ability to receive, investigate, and resolve complaints on behalf of long-term care residents;

(d) Maintenance of a complaint documentation system;

(e) Ability to monitor the development and implementation of laws, policies, and regulations which apply to residential long-term care;

(f) Ability to recruit and provide standardized training for volunteers;

(g) Ability to respond in a timely fashion to requests from the Kentucky Long-term Care Ombudsman Program for statistical data and other information;

(h) Ability to receive training and continuing education from the Kentucky Long-term Care Ombudsman Program;

(i) Ability to assure confidentiality of files;

(j) Ability to inform and educate residents, sponsors, organizations, the long-term care industry, and the general public relative to issues affecting the long-term care system, the ombudsman program, and resident rights and concerns;

(k) Provision that no individual involved in the appointment of a subdivision of the office and that no officer, employee, or other representative of the office is subject to a conflict of interest;[and]

(l) Provision that representatives of the Kentucky Long-term Care Ombudsman Program shall not be liable under state law for the good faith performance of official duties; and

(m) Provision of an annual written statement that the district ombudsman program and contracted entity shall ensure there is not a conflict of interest for the following:

1. Staff;

2. Volunteers;

3. Governing board members;

4. Advisory board members; or

5. Other parties representing or providing oversight to the long-term care ombudsman program.

(3) Designated ombudsmen shall be representatives of the Kentucky Long-term Care Ombudsman Program and shall be accorded rights and privileges of that office.

(4) The district ombudsman agency shall coordinate with the Kentucky long-term care ombudsman prior to hiring a district

ombudsman.

Section 5. Responsibilities of the District Ombudsman. The district ombudsman shall:

- (1) Provide services as follows:
 - (a) There shall be a staff person, qualified by training and experience, responsible for administering each service and supervising assigned staff and volunteers;
 - (b) There shall be designated staff who are trained and skilled in assessing and dealing with the needs of older adults~~[the elderly]~~ and in the delivery of each service;
 - (c) Volunteers and paid staff with the same responsibilities shall meet comparable requirements for training and skills;
 - (d) New staff shall receive an orientation and shall be trained and certified prior to assuming responsibilities;
 - (e) Staff shall attend required training and provide in-service training for staff and volunteers of local programs;
 - (f) Staff and volunteers shall not accept personal gifts or money from participants or vendors; and
 - (g) Staff and volunteers shall not pay bills or cash checks for clients or participants;
- (2) Assure services are accessible to older persons by telephone, correspondence, or person-to-person contact;
- (3) Represent residents residing in long-term care facilities within the assigned geographical areas;
- (4) Assure residents' rights are upheld and promote quality care in long-term care facilities;
- (5) Investigate and work to resolve complaints on behalf of long-term care residents;
- (6) Promote community involvement in the program by:
 - (a) Publicizing the existence and function of the local and state programs;
 - (b) Advising the public about the availability of current state, local, and federal inspection reports, statements of deficiency, and plans for correction for individual long-term care facilities in the service area;
 - (c) Organizing and implementing an active volunteer program;
 - (d) Assisting in the development of resident or family and friends councils;
 - (e) Sponsoring community education and training programs for long-term care facilities, human service workers, families, and the general public about long-term care and residents' rights issues; and
 - (f) Promoting citizen involvement in order to ensure regular visitations, especially for those residents without available family or friends; and
- (7) Implement accurate recordkeeping procedures to assure that:
 - (a) An accurate record shall be maintained on each participant which documents:
 1. Participant identification data;
 2. Requests for assistance~~[service]~~;
 3. Eligibility for services provided;
 4. Follow-up; and
 5. Closure;
 - (b) Reports for the Kentucky long-term care ombudsman are prepared and submitted in a format and time frame as directed;
 - (c) Procedures are followed to protect the identity, confidentiality, and privacy of clients; and
 - (d) Nonclient-specific statistical and financial data is submitted as required.

Section 6. Responsibilities of the Volunteer Ombudsman. The volunteer ombudsman shall:

- (1) Complete required training, including training and certification requirements for those involved in complaint investigation;
- (2) Provide regular visitation of residents in long-term care facilities;
- (3) Adhere to guidelines provided by the Kentucky long-term care ombudsman and district ombudsmen; and
- (4) Complete required paperwork.

Section 7. Ombudsman Advisory Council. (1) The designated district ombudsman program shall have an advisory council whose functions are to:

- (a) Review and advise programs on policies and procedures;
 - (b) Provide ongoing support and leadership; and
 - (c) Identify and generate funding resources for program viability.
- (2) The advisory council shall be comprised as follows:
- (a) Members shall be persons with a strong interest in improving the quality of life for the long-term care residents~~[institutionalized elderly]~~ and for protecting their rights;
 - (b) Group size and composition shall be individualized to the needs of the local program but shall not be less than seven (7); and
 - (c) One-third (1/3) of the members shall be consumers or family members of consumers.
- (3) Advisory council members shall not:
- (a) Be responsible for certifying or licensing long-term care facilities;
 - (b) Be a provider of long-term care services or part of an association of providers;
 - (c) Have any interest or association which may impair the ability of the ombudsman to objectively and independently investigate and resolve complaints;
 - (d) Gain economically or receive any compensation from a long-term care facility or association;
 - (e) Be on the Adult Protective Services Caregiver Misconduct Registry or the Kentucky Nurse Aid Abuse registry; or
 - (f) Have been found guilty of the following:
 1. A violent crime as defined by KRS 439.3401;
 2. Abuse, neglect, or exploitation of another person, including assault;
 3. Felony theft offense; or
 4. Felony drug offense.

Section 8. Qualifications, Certification, and Training of Long-Term Care Ombudsmen. (1) The Kentucky long-term care ombudsman, regional long-term care ombudsman, and district long-term care ombudsman shall:

- (a) Possess a minimum of a bachelor's degree in a health or human services profession from an accredited college or university with:
 1. One (1) year experience in health or human services; or
 2. The educational or experiential equivalent in the field of aging or physical disabilities; or
- (b) Be a certified regional or district ombudsman with no lapse in certification prior to the effective date of this administrative regulation.
- (2) The Kentucky long-term care ombudsman shall meet the qualifications of subsection (1)(a)-(b) of this section and have expertise in:
 - (a) Long-term services and supports or other direct services for older persons or individuals with disabilities;
 - (b) Consumer-oriented public policy advocacy;
 - (c) Leadership and program management skills; and
 - (d) Negotiation and problem solving skills.
- (3) The Kentucky long-term care ombudsman, a district, regional, or volunteer ombudsman, and a friendly visitor shall have a completed background check conducted prior to hire using ~~[fer]~~ the following:
 - (a) The Adult Protective Services Caregiver Misconduct Registry;
 - (b) The Kentucky Nurse Aid Abuse registry; and
 - (c) A criminal record check utilizing the Kentucky Administrative Office of the Courts or the Kentucky Justice Cabinet and not have been found guilty of the following:
 1. A violent crime as defined by KRS 439.3401;
 2. Abuse, neglect, or exploitation of another person, including assault;
 3. Felony theft offense; or
 4. Felony drug offense.
- (4)~~[(3)]~~ Program sponsors, sub-contract agency directors, and directors of other sponsoring agencies shall receive basic training

whenever possible.

(5)[(4)] The long-term care ombudsman, program staff, and volunteers shall receive a minimum of twenty-four (24) hours of training in order to be eligible for certification as a long-term care ombudsman, including at least the following areas:

(a) The Older Americans Act of 1965, as amended, and the aging network;

(b) Characteristics, special needs, and problems of the long-term care resident;

(c) Characteristics of long-term care facilities including:

1. Numbers of beds;

2. Levels of care;

3. Services; and

4. Costs;

(d) The long-term care reimbursement system including:

1. Medicaid;

2. Medicare;

3. SSI; and

4. State supplementation;

(e) The regulation of facilities and the enforcement of regulations;

(f) Complaint investigation and resolution;

(g) Guardianship;

(h) Residents' rights;

(i) Development of resident and family [residents'] councils;

(j) Recruiting, screening, selecting, training, placing, and supporting volunteers; and

(k) Use of public funds.

(6)[(5)] District ombudsmen shall attend training meetings as established by the Kentucky long-term care ombudsman.

(7)[(6)] All long-term care ombudsmen and volunteers shall be:

(a) Certified within thirty (30) days of hire or prior to providing services; and

(b) Re-certified every two (2) years prior to the expiration of the current certification.

(8)[(7)] Certification shall be awarded after submitting certification documentation of:

(a) Verification of completion of minimum training requirements; and

(b) A score of at least eighty (80) percent on the certification examination.

Section 9. Confidentiality. Investigatory files, complaints, responses to complaints, and other information related to complaints or investigations maintained by the ombudsman program shall be considered confidential information in accordance with the Older Americans Act of 1965, 42 U.S.C. 3027(a)(12)(C). Confidentiality shall be maintained using the following criteria:

(1) Persons who gain access to a resident's records shall not discuss or disclose information in the records or disclose a resident's identity outside of the program.

(2) The Kentucky long-term care ombudsman shall release information only with:

(a) Written consent of the resident; or

(b) A court order to disclose.

(3) Information shall be secured as follows:

(a) Complaint files shall be contained in a locked file cabinet;

(b) Computerized systems shall have secured access codes; and

(c) Computer software containing confidential information shall be stored in a locked file.

(4) The confidentiality and disclosure criteria shall not preclude the ombudsman's use of otherwise confidential information in the files for preparation and disclosure of statistical, case study, and other data if the ombudsman does not disclose the identity of persons otherwise protected in this section.

Section 10. Rights of Access. (1) Kentucky, regional, volunteer, and district ombudsmen shall have unrestricted access to long-term care facilities:

(a) Without prior notice;

(b) To meet with one (1) or more residents; and

(c) To observe the operation of the facility as it affects the

patient.

(2) Volunteer ombudsmen shall have access to the:

(a) Residents' dining area;

(b) Residents' living area;

(c) Residents' recreational area;

(d) Lounges; and

(e) Areas open to the general public.

(3) Certified representatives of the Kentucky Long-term Care Ombudsman Program shall have access to a resident's medical and social records:

(a) With permission of the resident or his legal guardian, except as provided for under KRS 209.030(7); or

(b) By court order.

(4) Access shall not include the right to examine the financial records of the facility without the consent of the administrator.

(5) If the ombudsman is denied entry to a long-term care facility, the administrator or operator shall be informed of the statutory authority for access. If entry is still denied, the ombudsman shall inform the Kentucky long-term care ombudsman, the Office of Inspector General, Division of Health Care, and secure assistance from local law enforcement officials.

(6) Willful interference, as governed by KRS 216.541(3), with representatives of the Kentucky Long-term Care Ombudsman Program in the performance of official duties shall be unlawful and:

(a) Result in a fine of \$100 to \$500 for each violation;

(b) Each day the violation continues shall constitute a separate offense.

Section 11. Referrals. (1) Representatives of the [district] long-term care ombudsman program shall be exempt from making [refer] reports of abuse, neglect, exploitation, or spouse abuse to the Department for Community Based Services, Division of Protection and Permanency, and, if appropriate, the Office of Inspector General, Division of Health Care, for investigation without appropriate consent or court order pursuant to 45 C.F.R. Parts 1321 and 1324[1327].

(2) The ombudsman shall seek consent of the resident:

(a) To work to resolve complaints and make referrals to agencies; or

(b) When the ombudsman personally witnesses abuse, gross neglect, or exploitation of the resident.

(3) Communication of consent to reveal the identity of the resident or complainant may be made in writing, orally, or visually.

(4) When the resident is unable to communicate consent and has no resident representative, the ombudsman shall:

(a) Take [appropriate] steps to investigate complaints that adversely affect the health, safety, welfare, or rights of the resident; and

(b) [When appropriate,] Refer the matter and disclose identifying information of the resident to the management of the facility in which the resident resides or the appropriate agencies in the following circumstances:

1. The ombudsman personally witnesses suspected abuse, gross neglect, or exploitation of a resident and has no evidence indicating that the resident would not wish a referral to be made; and

2. The ombudsman has reasonable cause to believe that disclosure would be in the best interest of the resident.

(5) When the resident is unable to communicate consent and has a resident representative, the ombudsman shall contact the resident representative for consent.

(6) When there is reasonable cause to believe the resident representative through their action, inaction, or decision making may adversely affect the health, safety, welfare, or rights of the resident, the ombudsman shall:

(a) Seek permission of the KLTCO or designee during an investigation when a resident is unable to give consent and the resident representative is not acting in the best interest of the resident; and

(b) Make a referral to the appropriate agencies upon approval of the KLTCO or designee.

(7) Referrals under this subsection shall not affect the continuing duty, full freedom, and independence of the

ombudsman to:

(a) Ensure[insure] the continued adequacy and responsiveness of complaint investigation and resolution, monitoring, and data collection systems consistent with the Older Americans Act of 1965, as amended;

(b) Maintain an independent capacity to investigate and resolve complaints as governed by Section 13 of this administrative regulation;

(c) Receive and process, on a regular basis, information related to the number, type, and source of complaints, facilities involved, and the manner of complaint resolution; and

(d) Maintain by specific agreement the power, ability, and right to monitor the agency's complaint processing performance and take action necessary to correct and improve deficiencies.

(8)[(2)] District ombudsmen shall address concerns regarding the investigation or resolution of complaints referred under subsection (1) of this section to the Kentucky long-term care ombudsman or designee.

(9)[(3)] District ombudsmen shall make referrals to county attorneys, legal aid agencies, and legal assistance offices.

(10)[(4)] District ombudsman shall report to the Kentucky long-term care ombudsman a referral to the Office of the Attorney General or any federal agency.

Section 12. Receiving Reports. (1) The Kentucky long-term care ombudsman, regional ombudsmen, district ombudsmen, and persons identified and approved by these ombudsmen shall have the authority to provide intake of a complaint.

(2) The person receiving a report shall obtain as much information as possible, making a reasonable effort to obtain the:

(a) Name and location of the long-term care facility involved;

(b) Name and location of the resident;

(c) Name, address, and telephone number of the person responsible for the resident;

(d) Nature of the complaint as specifically as possible;

(e) Name and location of the alleged perpetrator; and

(f) Identity of the reporting source, though reports may be made anonymously.

(3) The person receiving the report may contact other agencies or individuals to secure additional information relevant to the investigation.

Section 13. Complaint Investigation. (1) A long-term care facility resident shall have the right to:

(a) Voice grievances and recommend changes in policies and services to facility staff and outside representatives of the resident's[their] choice, free from restraint, interference, coercion, discrimination, or reprisal;

(b) Associate and communicate privately with persons of the resident's[their] choice; and

(c) Private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health and Family Services.

(2) A long-term care ombudsman shall investigate and resolve complaints:

(a) Made by or on behalf of an older[elderly] individual who is a resident of a long-term care facility relating to action which may adversely affect the health, safety, welfare, and rights of the resident; and

(b) Made by or on behalf of a younger[nonelderly] long-term care facility resident if actions will:

1.a. Benefit an older individual residing in the[elderly resident-of-that] long-term care facility or older individuals residing in[elderly-residents-of] long-term care facilities generally; or

b. Be the only viable avenue of assistance available to the resident; and

2. Not significantly diminish the Long-term Care Ombudsman Program's efforts on behalf of long-term care residents[elderly persons].

(3) District and volunteer ombudsmen shall not investigate complaints unless certified by the Kentucky Long-term Care Ombudsman Program.

(4) The Kentucky and regional ombudsmen shall inform the

district ombudsmen of on-site investigations conducted in their districts.

(5) The investigation shall be conducted according to the criteria established in this subsection.

(a) Investigation shall include contact with the resident, staff of the long-term care facility, and collateral contacts.

(b) A representative of the program shall, upon entering the facility, promptly notify the administrator or his designated representative of his presence.

(c) A representative of the program shall not enter the living area of a resident without identifying himself to the resident.

(6) The investigating ombudsman, with permission of the resident or resident[legal] representative, shall take steps to investigate a complaint and attempt to resolve the complaint to the resident's satisfaction. Resolution may include:

(a) Collaborating or negotiating at the nursing home administrative level to change particular nursing home behavior, pattern, or practice affecting the resident;

(b) Consulting with a resident, relative, or nursing home staff member to resolve a problem;

(c) Effecting positive enforcement action by a regulatory agency;

(d) Proposing regulatory or statutory changes or additions;

(e) Communicating with community groups and professional organizations; and

(f) Encouraging the utilization of legal services assistance.

(7) Documentation shall be completed on complaint investigations and incorporated into the ombudsman data system as follows:

(a) The documentation entered into the data system shall be entered by the fifteenth (15th) of the month for all cases completed the prior month; and

(b) Documentation of the investigation shall include the:

1. Identity of the resident on whom the report is made;

2. Date the face-to-face visit with the resident was completed;

3. Identity of the long-term care facility;

4. Complaint;

5. Identity of persons interviewed and records or documents reviewed during the course of the investigation;

6. Factual information used to support findings and conclusions; and

7. Actions taken and services provided.

(8) Resolution shall include documented follow-up and ongoing monitoring of the situation for a reasonable period of time, depending on the complexity of the situation, through contact with the complainant or resident or, if appropriate, for the purpose of determining that the causes giving rise to the complaint have not been repeated and have not recurred.

(9) In accordance with KRS 216.541(2) and (3), retaliation and reprisals by a long-term care facility or other entity against an employee or resident for having filed a complaint or having provided information to the Kentucky Long-term Care Ombudsman Program shall be unlawful and:

(a) Shall result in a fine of \$100 to \$500 for each violation; and

(b) Each day a violation continues shall constitute a separate offense.

Section 14. Reporting Requirements. The Kentucky long-term care ombudsman program shall maintain a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. (1) The contracted agency providing the district long-term care program shall submit quarterly reports to the Kentucky long-term care ombudsman according to the contractual agreement.

(2) The district ombudsman shall submit an annual report to the Kentucky long-term care ombudsman no later than determined in the contractual agreement for inclusion in the annual state ombudsman report.

Section 15. Monitoring and Evaluation. (1) District long-term care ombudsman programs shall be monitored annually by the contract agency or the Kentucky long-term care ombudsman

according to contract or, if services are provided directly by the Kentucky long-term care ombudsman, by the DAIL.

(2) Formal evaluations of the district ombudsman program shall be conducted at regular intervals, at least annually, by the Kentucky long-term care ombudsman.

(3) The results of the evaluation, omitting client identifying information, shall be made available to the district long-term care ombudsman contracting agency to be used to plan and implement program changes to meet participant needs.

(4) The Kentucky long-term care ombudsman and district long-term care ombudsman contracting agency shall permit staff of the Cabinet for Health and Family Services, persons acting for the Cabinet for Health and Family Services, or staff designated by appropriate federal agencies to:

(a) Monitor and evaluate programs and activities initiated under the Older Americans Act of 1965, as amended, and other programs for which the department has administrative responsibility; and

(b) Interview clients by persons and agencies listed in this subsection, except if confidentiality requirements are applicable.

DEBORAH S. ANDERSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: August 12, 2016

FILED WITH LRC: August 12, 2016 at 2 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services,
275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone
502-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

OFFICE OF THE ATTORNEY GENERAL
Office of Consumer Protection
(Amended After Comments)

40 KAR 2:150. Cremation forms and inspections.

RELATES TO: KRS 367.93103, 367.93105, 367.93117, 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524, 367.97527[367.97501-367.97537]

STATUTORY AUTHORITY: KRS[15:180, —367.150(4);] 367.97501, 367.97504,[367.97514, —367.97524, —367.97527;] 367.97534

NECESSITY, FUNCTION, AND CONFORMITY: KRS 367.97534(5) authorizes the Attorney General to promulgate administrative regulations necessary to carry out the provisions of KRS 367.97501 to 367.97537. This administrative regulation establishes a cremation authorization form identified in KRS 367.97501(6), a crematory annual report form identified in KRS 367.97504(6), a preneed cremation authorization form identified in KRS 367.97501(15) prior to its amendment effective July 15, 2016, that may be completed and executed before July 15, 2016, a statement of training for crematory operators identified in KRS 367.97514(6), and a crematory authority license application form identified in KRS 367.97504(1). This administrative regulation also identifies[; to identify] the records and information that shall[must] be retained by the crematory operator as identified in KRS 367.97504(5), and establishes[to establish the] guidelines for crematory inspections regarding[identified in] KRS 367.97504(1) and (5), 367.97511(4), 367.97514(5), and 367.97534.

Section 1. Cremation Authorization Form. The ["]Cremation Authorization["], Form CR-1, required by KRS 367.97524, shall contain the following information:

- (1) The name of the crematory authority;
- (2) The address of the crematory authority, including the city, state, and zip code;
- (3) The telephone number of the crematory authority;
- (4) A statement informing the authorizing agent that it is the policy of the crematory authority that it will accept a declarant or decedent for cremation only after[civil and medical authorities have issued all required permits,] all necessary authorizations have been obtained[and no objections have been raised], and all prerequisites to be performed by the state regarding the[by the state of] death have taken place and any required forms or permits are attached;
- (5) The name, address (including the city, state, and zip code), age, date of birth, and gender of the decedent[deceased], and the place and date of death;
- (6)[(5)] Whether or not the declarant's or decedent's death was due to an infectious disease and, if so, an explanation;
- (7) A statement that pacemakers, radioactive, silicon or other implants, mechanical devices or prosthesis may create a hazardous condition if placed in cremation chamber and subjected to heat, and that the authorizing agent instructs the crematory authority or funeral home to remove all devices that may become hazardous during the cremation process;
- (8)[(6)] Whether the decedent's remains contain any devices, including mechanical, prosthetic, implants or materials, which may have been implanted in or attached to the decedent[a pacemaker, prosthesis, radioactive implant], or any other device that may become hazardous during the cremation process[; and a description of the devices][could be explosive];
- (9)[(7)] A description of any devices, including mechanical, prosthetic, implants, or materials, which may have been implanted in or attached to the decedent, or any other device that may become hazardous during the cremation process[Whether the decedent had been treated with therapeutic radionuclides such as Strontium 89 or any other treatment that would result in residual radioactive material

remaining as part of the decedent's remains and, if so, what the treatment was and when the last treatment was administered];

(10) A statement informing the authorizing agent of the following concerning identification of the declarant or decedent:

(a) Kentucky law requires the individual's[decedent's] remains to be identified before cremation can take place; and

(b) The individual making the identification can be the authorizing agent, a family member, friend, coroner, or any other person who has personal knowledge of the decedent or the ability to make positive identification and who accepts any liability arising from the identification;

(11)[(8)] The name of the individual identifying the decedent's remains prior to cremation, the relationship of that individual to the decedent, and the signature of the individual identifying the body for cremation;

(12) Statements informing the authorizing agent of the following regarding cremation authorization:

(a) The person legally entitled to order the cremation of a declarant or[the] decedent is the authorizing agent; and

(b) The right to control the disposition of the remains of a declarant or decedent[authorize the cremation of the decedent's body] devolves according to the order of authority of classes of authorizing agents listed in subsection (13) of this section;and

(c) An authorizing agent in the order of authority classes described in subsection (13)(e) through (k) of this section shall provide their signature, printed name, address, city, state, zip code, and telephone number;

(13) The selection of the class of authorizing agents having the right to authorize the cremation of the decedent's body, in the following order of authority:

(a) The individual executing[decedent through] a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145, and that the original Funeral Planning Declaration shall be attached;

(b) The person named as the designee or alternate designee in a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145, and that the original Funeral Planning Declaration shall be attached;

(c) The person named in a United States Department of Defense form Record of Emergency Data (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces, and the original form shall be attached;

(d) The decedent through a Preneed Cremation Authorization, Form CR-3 completed and executed before July 15, 2016, and that the original Preneed Cremation Authorization, Form CR-3 shall be attached;

(e) The surviving spouse of the declarant or decedent;

(f) The surviving adult child of the declarant or decedent, or a majority of the adult children if more than one (1) adult child is surviving, or less than a majority of the surviving adult children by attesting in writing showing the reasonable efforts to notify the other adult surviving children of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children. The number of surviving adult children shall be written in the completed Cremation Authorization, Form CR-1[The surviving adult child or children of the decedent by selecting one (1) of the following, and the number of surviving adult children:

1. The sole surviving adult child of the decedent;

2. The majority of the surviving adult children of the decedent if there is more than one (1); or

3. Less than a majority of the surviving adult children, if at least one (1) attests that the child or children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to

~~cremation of the decedent by more than half of the surviving adult children, by executing the attestation included in the Cremation Authorization, Form CR-1 or attaching a similar executed statement];~~

~~(g) The surviving parent or parents of the declarant or decedent, or if one (1) parent is absent, the parent who is present has the right to control the disposition by attesting in writing showing the reasonable efforts to notify the absent parent. The number of surviving parents shall be written in the completed Cremation Authorization, Form CR-1[The surviving parent or parents of the decedent by selecting one (1) of the following, and the number of surviving parents:~~

~~1. The sole surviving parent of the decedent;~~

~~2. The surviving parents of the decedent; or~~

~~3. If only one (1) of the parents is present, the present parent attests that the present parent has used reasonable efforts to notify the absent parent, by executing the attestation included in the Cremation Authorization, Form CR-1 or attaching a similar executed statement];~~

~~(h) The surviving adult grandchild of the declarant or decedent, or a majority of the adult grandchildren if more than one (1) adult grandchild is surviving, or less than a majority of the surviving adult grandchildren by attesting in writing showing the reasonable efforts to notify the other adult surviving grandchildren of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult grandchildren. The number of surviving adult grandchildren shall be written in the completed Cremation Authorization, Form CR-1[The surviving adult grandchild or grandchildren of the decedent by selecting one (1) of the following, and the number of surviving adult grandchildren:~~

~~1. The sole surviving adult grandchild of the decedent;~~

~~2. The majority of the surviving adult grandchildren of the decedent if there is more than one (1); or~~

~~3. Less than a majority of the surviving adult grandchildren, if at least one (1) attests that the grandchild or grandchildren have used reasonable efforts to notify the other surviving adult grandchildren of their intentions and are not aware of any opposition to cremation of the decedent by more than half of the surviving adult grandchildren, by executing the attestation included in the Cremation Authorization, Form CR-1 or attaching a similar executed statement];~~

~~(i) The surviving adult sibling of the declarant or decedent, or a majority of the adult siblings if more than one (1) adult sibling is surviving, or less than a majority of the surviving adult siblings by attesting in writing showing the reasonable efforts to notify the other adult surviving siblings of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult siblings. The number of surviving adult siblings shall be written in the completed Cremation Authorization, Form CR-1[The surviving adult sibling or siblings of the decedent by selecting one (1) of the following, and the number of surviving adult siblings:~~

~~1. The sole surviving adult sibling of the decedent;~~

~~2. The majority of the surviving adult siblings of the decedent if there is more than one (1); or~~

~~3. Less than a majority of the surviving adult siblings, if at least one (1) attests that the sibling or siblings have used reasonable efforts to notify the other surviving adult siblings of their intentions and are not aware of any opposition to cremation of the decedent by more than half of the surviving adult siblings and this has been attested to in writing by executing the attestation included in the Cremation Authorization, Form CR-1 or attaching a similar executed statement];~~

~~(j) The surviving individual or individuals of the next degree of kinship under KRS 391.010 to inherit the estate of the declarant or decedent, or a majority of those in the same degree of kinship if more than one (1) individual of the same degree is surviving, or less than a majority of the surviving individuals of the same degree of kinship by attesting in~~

~~writing showing the reasonable efforts to notify the other individuals of the same degree of kinship of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the individuals of the same degree of kinship. The number of surviving individuals of the same degree of kinship, and a description of the relationship to the declarant or decedent, shall be written in the completed Cremation Authorization, Form CR-1[The surviving individual or individuals of the next degree of kinship under KRS 391.010 to inherit the estate of the decedent, by selecting one (1) of the following, and the relationship and number of surviving individuals of that relationship:~~

~~1. The sole individual in the next degree of kinship under KRS 391.010 to inherit the estate of the decedent;~~

~~2. The majority of the individuals who are of the next degree of kinship under KRS 391.010 to inherit the estate of the decedent if there is more than one (1); or~~

~~3. Less than a majority of the individuals who are of the next degree of kinship under KRS 391.010 to inherit the estate of the decedent, if at least one (1) attests that they used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to cremation of the decedent by more than half of the individuals who are of the same degree of kinship, by executing the attestation included in the Cremation Authorization, Form CR-1 or attaching a similar executed statement]; and~~

~~(k) If none of the persons listed in paragraphs (a) through (j) of this subsection are available, a person willing to act and arrange for the final disposition of the declarant or decedent, including a funeral home, that has a valid prepaid funeral plan that makes arrangements for the disposition of the declarant or decedent, by attesting in writing showing the good-faith effort made to contact any living individuals in an order of authority class described in paragraphs (a) to (j) of this subsection[If none of the persons listed in paragraphs (a) through (j) of this subsection are available, a person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home, that has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent's remains, who attests that a good-faith effort has been made to contact any living individuals in an order of authority class described in paragraphs (a) to (j) of this subsection, by executing the attestation included in the Cremation Authorization, Form CR-1 or attaching a similar executed statement];~~

~~(14) Statements[9) A statement] informing the authorizing agent of the following regarding other rights and responsibilities concerning cremations:~~

~~(a)[If the authorizing agent is in an order of authority class described in subsection (13)(e) through (k) of this section,] The declarant or authorizing agent shall carefully read and understand the statements described in this subsection before signing the authorization;~~

~~(b)[If the authorizing agent is in an order of authority class described in subsection (13)(e) through (k) of this section,] The declarant or authorizing agent shall direct the crematory authority on the final disposition of the cremated remains;~~

~~(c)[(b)] The crematory authority shall not conduct any cremation nor accept a body for cremation unless it has a Cremation Authorization, Form CR-1 signed by the authorizing agent clearly stating the final disposition;[and]~~

~~(d)[(e)] If the cremation is being performed pursuant to a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145, or a Preened Cremation Authorization, Form CR-3 that was completed and executed before July 15, 2016, the original form shall be attached to the Cremation Authorization, Form CR-1[this form][in lieu of the][completing][statements in paragraphs (e) through (r) of this subsection][on this form][concerning the authorization of the cremation];~~

~~(e) All[(10) A statement informing the authorizing agent that all] cremations are performed individually and it is unlawful to cremate~~

the remains of more than one (1) individual within the same cremation chamber at the same time;

~~(f)(11) A statement informing the authorizing agent of the following:~~

~~(a) The consumer may choose cremation without choosing embalming services;~~

~~(g)(b) If the crematory authority does not have a refrigerated holding facility, it shall not accept human remains for anything other than immediate cremation;~~

~~(h) The consumer is not required to purchase a casket for the purpose of cremation;~~

~~(i)(e) The crematory authority requires that the body of the declarant or decedent [deceased] shall be delivered for cremation in a suitable, closed container that [which] shall be either a casket or an alternative cremation container for cremation, but the crematory authority shall not require that the body be placed in a casket before cremation or that the body be cremated in a casket, nor shall a crematory authority refuse to accept human remains for cremation because they are not in a casket;~~

~~(j) The container in which the body is delivered to the crematory for cremation shall (d) If an alternative container is provided, it shall meet the following standards:~~

1. Be composed of readily-combustible materials suitable for cremation;

2. Be able to be closed to provide a complete covering for the human remains;

3. Be resistant to leakage or spillage; and

4. Be rigid enough to support the weight of the declarant or decedent [deceased];

~~(k)(e) The crematory authority may [is authorized to] inspect the casket or alternative container, including opening it if necessary, and [if there is leakage or damage,] the crematory authority shall not [refuse to] accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains in the container [the decedent for the purpose of cremation or refrigeration];~~

~~(l)(f) The type of casket or cremation container selected for cremation;~~

~~(m)(g) Due to the nature of the cremation process any personal possessions or valuable materials, such as dental gold or jewelry, as well as any body prostheses or dental bridgework, that are left with the declarant or decedent and not removed from the casket or alternative cremation container prior to cremation shall be destroyed or shall otherwise not be recoverable, unless authority to do so otherwise is specifically granted in writing;~~

~~(n)(h) As the casket or alternative container will usually not be opened by the crematory authority to remove valuables, to allow for final viewing or for any other reason unless there is leakage or damage, the authorizing agent understands that arrangements shall be made to remove any possessions or valuables prior to the time the declarant or decedent is transported to the crematory authority;~~

~~(o)(i) Cremated remains, to the extent possible, shall not be contaminated with foreign material;~~

~~(p)(j) All noncombustible materials, such as dental bridgework, and materials from the casket or alternative cremation container, such as hinges, latches, and nails, shall be separated and removed, to the extent possible, by visible or magnetic selection and shall be disposed of by the crematory authority with similar materials from other cremations in a nonrecoverable manner, so that only human bone fragments and organic ash, including both human remains and container remains, remain, unless those objects are used for identification or as may be requested by the authorizing agent;~~

~~(q)(k) As the cremated remains often contain recognizable bone fragments, unless otherwise specified, after bone fragments have been separated from the other material, they shall be mechanically processed or pulverized, which includes crushing or grinding into granulated particles of unidentifiable dimensions, virtually unrecognizable as human remains, prior to placement into the designated container; and~~

~~(r)(l) While every effort shall be made to avoid commingling of cremated remains, inadvertent or incidental commingling of minute~~

particles of cremated remains from the residue of previous cremations is a possibility, and the authorizing agent understands and accepts this fact;

~~(15)(42) Instructions on disposition of the cremated remains, indicating whether the cremated remains will be:~~

~~(a) Interred and, if so, where;~~

~~(b) Scattered in a scattering area or garden and, if so, where;~~

~~(c) In any manner [Scattered] on private property with the permission of the owner and, if so, where;~~

~~(d) Delivered either in person or by a method that has an internal tracking system that provides a receipt signed by the person accepting delivery [registered mail] and, if so, to whom; or~~

~~(e) Picked up at the crematory office and, if so, by whom;~~

~~(16)(43) The date the remains were [body was] received by the crematory authority, the cremation number, the date of cremation, and the name of the person performing the cremation, and the signature of the person performing the cremation, certifying that the cremation has been performed];~~

~~(17) A statement informing the declarant or authorizing agent of the following regarding execution of the Cremation Authorization, Form CR-1:~~

~~(a) Executing the Cremation Authorization, Form CR-1 as authorizing agent, or as declarant, designee, or alternate designee if using a Funeral Planning Declaration, Form FPD-1, grants consent to the cremation of the decedent; [and]~~

~~(b) Executing the Cremation Authorization, Form CR-1 as authorizing agent, or as declarant, designee, or alternate designee if using a Funeral Planning Declaration, Form FPD-1, warrants:~~

~~1. That all representations and statements contained on the Cremation Authorization, Form CR-1 are true and correct;~~

~~2. That the statements contained on the Cremation Authorization, Form CR-1 were made to induce the crematory authority to cremate the human remains of the declarant or decedent; and~~

~~3. That the person executing the Cremation Authorization, Form CR-1 has read and understands the provisions contained on the Cremation Authorization, Form CR-1; and~~

~~(c) If a written attestation is required, the authorizing agent shall select and complete an attestation:~~

~~1. For authorizing agent or agents listed in subsection (13)(f), (h), (i), or (j) of this section, an attestation that reasonable efforts have been made to notify the other members of the authorizing class and the authorizing agent or agents are not aware of any opposition to the final instructions, and stating the number of individuals in the authorizing class, the number of authorizing agents authorizing the cremation, the name of the decedent, a description of the reasonable efforts, and the number of other members of the authorizing class;~~

~~2. For an authorizing agent listed in subsection (13)(g) of this section, an attestation that reasonable efforts have been made to notify the other parent, and a description of the reasonable efforts; or~~

~~3. For authorizing agent or agents listed in subsection (13)(k) of this section, an attestation that a good-faith effort has been made to contact any living individual described in subsection (13)(a) through (k) of this section, and a description of the good-faith effort;~~

~~(18)(44) Signature of each [the] authorizing agent granting consent to the cremation of the decedent;~~

~~(19)(45) The name of each [the] authorizing agent and the relationship of the authorizing agent to the declarant or decedent [deceased];~~

~~(20)(46) The address of the authorizing agent, including the city, state, and zip code;~~

~~(21)(47) The telephone number of the authorizing agent;~~

~~(22)(48) The name, address, city, state, zip code, telephone number, and signature of the funeral director or other individual as witness for the authorizing agent; and~~

~~(23)(49) The date and location where the authorizing agent signed the Cremation Authorization, Form CR-1.~~

Section 2. Crematory Annual Report Form. The [“]Crematory Annual Report[“], Form CR-2, required by KRS 367.97504(6), shall contain the following information:

- (1) The name of the crematory authority;
- (2) The address of the crematory authority, including the city, state, and zip code;
- (3) The number of retorts operated by the crematory authority;
- (4) The number of cremations performed by the crematory authority in each retort during the preceding calendar year;
- (5) The total number of cremations performed by the crematory authority during the preceding calendar year;
- (6) A numerical breakdown of the disposition of cremated remains in the preceding year, indicating the number:
 - (a) Scattered;
 - (b) Interred, either in a niche or in-ground burial;
 - (c) Returned to the family or funeral home; or
 - (d) With other means of disposition. The other means of disposition used shall be briefly described;
- (7) A list of the names and registration numbers of all crematory operators who worked for the crematory authority during the preceding year;
- (8) The signature of the individual completing the form and the date on which the form was completed; and
- (9) A statement requiring the remittance of a ten (10) dollar check or money order for the annual registration fee.

Section 3. Preneed Cremation Authorization Form. (1) The [“]Preneed Cremation Authorization[“], Form CR-3, required by KRS 367.97527 before that statute was amended effective July 15, 2016, shall not be completed or executed on or after July 15, 2016.

(2) A Preneed Cremation Authorization, Form CR-3, completed and executed prior to July 15, 2016, shall contain the following information:

- (a)[(4)] The name of the crematory authority;
- (b)[(2)] The address, including the city, state, and zip code;
- (c)[(3)] The telephone number of the crematory authority;
- (d)[(4)] The name of the authorizing agent;
- (e)[(5)] The address of the authorizing agent, including the city, state, and zip code;
- (f)[(6)] The home telephone number of the authorizing agent;
- (g)[(7)] The age and gender of the authorizing agent;
- (h)[(8)] Whether the decedent authorizing agent has any infectious or contagious disease and, if so, an explanation;
- (i)[(9)] Whether the decedent authorizing agent's body contains a pacemaker, prosthesis, radioactive implant, or any other device that could be explosive;
- (j)[(10)] Whether the decedent authorizing agent has been treated with therapeutic radionuclides such as Strontium 89 or any other treatment that would result in residual radioactive material remaining as part of the decedent authorizing agent's remains and, if so, what the treatment was and the last date it was administered;
- (k)[(11)] A statement specifying that all cremations are performed individually and that it is unlawful to cremate the remains of more than one (1) individual within the same cremation chamber at the same time;

(l)[(12)] A statement informing the authorizing agent that the agent may choose cremation without choosing embalming services and that if the crematory chosen does not have a refrigerated holding facility it shall not accept human remains for anything other than immediate cremation;

(m)[(13)] A statement informing the authorizing agent of the following:

- 1.[(a)] The agent is not required to purchase a casket for the purpose of cremation;
- 2.[(b)] The crematory authority shall require the decedent authorizing agent to be delivered for cremation in a suitable container which shall be either a casket or an alternative cremation container; and
- 3.[(c)] An alternative cremation container shall meet the following standards:
 - a.[1-] Be composed of readily-combustible materials suitable for cremation;
 - b.[2-] Be able to be closed to provide a complete covering for

the human remains;

- c.[3-] Be resistant to leakage or spillage; and
- d.[4-] Be rigid enough to support the weight of the decedent[deceased];

(n)[(14)] A statement informing the authorizing agent that the crematory may[is authorized to] inspect the casket or alternative container, including opening if necessary, and if there is leakage or damage, the crematory shall refuse to accept the decedent authorizing agent's remains for the purpose of cremation or refrigeration;

(o)[(15)] The type of casket or alternative container selected for cremation;

(p)[(16)] A statement informing the authorizing agent of the following:

1.[(a)] Due to the nature of the cremation process any personal possessions or valuable materials, such as dental gold or jewelry, as well as any body prostheses or dental bridgework, that are left with the decedent authorizing agent and not removed from the casket or alternative container prior to cremation shall be destroyed or shall otherwise not be recoverable; and

2.[(b)] The casket or alternative container will usually not be opened by the crematory authority to permit the removal of valuables, to allow for final viewing or for any other reason unless there is leakage or damage, so the authorizing agent shall make arrangements to have any possessions or valuables removed prior to the time the remains are transported to the crematory authority;

(q)[(17)] A statement informing the authorizing agent of the following:

1.[(a)] To the extent possible, cremated remains shall not be contaminated with foreign material;

2.[(b)] All noncombustible materials such as dental bridgework, and materials from the casket or alternative container, such as hinges, latches, and nails, shall be separated and removed, to the extent possible, by visible or magnetic selection and shall be disposed of by the crematory authority with similar materials from other cremations in a nonrecoverable manner, so that only human bone fragments and organic ash, including both human remains and container remains, remain;

3.[(c)] As the cremated remains often contain recognizable bone fragments, unless otherwise specified, after the bone fragments have been separated from the other material, they shall be mechanically processed or pulverized, which includes crushing or grinding into granulated particles of unidentifiable dimensions, virtually unrecognizable as human remains, prior to placement into the designated container; and

4.[(d)] While every effort shall be made to avoid commingling of cremated remains, inadvertent or incidental commingling of minute particles of cremated remains from the residue of previous cremations is a possibility, and the authorizing agent understands and accepts this fact;

(r)[(18)] A statement informing the authorizing agent of the following:

1.[(a)] The original copy of the Preneed Cremation Authorization, Form CR-3 shall be retained by the firm or person with which the arrangements are being made and a copy shall be provided to the authorizing agent; and

2.[(b)] A person arranging his or her own cremation shall have the right to transfer or cancel this authorization at any time prior to death by notifying by certified mail, the firm or person with which the preneed authorization form is filed;

(s)[(19)] A statement informing the authorizing agent that if there are not different or inconsistent instructions provided to the crematory authority at the time of death, the crematory authority shall release or dispose of the cremated remains as indicated on this Preneed Cremation Authorization, Form CR-3;

(t)[(20)] A statement informing the authorizing agent of the following:

1.[(a)] If there is a conflict between the authorizing agent's preneed authorization and the demands of the next class of authorizing agent, the crematory authority shall not accept for cremation the authorizing agent's remains without an order deciding the issues entered by the district court of the county of the decedent authorizing agent's residence or the county where the

funeral home or the crematory authority is located;

2.[(b)] The order may be issued by the court after a petition for a resolution has been initiated by any natural person in the next class of authorizing agent or the crematory authority; and

3.[(e)] Unless extraordinary circumstances exist, the court shall give due deference to the desires of the decedent authorizing agent as expressed in the Preneed Cremation Authorization, Form CR-3;

4.[(2+)] Instructions on the disposition of the cremated remains, indicating whether the cremated remains will be:

1.[(a)] Interred and, if so, where;

2.[(b)] Scattered in a scattering area or garden and, if so, where;

3.[(e)] Scattered on private property with the permission of the owner and, if so, where;

4.[(d)] Delivered either in person or by registered mail and, if so, to whom; or

5.[(e)] Picked up at the crematory office and, if so, by whom;

6.[(22)] The printed name, signature, address (including city, state, and zip code) and home telephone of the authorizing agent, explicitly authorizing the crematory authority to cremate the human remains of the authorizing agent;

7.[(23)] The date and location where the authorizing agent signed the Preneed Cremation Authorization, Form CR-3;

8.[(24)] The signature of the funeral director or other individual as witness for the authorizing agent;

9.[(25)] The name of the funeral director or other individual acting as witness for the authorizing agent;

10.[(26)] The address of the funeral director or other individual acting as witness for the authorizing agent, including the city, state, and zip code; and

11.[(27)] The telephone number of the funeral director or other individual acting as witness for the authorizing agent.

Section 4. Statement of Supervision Form. The [“]Statement of Supervision for Registered Crematory Retort Operators[“], Form CR-4, required by KRS 367.97514(6), shall contain the following information:

(1) The name of the crematory retort operator who was supervised;

(2) The name of the employer crematory authority;

(3) The name of the supervising crematory operator, verifying that the crematory retort operator completed forty-eight (48) hours of on the job training supervised by the crematory operator;

(4) The date on which the form was signed;

(5) The signature of the crematory retort operator;

(6) The signature of the crematory operator who supervised the crematory retort operator; and

(7) The registration number of the crematory operator.

Section 5. Crematory Authority License Application Form. The [“]Crematory Authority License Application[“], Form CR-5 required by KRS 367.97504(1), shall contain the following information:

(1) A statement informing the applicant that a crematory authority license shall be obtained from the Attorney General at least thirty (30) days prior to the opening of the crematory authority to conduct cremations;

(2) A statement informing the applicant that a \$100 registration fee shall accompany the application, and that the application shall be signed by a person, officer, or agent with authority to do so, under oath, and the signature shall be notarized[completed by the president, owner, corporate officer or any other person with the authority to bind the applicant];

(3) The date of the application;

(4) The full legal name of the applicant[crematory owner's name];

(5) The crematory name, if different from the applicant[owner];

(6) The business telephone number;

(7) The physical address of the crematory, including the city, county, state, and zip code;

(8) Mailing address, including city, state, and zip code, of the crematory authority, if different from the physical address;

(9) The form of organization of the crematory, indicating

whether it is a:

(a) Corporation, and if so indicate the state of incorporation;

(b) Limited liability company, and if so indicate the state of organization;

(c) Partnership, and if so indicate the state of formation;

(d)[(e)] Individual; or

(e)[(d)] Other, and if so, please explain and indicate the state of formation;

(10) Evidence of authority to transact business in the Commonwealth of Kentucky, including a copy of the applicant's certificate of authority to transact business in the Commonwealth of Kentucky issued by the Kentucky Secretary of State, or other evidence of authority to transact business in the Commonwealth of Kentucky and describing the other evidence;

(11) The name, position, home address, including the city, state, and zip code, driver's license number and state of issuance, and date of birth,[Social Security number] of every owner of the applicant, or if the applicant is a business entity, every member, officer, and director of the applicant[crematory];

(12)[(1+)] The name, address, including city, state, and zip code, and account number, if applicable, of one (1)[three-(3)] financial reference[references]. Suitable financial references shall include financial institutions and industry suppliers. Personal references shall not be acceptable;

(13)[(12)] The name and address, including city, state, and zip code, of the financial institution at which the applicant has its business bank account;

(14)[(13)] The account number of the business bank account;

(15)[(14)] Whether the applicant intends to solicit preneed funeral contracts. If yes, a completed[an] application for a preneed burial sellers license, Form CPN-6, incorporated by reference in 40 KAR 2:155, shall be attached;

(16)[(15)] A statement from the applicant's retort manufacturer, which shall include the following information:

(a) The date on which the manufacturer delivered the retort to the applicant;

(b) Whether the manufacturer installed the retort and, if so, when the installation occurred; and

(c) Whether the retort was tested upon installation and, if so, the results of those tests;

(17)[(16)] A statement informing the applicant that by submitting the application, the applicant represents, agrees to, and states under penalty of law,[is agreeing to] the following:

(a) That[the applicant is stating under penalty of law that] the information provided is true and accurate to the best of the applicant's knowledge;

(b) That the applicant is required to notify the Attorney General immediately of any change in the information required by this section and that KRS 367.97504(2) governs when a new license application form is required to be filed;

(c) That the applicant is not insolvent, has not conducted business in a fraudulent manner, and is duly authorized to do business in the state;

(d) That the applicant is in a position to commence operating a crematory and that all relevant state and local permits required have been issued;[and]

(e) That no final judgment or conviction for any crime involving moral turpitude has been entered against the applicant;

(f) That the license may be denied pursuant to KRS 367.97504, and may be denied, suspended, or revoked pursuant to KRS 367.97534;

(g) That the applicant understands that, pursuant to KRS 367.97504(2), changes in the persons, firm, partnership, ownership, association, or corporate structure as originally named in the application render the license, if granted, void, and that the crematory authority shall file a new application before the changes shall be official[That the license, if granted, may be suspended or revoked pursuant to KRS 367.97534 if any of Kentucky's cremation statutes, KRS 367.97501 to 367.97537 or any implementing administrative regulations, this administrative regulation and 40 KAR 2:250, are violated]; and

(h)[(f)] That the applicant is authorized to complete the application[this form] on behalf of the applicant crematory; and

~~(18)(17)~~ A dated and notarized signature of the person making the application on behalf of the crematory, and that person's title or position held.

Section 6. Required Records of the Crematory Authority. The records maintained by the crematory authority required by KRS 367.97504(5) shall include the following:

(1) A copy of the completed Cremation Authorization, Form CR-1 and, if applicable, the Preneed Cremation Authorization, Form CR-3 completed and executed prior to July 15, 2016, or the Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145, for all cremations occurring within the last ten (10) years;

(2) A copy of the identification required to be attached to the outside of the cremation container by KRS 367.97507(2) and 367.97514(2); and

(3) A copy of any stainless steel identification tag ~~that~~^{which} is placed with the human remains prior to cremation, is subjected to the cremation process with the human remains, survives the cremation process, and is left with the cremated remains after the cremation process is complete.

Section 7. Inspection of Crematory Authorities. An inspection of the crematory authority and its records, as required by KRS 367.97504(5), shall include annual, unannounced inspections of all crematory authority facilities and records ~~and~~^{which} may include:

(1) An inspection of the crematory authority to determine if it is in active operation or is in a position to commence operation;

(2) An inspection of the retort for proper operation;

(3) An inspection of the crematory authority facility to determine if it is secure from unauthorized access;

(4) An inspection of the crematory authority facility to determine if the crematory authority license is displayed in a conspicuous place;

(5) An inspection of the refrigerated holding facility used for holding human remains to determine if it is secure from unauthorized access and functioning properly; and

(6) An inspection of crematory records for all cremations occurring within ten (10) years of the date of the inspection, including all information required to be kept by KRS 367.97504(5) and this administrative regulation.

Section 8. Inspection Completion Certificate. Each crematory authority ~~that~~^{which} successfully passes an annual inspection shall receive an Inspection Completion Certificate, which shall contain the following:

(1) The name of the crematory authority;

(2) The address of the crematory authority, including city, state, and zip code;

(3) A certified statement that an inspection has been performed by the Kentucky Attorney General's Office ~~and that the crematory authority was found to be in compliance with KRS 367.97501 to 367.97537, this administrative regulation and 40 KAR 2:250 on the date of the inspection~~;

(4) The date on which the inspection was performed; and

(5) The signature of an authorized representative of the Attorney General's Office.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Cremation Authorization", Form CR-1, 10-16[07-16]~~[11-02]~~;

(b) "Crematory Annual Report", Form CR-2, 11-02;

(c) "Preneed Cremation Authorization", Form CR-3, 11-02;

(d) "Statement of Supervision for Registered Crematory Retort Operators", Form CR-4, 11-02; and

(e) "Crematory Authority License Application", Form CR-5, 07-16~~[11-02]~~;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Office of Consumer Protection~~[Division]~~, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601~~[40602]~~, Monday through Friday, 8:00~~[8]~~ a.m. to 4:30 p.m.

ANDY BESHEAR, Attorney General

APPROVED BY AGENCY: September 14, 2016

FILED WITH LRC: September 15, 2016 at noon

CONTACT PERSON: Kevin R. Winstead, Assistant Attorney General, Kentucky Attorney General's Office of Consumer Protection, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601; phone (502) 696-5389, fax (502) 573-8317, email kevin.winstead@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin R. Winstead

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a cremation authorization form identified in KRS 367.97501(6), a crematory annual report form identified in KRS 367.97504(6), a preneed cremation authorization form identified in KRS 367.97501(15) prior to its amendment effective July 15, 2016, that may be completed and executed before July 15, 2016, a statement of training for crematory operators identified in KRS 367.97514(6), and a crematory authority license application form identified in KRS 367.97504(1). This administrative regulation also identifies the records and information that must be maintained by the crematory operator as identified in KRS 367.97504(5), and establishes guidelines for crematory inspections regarding KRS 367.97504(1) and (5), 367.97511(4), 367.97514(5), and 367.97534.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the efficient and uniform application of the requirements of the cremation and crematory authority statutes in KRS 367.97501 to .97537. Senate Bill 103 (2016 Ky. Acts ch. 59), effective July 15, 2016, makes changes to KRS 367.97501 to .97537, and enacts KRS 367.93101 to .93121 regarding funeral planning declarations that also affect cremations and crematory authorities, thereby affecting this administrative regulation and certain forms created by this administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Senate Bill 103, effective July 15, 2016, amends the cremation and crematory authority statutes in KRS 367.97501 to .97537 by deleting the order of authority in the definition of "authorization agent", deleting the preneed cremation authorization form and replacing references to it with references to the new funeral planning declaration form that is the subject of a separate new administrative regulation. Senate Bill 103 also, among other things, allows individuals to declare their preferences regarding final disposition of their body and related arrangements by using a funeral planning declaration form prescribed by administrative regulation promulgated by the Attorney General, and establishes a new order of authority for the right to control the final disposition of a decedent's body. The amendments to the existing administrative regulation will make certain conforming and other changes to the cremation authorization form, and provide that the preneed cremation authorization form cannot be completed or executed on or after July 15, 2016. The amendments will also amend the record maintenance requirements regarding cremations to include the new funeral planning declaration form if that form is used to authorize a cremation. The crematory authority license application will also be amended to reduce required owner identification information and financial institution documentation, require additional documentation regarding owners that are business entities, and clarify other statements in the application.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of KRS 367.97501 to .97537, as amended by Senate Bill 103 effective July 15, 2016, by amending the cremation authorization form to include changes to the order of authority for the right to control the final disposition, including cremation, of a decedent's body, and by providing that the preneed cremation authorization form, which was deleted by Senate Bill 103, cannot be completed or executed on or after July 15, 2016. The administrative regulation will also assist in the effective administration of the statutes by

amending record maintenance requirements regarding cremations to include the new funeral planning declaration form if that form is used to authorize a cremation, and amending the crematory authority license application to reduce required owner identification information and financial institution documentation, require additional documentation regarding owners that are business entities, and clarify other statements in the application.

(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 to the existing administrative regulation will make certain changes to cremation forms to conform to statutes enacted or amended in Senate Bill 103. The cremation authorization form will be amended to reflect the new order of authority for the right to control the final disposition of a decedent's body (KRS 367.93117) and to revise or clarify other statements in the form concerning the parties' rights and responsibilities. The amendments will provide that the preneed cremation authorization form cannot be completed or executed on or after July 15, 2016. The amendments will also amend the record maintenance requirements regarding cremations to include the new funeral planning declaration form if that form is used to authorize a cremation. The crematory authority license application will also be amended to reduce required owner identification information and financial institution documentation, require additional documentation regarding owners that are business entities, and clarify other statements in the application.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary for the efficient and uniform application of the requirements of KRS 367.97501 to .97537, as amended by Senate Bill 103 effective July 15, 2016. Senate Bill 103, among other things, changes the order of authority for the right to control the final disposition, including cremation, of a decedent's body, deletes the preneed cremation authorization form, and allows individuals to declare their preferences regarding final disposition of their body and related arrangements by using a funeral planning declaration form prescribed by administrative regulation promulgated by the Attorney General. The amendment to this administrative regulation will make certain conforming and other changes to the cremation authorization form, and provide that the preneed cremation authorization form cannot be completed or executed on or after July 15, 2016. The amendments will also amend the record maintenance requirements regarding cremations to include the new funeral planning declaration form if that form is used to authorize a cremation. The crematory authority license application will also be amended to reduce required owner identification information and financial institution documentation, require additional documentation regarding owners that are business entities, and clarify other statements in the application.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation conforms to the content of the authorizing statutes as follows: It amends the cremation authorization form, which is authorized by KRS 367.97501(6), to reflect the new order of authority for the right to control the final disposition of a decedent's body (KRS 367.93117) and to revise or clarify other statements in the form concerning the parties' rights and responsibilities. It provides that the preneed cremation authorization form cannot be completed or executed on or after July 15, 2016. Senate Bill 103, effective July 15, 2016, deletes the statute authorizing the preneed cremation authorization form, KRS 367.97501(15), and replaces references to it in KRS 367.97527 with references to the new funeral planning declaration form that is the subject of a separate new administrative regulation. It amends the record maintenance requirements regarding cremations to include the new funeral planning declaration form if it is used to authorize a cremation. KRS 367.97504(5) provides that a crematory authority shall maintain a record of each cremation including certain information and any other information the Attorney General may require by administrative regulation, and that the records shall be kept at the crematory for at least ten years for inspection by the Attorney General. It amends the crematory authority license application,

which is authorized by KRS 367.97504(1), to reduce required owner identification information and financial institution documentation, require additional documentation regarding owners that are business entities, and clarify other statements in the application.

(d) How the amendment will assist in the effective administration of the statutes: The amendments to this administrative regulation will assist in the effective administration of KRS 367.97501 to .97537, as amended by Senate Bill 103 effective July 15, 2016, by making certain conforming and other changes to the cremation authorization form, and providing that the preneed cremation authorization form cannot be completed or executed on or after July 15, 2016. The amendments will also assist in the effective administration of the statutes by amending the record maintenance requirements regarding cremations to include new funeral planning declaration form if that form is used to authorize a cremation, and by amending the crematory authority license application to reduce required owner identification information and financial institution documentation, require additional documentation regarding owners that are business entities, and clarify other statements in the application.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects: Approximately 33 crematory authorities that are currently licensed with the Attorney General. An unknown number of persons or business entities desiring to operate a crematory authority, who shall obtain a crematory authority license from the Attorney General at least thirty days prior to opening for the purpose of conducting cremations. (KRS 367.97504(1).) Approximately 5 crematory authorities have obtained a license from the Attorney General within the past twelve months. An unknown number of persons who may decide to make arrangements for the final disposition of their body by cremation, who may be authorizing agents for a cremation, or who may be funeral establishments, cemetery companies, and others, who may be involved in a cremation or the disposition of cremated remains. There were approximately over 11,100 cremations by licensed crematory authorities in Kentucky in 2015, over 510 funeral homes licensed with the Kentucky Board of Embalmers and Funeral Directors, and over 270 cemetery companies registered with the Attorney General.

(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 regulated entities identified in question (3) will have to take the following actions to comply with this amended administrative regulation: Use the amended cremation authorization form in relation to cremations in Kentucky. The preneed cremation authorization form shall not be completed or executed on or after July 15, 2016. Cremations on or after July 15, 2016, may be authorized by a preneed cremation authorization form completed and executed prior to July 15, 2016. Comply with the amended record maintenance requirements regarding cremations, which include the new funeral planning declaration form if it is used to authorize a cremation. Persons or business entities desiring to operate a crematory authority shall use the amended crematory authority license application to obtain a crematory authority license from the Attorney General.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): At ten cents per page, the cost to print the amended cremation authorization form is estimated to be \$0.50 per copy and the cost to print the amended cremation authority license application is estimated to be \$0.50 per copy. The estimated total printing cost is unknown because it depends on the number of copies printed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with this administrative regulation, a person or business entity desiring to

operate a crematory authority in Kentucky will be able to apply for a crematory authority license from the Attorney General, and a crematory authority will be able to conduct cremations and accept bodies for cremation.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General fund appropriations and 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: None expected at this time.

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

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because the administrative regulation does not disproportionately impact certain classes of regulated entities and the requirements of the statutes apply uniformly to any crematory authority or other related regulated entity operating in the Commonwealth of Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1). What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of the Attorney General 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 367.93103, 367.93105, 367.93117, 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524, 367.97527.

(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:

FINANCE AND ADMINISTRATION CABINET Department of Revenue (Amended After Comments)

103 KAR 8:160. Valuation of municipal solid waste landfill facilities.

RELATES TO: KRS 132.020, 132.200, 224.1-010

STATUTORY AUTHORITY: KRS 131.130, 132.202

NECESSITY, FUNCTION, AND CONFORMITY: KRS 132.202 requires the department to promulgate an administrative regulation to implement a valuation methodology for the taxation of property

used as a landfill, also known as a municipal solid waste disposal facility. This administrative regulation establishes a uniform system of ad valorem valuation for a municipal solid waste disposal facility as defined in KRS 224.1-010(15).

Section 1. Definitions. (1) "Compaction ratio" means the ratio that expresses the relationship of the number of tons (2,000 pounds) of waste that will fill one (1) cubic yard of landfill capacity. For example, a compaction ratio of 0.60 means that sixty (60) percent of one (1) ton (1,200 pounds) of waste can be compacted into one cubic yard of landfill capacity.

(2) "Cover materials" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed waste in order to control disease vectors, gases, erosion, fires, and infiltration of precipitation or run-on; support vegetation; provide trafficability; or assure an aesthetic appearance.

(3) "Department" means Department of Revenue, Finance and Administration Cabinet, Commonwealth of Kentucky.

(4) "Discount rate" means a pre-tax percentage rate used to discount the annual royalty income over the projected remaining economic life of the landfill to a present value. **[The discount rate shall be seventeen (17) percent unless the landfill operator or the department establishes a higher or lower discount rate based upon applicable market factors and the applicable facts and circumstances attributable to the landfill.]**

(5) "Effective tipping fee" means the average net dollar amount collected per ton for depositing waste into the landfill being assessed not including surcharges, host fees, and related taxes.

(6) "Landfill" means a municipal solid waste disposal facility as defined by KRS 224.1-010(15) but does not include construction and demolition debris (CDD) landfills of less than one (1) acre.

(7) "Landfill valuation method" means a discounted cash flow, also known as yield capitalization, which is a valuation methodology used to determine the fair cash value of a landfill's real property.

(8) "Other landfill income" means the five (5) year average of income generated by a landfill from sources other than effective tipping fees, net of applicable expenses.

(9) "Present value" means the sum of the discounted projected annual royalty income over the remaining life of the landfill. The present value formula is:

$$PV = \frac{CF_1}{(1+Y)^1} + \frac{CF_2}{(1+Y)^2} + \frac{CF_3}{(1+Y)^3} + \frac{CF_4}{(1+Y)^4} + \frac{CF_5}{(1+Y)^5} + \dots + \frac{CF_n}{(1+Y)^n}$$

PV = present value of landfill
CF = the annual projected royalty income
Y = the annual pre-tax discount rate
N = the number of annual periods in the projection

(10) "Remaining permitted capacity" means the volume of permitted airspace remaining for the placement of waste materials.

(11) "Reversionary value" means the potential future market value of a landfill after all post-closure regulatory requirements, including a required minimum post-closure monitoring period of at least thirty (30) years, have been fulfilled by the owner or operator.

(12) "Royalty income" means that portion of effective tipping fees and other landfill income that would be paid pursuant to a presumed comparable market lease agreement by the landfill operator to the real property owner in consideration for the right to use the real property for landfill purposes.

(13) "Royalty rate" means a percentage rental rate to real property applied to the sum of the annual effective tipping fee revenue and other landfill income that results in the estimated royalty income for each year of the estimated remaining economic life of the landfill. **[The royalty rate shall be eighteen (18) percent unless the landfill operator or the department establishes a higher or lower royalty rate based upon applicable market factors and the applicable facts and circumstances attributable to the landfill.]**

(14) "Tax year" means a calendar tax year.

(15) "Ton" means 2,000 pounds.

(16) "Tons of waste" means the five (5) year average of annual tons of waste received by the landfill, as determined utilizing

information submitted to the Division of Waste Management for the Kentucky Department for Environmental Protection on Form DEP 7046, as incorporated by reference in 401 KAR 47:110, Section 5(1)(h) for DEP 7046Q. When calculating the average, consideration shall be given to factors that alter the five (5) year average as an appropriate estimate.

~~(17)(16)~~ "Waste" means waste as defined by KRS 224.1-010(31)(a).

Section 2. Landfill valuation methodology formula. (1) The department shall determine the fair cash value of a landfill's real property in compliance with the landfill valuation method established in this subsection.

(a) The department shall estimate the remaining permitted economic life of the landfill by dividing the estimated annual cubic yards of waste deposited into the landfill into the total remaining permitted capacity of the landfill.

1. The compaction ratio shall be calculated by taking the average of the five (5) most recent compaction ratios from the Solid Waste Landfill Annual Survey submitted to the Division of Waste Management for the Kentucky Department for Environmental Protection on Form DEP 8059, available at <http://dep.ky.gov/formslibrary/Documents/DEP8059.doc>. Form DEP 8059 is the form to be submitted by a municipal solid waste landfill permittee in conjunction with the annual survey report required by 401 KAR 47:190, Section 8. When calculating the average, consideration shall be given to factors that alter the five (5) year average as an appropriate estimate.

2. The remaining permitted capacity shall be as reported on the remaining airspace line item in the most recent Solid Waste Landfill Annual Survey submitted to the Division of Waste Management for the Kentucky Department for Environmental Protection on Form DEP 8059 for the landfill being assessed. The volume shall be adjusted for the capacity consumed from the date of the survey used to prepare the calculation, until the end of the tax year with no annual intake volume growth over the remaining forecasted permitted life of the landfill. Actual tons for the applicable dates shall be converted to permitted cubic yards using the compaction ratio and the result shall be subtracted from the remaining permitted capacity as presented in Form DEP 8059. If cover materials are used at the landfill, the total remaining permitted capacity shall be multiplied by .85 to account for a standard reduction of remaining permitted capacity for cover materials.

3. The estimated annual cubic yards of waste deposited into the landfill shall be equal to the average of the annual cubic yards of waste deposited into the landfill for the five (5) tax years prior to the current tax year. The landfill operator shall report to the department the annual cubic yards of waste deposited into the landfill for the five (5) tax years prior to the current tax year by April 30 of the current tax year. When calculating the average, consideration shall be given to factors that alter the five (5) year average as an appropriate estimate.

4. The remaining economic life of the landfill shall be calculated as follows: remaining permitted capacity (cubic yards) divided by the estimated annual cubic yards of waste deposited equals the remaining permitted economic life of the landfill.

5. The landfill operator shall provide the department with copies of the annual surveys and all quarterly reports filed by the landfill operator with the Division of Waste Management pursuant to 401 KAR 47:190 during the five (5) years on or before April 30 of the current tax year and a copy of its current operating permit.

(b) The effective tipping fee shall be calculated by dividing landfill historical tipping fee revenue (excluding surcharges, host fees, and related taxes) collected for the five (5) most recent tax years by landfill related historical tonnage for the five (5) most recent tax years as demonstrated by the records of the landfill operator.

1. The landfill operator shall provide the department with its calculation of the effective tipping fees for the five (5) tax years prior to the current tax year, together with its annual operating financial statements for each tax year, that shall include tipping fee revenue, expenses for surcharges, host fees and related taxes,

and other landfill income.

2. The department shall review the effective tipping fees calculation submitted by the landfill operator and shall estimate the forecasted effective tipping fee for the current tax year. Increases in forecasted effective tipping fees shall be determined by an indexed factor not to exceed the annual Consumer Price Index (CPI), as defined by KRS 154.30-010(11), for the year prior to the current tax year.

3. In estimating the annual effective tipping fee, the department shall consider any facts or circumstances that exist that may have an impact on current or future effective tipping fees.

(c) The department shall estimate the other landfill income for the current tax year based upon the records of the landfill operator for the five (5) tax years prior to the current tax year.

1. The landfill operator shall provide the department with its calculation of other landfill income for the five (5) tax years prior to the current tax year, together with its annual operating financial statements provided pursuant to this section.

2. The department shall review the other landfill income submitted by the landfill operator and included in the operating financial statements submitted and shall estimate other landfill income for the current tax year and any annual increase in the other landfill income.

3. In estimating other landfill income, the department shall consider all relevant facts or circumstances that exist that may have an impact on current or future other landfill income.

(d) If the landfill does not have five (5) years of operating data, due to its date of first operation being less than five (5) years prior to the current tax year, the department shall determine the landfill's compaction ratio, consumed landfill capacity, estimated annual cubic yards of waste deposited, effective tipping fees, and other landfill income as a rolling average of the number of years for which operating data exists for the landfill.

(e) The department shall estimate an annual royalty income for each year of the landfill's remaining economic life by the following calculation:

$$(((\text{effective tipping fee} \times \text{tons of waste}) + \text{other landfill income}) \times \text{royalty rate}) - \text{general administrative expenses} = \text{royalty income}.$$

(f) The department shall determine the present value of the royalty income of the landfill for all remaining years of its remaining permitted economic life by applying the discount rate to each year's royalty income as determined pursuant to paragraph (e) of this subsection.

(g) The discount rate shall be twenty (20) percent unless the landfill operator or the department establishes a higher or lower discount rate based upon applicable market factors and the applicable facts and circumstances attributable to the landfill.

(h) The present value of the royalty income for all remaining years of the landfill's remaining economic life shall be the landfill real property valuation to be used as a tax basis.

(i) The royalty rate shall be fifteen (15) percent unless the landfill operator or the department establishes a higher or lower royalty rate based upon applicable market factors and the applicable facts and circumstances attributable to the landfill.

~~(j)(11)~~ The department shall estimate a reversionary value, if any, as of the date that all post closure regulatory monitoring requirements of federal, state, or local governments are completed. The reversionary value shall be discounted to its present worth as of January 1 of the current tax year and the resulting value shall be added to the sum of all year's present values as calculated pursuant to paragraph (f) of this subsection.

(2) The fair cash value of any other real property, including improvements, not already included in the valuation of the landfill through the landfill valuation method shall be assessed by the department in the same manner as real property of all other taxpayers under KRS Chapter 132.

(a) State and local real property taxes shall be applied to the assessed value of the other real property and shall be added to the taxes assessed on the real property value determined by the landfill valuation method.

(b) The landfill operator shall provide the department with a

summary statement of the total acreage of land owned by the landfill company, the total acreage of the permitted landfill area, and the total acreage of the active contained landfill.

(3) Any information required to be supplied by the landfill owner or operator in connection with this administrative regulation shall be held in strict confidence by the department unless otherwise required by law.

(4) The allocation of value of tangible personal property incorporated into a landfill and certified as pollution control pursuant to KRS 132.020(1)(k) shall be determined by taking the present value of landfill royalty income, as determined in subsection (1) of this section and subtracting out the value attributable to undeveloped land and the value attributable to real property structures (i.e., demonstrative and nonexclusive examples of which include maintenance buildings, perimeter fencing, etc.) not certified as pollution control. The remaining value shall constitute the value allocation attributable to certified pollution control tangible personal property incorporated into the landfill.

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 14, 2016

FILED WITH LRC: September 15, 2016 at 11 a.m.

CONTACT PERSON: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Station 9, 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: This administrative regulation establishes a new valuation system for municipal solid waste disposal facilities ("landfills").

(b) The necessity of this administrative regulation: This administrative regulation was mandated by 2016 Ky. Acts Ch. 93, § 1 (to be codified as KRS 132.202), which requires the Department of Revenue to promulgate administrative regulations under KRS Chapter 13A to implement a valuation methodology for landfills.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 2016 Ky. Acts, Ch. 93, § 4 removed landfills from the list of companies taxed as "public service companies" under KRS 136.120 et seq. § 1 of the Act requires the Department of Revenue to centrally assess all landfills and to bill and collect all ad valorem taxes on such facilities. This administrative regulation establishes a uniform valuation system for landfills based on a discounted cash flow model that determines the value of permitted landfill property based on the tipping fees (the fee charged per ton of waste disposed) it will earn over its remaining useful life. The regulation will establish the procedure for calculating the remaining years of economic life of a landfill—based on the information in the quarterly and annual reports permitted landfills already must file with the Kentucky Department of Waste Management—and will also establish how future tipping fees are to be estimated over the life of the landfill. It will also provide for the valuation of the real property outside the permitted landfill acreage and for the estimation of other income a landfill company may earn from activities such as the production of electricity from captured landfill gas. The definition of "landfills" excludes less-than-1-acre construction and demolition debris ("CDD") landfills, as these facilities are generally privately-owned by construction and/or demolition companies and used to dispose of waste from their operations. Thus, most of them do not generate tipping fee revenues, which is what the landfill valuation model is based upon. These types of facilities were never subject to assessment by Revenue under the former statutory arrangement, and the legislature's intention with regard to the revenue impact of HB 402 was to remain revenue neutral. Excluding CDD landfills from the regulation will accomplish this intention, with assessment of those properties remaining the responsibility of the local PVAs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The valuation system for landfills under KRS 136.120(1)(a)(17) was inherently

flawed by the limited scope of the property identified in that statute subject to taxation (the statute identified the entities subject to tax as "municipal solid waste disposal facilities, as defined by KRS 224.1-010(15)," whereas all other entities identified under KRS 136.120 are either "companies" or "carriers"). This was inconsistent with the requirement under KRS 136.115 to assess the value of the franchise of companies identified in KRS 136.120, where the "franchise" represents the value of the business operation as a whole. The inconsistency between the statutes led to inconsistent and uneven assessments, which, in turn, led to annual protests of almost all landfill assessments and, eventually led to litigation over the proper valuation methodology. This regulation will establish a uniform and consistent methodology for valuing municipal solid waste landfills using a discounted cash flow analysis.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds a definition for "ton" (defining it as "2,000 pounds") that was previously left out of the regulation and changes the royalty rate from 17% to 15% and the discount rate from 18% to 20%.

(b) The necessity of the amendment to this administrative regulation: This amendment was necessary to amend the original regulation as a result of comments received by the department during the public comment period in which the commenters noted that the proposed discount rate of 17% and the proposed royalty rate of 18% would not yield a reasonable approximation of the fair cash values of their facilities and that the regulation, as proposed with those rates, would result in a significant tax increase to their facilities. The amended discount rate of 20% and the amended royalty rate of 15% should alleviate the commenters' concerns without significantly reducing expected tax revenues. The addition of the definition for "ton" alleviates any confusion as to which type of ton (e.g., long or British ton, short or U.S. ton, or metric ton) to which the regulation refers.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 132.202 directs the Department to promulgate administrative regulations under KRS Chapter 13A to implement a valuation methodology for municipal solid waste disposal facilities. This amendment sets forth the discount rate and royalty rate and the proper definition of "ton" that, under the methodology set forth in the body of the regulation, will facilitate the determination of the fair cash value of municipal landfill facilities in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: By changing the applicable discount rate and royalty rate which, under the methodology set forth in the body of the regulation, will result in more reasonable approximations of the fair cash values of municipal landfill facilities in Kentucky. This will result in fewer disagreements and fewer enforcement and litigation matters with taxpayers regarding the taxes owed on their property. Adding a definition of "ton" will eliminate any potential confusion as to which type of "ton" to which the regulations refers, thus avoiding unnecessary protest and litigation matters regarding that issue.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all permitted landfills in Kentucky. There are currently 26 landfills operating in the state.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The municipal solid waste landfill owner will be required to file an annual return with the Department of Revenue along with copies of its permit, the annual surveys, and all quarterly reports filed by the landfill operator with the Division of Waste Management pursuant to 401 KAR 47:190 during the five years on or before April 30 of the current tax year. The landfill

operator will also be required to provide the Department of Revenue with its calculation of the effective tipping fees for the five tax years prior the current tax year, together with its annual operating financial statements for each tax year which shall include tipping fee revenue, expenses for surcharges, host fees and related taxes, and other landfill income. If data for five years is not available due to the beginning date of operation being less than five years prior to the current tax year, a rolling average of the available years' data will be used.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred by complying with the regulation. The uniform valuation methodology will provide consistency as to a landfill's assessment on a year-to-year basis.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Municipal solid waste landfill owners will now have a greater degree of certainty from year-to-year what their assessments will be, as the value calculated by the methodology is based on information and records that are readily available to them.

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

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

(b) On a continuing basis: The Department of Revenue will not incur additional costs on an ongoing basis 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: The implementation and enforcement of this administrative regulation will be done with existing funds and personnel primarily through the Department of Revenue, Office of Property Valuation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.

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

(9) TIERING: Is tiering applied? Tiering is not applied. This administrative regulation establishes the uniform valuation methodology for all municipal solid waste landfills in Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue, Office of Property Valuation and counties or municipalities which may own and/or operate a municipal solid waste disposal facility ("landfill").

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.100; KRS 131.130(1); KRS 132.202.

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 establishes a uniform valuation methodology for all landfills in Kentucky.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No new revenues will be generated. Total revenue receipts for all landfills in Kentucky are approximately \$2.1 million (\$380,000 state, \$1.72 million local) annually, and it is anticipated that the new valuation methodology will produce revenues very near to this amount. However, it is anticipated that there may be some landfill assessments that will be lower than prior years' settlement amounts and some that will be higher than prior years' settlement amounts.

(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 amount of revenues collected in future years by will be similar to the first year.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

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

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

GENERAL GOVERNMENT CABINET Board of Barbering (Amended After Comments)

201 KAR 14:125. Teacher[Teachers' and instructors'] requirements.

RELATES TO: KRS 317.440, 317.450

STATUTORY AUTHORITY: KRS 317.440

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.440(1)(c) requires the board to promulgate an administrative regulation regarding the qualifications of teachers of barbering. This administrative regulation establishes rules for school faculty and establishes conditions for unlicensed teachers[instructors].

Section 1. (1) A teacher shall achieve a passing score on the written teacher's examination~~[required by the board]~~.

~~(2) [Within a minimum of twelve (12) months of obtaining licensure as a teacher, and not before completing 600 hours of instructional experience in a barber school licensed by the board under the supervision of a board-licensed teacher with a minimum of three (3) years of experience, a teacher shall:~~

~~(a) Meet the requirements in KRS 317.450(4);~~

~~(b) Achieve a passing score on the oral teacher's examination required by the board; and~~

~~(c) Achieve a passing score on the practical teacher's examination required by the board.~~

~~(3) A passing score shall be a minimum score of eighty (80) percent on the examination required under this administrative regulation[section].~~

~~(4) A teacher may request a one (1) time extension of the requirements of subsection (2) of this section. The extension may be granted by the board to the next scheduled oral and practical teacher's examination date. An extension of time request shall be filed, in writing, with the board prior to the expiration of the first twelve (12) months of initial licensure as a teacher.~~

~~(5) A license shall terminate if the teacher fails to achieve a passing score on the oral teacher's examination and practical teacher's examination within twelve (12) months from date of issuance of licensure or upon the expiration of the extension of time to satisfy subsection (2) of this section][All teachers and instructors in a school must hold both a barber and barber instructor license issued by the board][.]~~

Section 2. (1) A teacher shall satisfy the following before the second renewal date as established in KRS 317.450(7)(a):

~~(a) Complete twelve (12) months and 600 hours of instructional experience in a barber school licensed by the board under the supervision of a board-licensed teacher with a minimum of three (3) years of experience;~~

~~(b) Achieve a passing score on the oral teacher's examination required by the board; and~~

~~(c) Achieve a passing score on the practical teacher's examination required by the board.~~

~~(2) A teacher may request a one (1) time extension of time to complete the requirements of subsection (1) of this section. The extension may be granted by the board to the next~~

renewal date. An extension of time request shall be filed, in writing, with the board no later than July 31 following the second renewal date.

(3) A teaching license shall not be renewed if a teacher fails to achieve a passing score on the oral teacher's examination and practical teacher's examination by the second renewal period or upon the expiration of the extension of time.

(4) An individual whose teaching license is not renewed for failing to achieve a passing score on the oral teacher's examination and practical teacher's examination within the time period set out in subsection (3) of this section may reapply for a teaching license only after achieving a passing score on the oral teacher's examination and practical teacher's examination.

Section 3. (1) A teacher[An instructor] shall be in the study and classroom of a school during all class and study hours and will be required to supervise all practice student work.

(2) A student shall be under the face-to-face, direct supervision of a teacher while providing services to a client.

Section 4.[3.] A licensed barber shall not[No licensed barber shall] render services in a school, and a teacher[instructors] shall render services only incident to and for the purpose of instruction.

Section 5.[4.] A teacher[Every instructor] in an accredited school shall devote his or her entire time during school or class hours to that of instructing the students and shall not apply his or her time to that of private or public practice for compensation during school hours or permit students to instruct or teach other students in the absence of a teacher.

Section 6.[5.] A properly qualified, licensed barber[barbers] may demonstrate to the students new processes, new preparations, and new appliances in the presence of a licensed teacher[registered teachers]. A school[Schools] shall not permit more than four (4) such demonstrations in any calendar year.

Section 7.[6.] All services rendered in a school on patrons must be done by students only. A teacher[instructors] shall be allowed to teach and aid the students in performing the various services. A teacher may[instructors are permitted to] finish up the patrons after the students have completed their work.

Section 8.[7.] A teacher[instructors] in attendance shall[must at all times] wear a clean, washable outer garment such as a coat or smock.

Section 9.[8.] A school[Schools] shall require a teacher[instructors] to wear an insignia or badge indicating that he or she is a teacher[an instructor].

Section 10.[9.] A teacher who has not completed twelve (12) months and 600 hours of instructional experience in a barber school licensed by the board under the supervision of a board-licensed teacher with a minimum of three (3) years of experience shall document the hours of instructional experience. The documentation shall include the specific dates, times during the day, and the subject matter being instructed. The instructional experience documentation shall be signed by the teacher obtaining the instructional experience, the owner of the barber school where the instructional experience was obtained, and the board-licensed teacher with a minimum of three (3) years of experience. This documentation shall be filed with the board prior to taking the examinations required under Section 2(1)(b) and (c)[1(2)] of this administrative regulation.

Section 11.[10.] The teacher obtaining the 600 hours of instructional experience and the board-licensed teacher with a minimum of three (3) years of experience shall notify the board, in writing, of the mentoring and the notification to the board shall be signed by both teachers. The notification shall be submitted prior to the beginning of the twelve (12) months and 600 hours of

instructional experience.

Section 12.[11.] A teacher with a minimum of three (3) years of experience shall not mentor more than two (2) teachers who have not satisfied Section 2(1)(b) and (c)[1(2)] of this administrative regulation.

Section 13.[12.] A teacher who is licensed by the board prior to the effective date of this administrative regulation is exempted from the requirements of Section 1 of this administrative regulation.

Section 14.[13.] A teacher in a school shall hold both a barber and barber teacher's license issued by the board.

Section 15. A teacher who has not satisfied the requirements of Section 2(1) of this administrative regulation shall not be considered a teacher for purposes of KRS 317.540(5).

SONJA MINCH, Administrator

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at 9 a.m.

CONTACT PERSON: Sonja Minch, Administrator, Kentucky Board of Barbering, 312 Whittington Parkway Suite 110, Louisville, Kentucky 40222, (502) 429-7148 fax (502) 429-4149, email sonja.minch@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sonja Minch, Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation establishes the requirements and qualifications for being a teacher of barbering.

(b) The necessity of this administrative regulation: The regulation is necessary to insure that teachers at a barbering school have the appropriate experience and skill to teach barbering to a student.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 317.440(1)(c) authorizes the board to promulgate an administrative regulation regarding the qualifications of teachers of barbering.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board and the qualifications of being a teacher of barbering.

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

(a) How the amendment will change this existing administrative regulation: The amendment establishes the qualifications for a teacher to complete prior to the teaching license being renewed by the second time.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide practical skills before an individual becomes a teacher of barbering.

(c) How the amendment conforms to the content of the authorizing statutes: The board is authorized to promulgate administrative regulations governing new shop as established by KRS 317.440 and KRS 317.450(7).

(d) How the amendment will assist in the effective administration of the statutes: This regulation will assist in defining the expectations of the board and the qualifications of being a teacher of barbering.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 60 licensed teachers of barbering and any applicant to be a teacher or teaching assistant of barbering.

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

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: An applicant must satisfy the examination and supervision requirements prior to obtaining a license to be a teacher of barbering or teacher's assistant of barbering.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): \$0

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Upon demonstrating their qualifications, an applicant will be issued a license.

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

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no cost to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fee 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 nor does it increase any fees either 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 will impact the Kentucky Board of Barbering licensees.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317.440.

(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? \$0

(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? \$0

(c) How much will it cost to administer this program for the first year? \$0

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred to administer the administrative regulation amendment for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: 201 KAR 14:125 will not create any new revenues for either the agency or State Government.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Division of Epidemiology and Health Planning (Amended After Comments)

902 KAR 2:020. Reportable disease surveillance.

RELATES TO: KRS 211.180(1), 214.010, 214.645, 333.130
STATUTORY AUTHORITY: KRS 194A.050, 211.090(3), 211.180(1), 214.010

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.180(1) requires the cabinet to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled. KRS 214.010 requires every physician, advanced practice registered nurse, and every head of family to notify the local health department of the existence of diseases and conditions designated by administrative regulation of the cabinet. This administrative regulation establishes notification standards and specifies the diseases requiring immediate, urgent, priority, routine, or general notification, in order to facilitate rapid public health action to control diseases, and to permit an accurate assessment of the health status of the Commonwealth.

Section 1. Definitions. (1) "Authorize" means to confer rights to the Kentucky Department for Public Health in the NHSN database at the healthcare facility level.

(2) "Health facility" is defined by KRS 216B.015(13).

(3) "Health professional" means a professional licensed under KRS Chapters 311 through 314.

(4) "Healthcare-associated infection" or "HAI" means an infection acquired by a person while receiving treatment for a separate condition in a health care setting.

(5) "HIV case report" means an HIV infection or AIDS diagnosis which:

(a) Has been confirmed by laboratory test results; or

(b) Meets the definition of AIDS established within the Centers for Disease Control and Prevention (CDC) guidelines.

(6) "Kentucky Department for Public Health Advisory" means a notification to health professionals, health facilities, and laboratories subject to this administrative regulation identifying a new health threat that warrants reporting through the procedures of this administrative regulation.

(7) "Medical laboratory" is defined by KRS 333.020(3).

(8) "National Healthcare Safety Network" or "NHSN" means the nation's most widely used healthcare-associated infection (HAI) tracking system as provided to medical facilities by the Centers for Disease Control and Prevention.

(9) "National reference laboratory" means a laboratory located outside of Kentucky which has been contracted by a Kentucky health professional, laboratory, or healthcare facility to provide laboratory testing.

(10) "Outbreak" means:

(a) Two (2) or more cases, including HAIs, that are epidemiologically linked or connected by person, place, or time; or

(b) A single case of an HAI not commonly diagnosed.

(11) "Pharmacist" means a professional licensed under KRS 315.010.

(12) "Select agent" means a biological agent or toxin that could pose a severe threat to public health, plant health, animal product, or plant product as determined by the National Select Agent Registry (NSAR) at www.selectagents.gov.

(13) "Veterinarian" means a professional licensed under KRS 321.181.

Section 2. Notification Standards. (1) Health Professionals and Facilities. A health professional and a health facility shall give notification if:

(a) The health professional makes a probable diagnosis of a disease specified in Section 3, 5, 6, 7, 8, 10, 13, 14, 15, or 16 of

this administrative regulation; and

(b) The diagnosis is supported by:

1.a. Clinical or laboratory criteria; and

b. Case classifications published by the Centers for Disease Control and Prevention at wwwn.cdc.gov/nndss; or

2. A health professional's medical opinion that the disease is present.

(2) A single report by a health facility of a condition diagnosed by a test result from the health facility's laboratory shall constitute notification on behalf of the health facility and its laboratory.

(3) A health facility may designate an individual to report on behalf of the health facility's laboratory, pharmacy, and the health facility's other clinical entities.

(4) Notification shall be given to the local health department serving the jurisdiction in which the patient resides.

(5) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(6) The reporting health professional shall furnish:

(a) Information required in Section 4(16) of this administrative regulation; and

(b) Clinical, epidemiologic, and laboratory information pertinent to the disease including sources of specimens submitted for laboratory testing.

(7) Medical Laboratories. Upon a laboratory test result which indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in Section 3, 5, 6, 7, 8, 10, 13, 14, 15, or 16 of this administrative regulation, the laboratory shall report the result to the local health department serving the county in which the patient resides.

(8) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(9) The reporting laboratory shall furnish the information required in Section 4(16) of this administrative regulation.

(10) National Reference Laboratories. Upon a test result performed by a national reference laboratory which indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in Section 3, 5, 6, 7, 8, 10, 13, 14, 15, or 16 of this administrative regulation, the director of a medical laboratory, a health facility, or the health professional that referred the test to the national reference laboratory shall ensure that the result is reported by the national reference laboratory to the local health department serving the jurisdiction in which the patient resides.

(11) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(12) The report shall include the information required by Section 4(16) of this administrative regulation.

Section 3. Submission of Specimens to the Kentucky Department for Public Health Division of Laboratory Services. (1) A medical laboratory and a national reference laboratory in receipt of diagnostic specimens originating from the Commonwealth of Kentucky shall send specimens or clinical isolates for diseases outlined in subsection (5) of this section to the Division of Laboratory Services for primary or confirmatory testing and related studies.

(2) A medical laboratory or national reference laboratory using non-culture techniques to identify bacterial agents of diarrheal disease, such as enzyme immunoassays (EIAs) or molecular assays, shall attempt isolation of the etiologic agent identified. Clinical isolates shall be submitted to the Division of Laboratory Services.

(3) If the culture attempts do not produce a clinical isolate, the direct specimen, submitted in the appropriate preservative, shall be sent to the Division of Laboratory Services. A submitting laboratory shall provide the name of the etiologic agent detected by the non-culture technique at the time of specimen submission.

(4) A medical laboratory performing this test shall continue to follow the state's requirement for the submission of appropriate materials to the state public health laboratory.

(5) A medical or national reference laboratory shall submit clinical isolates or, if not available, the direct specimen from the following diseases to the Division of Laboratory Services:

(a) Botulism;

(b) Brucellosis;

(c) Campylobacteriosis;

(d) Cholera and diseases caused by other *Vibrio* species;

(e) Diphtheria;

(f) *Escherichia coli* O157:H7;

(g) Hemolytic Uremic Syndrome (HUS) – Post Diarrheal;

(h) Listeriosis;

(i) Measles;

(j) Meningococcal infections;

(k) Rabies animal;

(l) Rubella;

(m) Salmonellosis;

(n) Shiga toxin-producing *E. coli* (STEC);

(o) Shigellosis;

(p) Tuberculosis;

(q) Tularemia; and

(r) Typhoid fever.

Section 4. Reporting Classifications and Methods. (1) Immediate reporting. A report required by Section 10(1) and (2) of this administrative regulation to be made immediately shall be:

(a) Made by telephone to the local health department serving the county in which the patient resides; and

(b) Followed up by electronic or fax submission to the local health department serving the county in which the patient resides within one (1) business day.

(2) Upon receipt of a report for a disease requiring immediate reporting, the local health department shall:

(a) Notify the Kentucky Department for Public Health by telephone; and

(b) Assist the department in carrying out a public health response.

(3) Weekend, evening, or holiday immediate notification. If local health department personnel cannot be contacted directly, notification shall be made by telephone using an emergency number provided by the local health department or the Kentucky Department for Public Health.

(4) For the protection of patient confidentiality, a report using the emergency number shall include:

(a) The name of the condition being reported; and

(b) A telephone number that can be used by the department to contact the reporting health professional or health facility.

(5) Urgent Reporting. A report made within twenty-four (24) hours as required by Section 5 of this administrative regulation shall be:

(a) Submitted electronically, by fax, or by telephone to the local health department serving the county in which the patient resides; and

(b) If submitted by telephone, followed up by electronic or fax submission to the local health department serving the county in which the patient resides within one (1) business day.

(6) Upon receipt of a report for a disease requiring urgent reporting, the local health department shall:

(a) Notify the Kentucky Department for Public Health; and

(b) Assist the department in carrying out a public health response.

(7) Weekend, evening, or holiday urgent notification. If local health department personnel cannot be contacted directly, notification shall be made by telephone using an emergency number provided by the local health department or the Kentucky Department for Public Health.

(8) For the protection of patient confidentiality, notification using the emergency number shall include:

(a) The name of the condition being reported; and

(b) A telephone number that can be used by the department to contact the reporting health professional or health facility.

(9) Priority Reporting. A report made within one (1) business day as required by Sections 6, 14(4), and 15 of this administrative regulation shall be:

(a) Submitted electronically, by fax, or by telephone to the local health department serving the county in which the patient resides; and

(b) If submitted by telephone, followed up by electronic or fax submission of a report to the local health department serving the county in which the patient resides within one (1) business day.

(10) Upon receipt of a report for a disease requiring priority reporting, a local health department shall:

(a) Investigate the report and carry out public health protection measures; and

(b) Notify the Kentucky Department for Public Health of the case by electronic or fax submission within one (1) business day.

(11) The reporting health department may seek assistance in carrying out public health measures from the Kentucky Department for Public Health.

(12) Routine Reporting. A report made within five (5) business days, as required by Sections 7, 8, 9, 11(1), 13, 14(7), and 17 of this administrative regulation, shall be made electronically, by fax, or by mail to the local health department serving the county in which the patient resides.

(13) Upon receipt of a report of a disease or condition requiring routine reporting, a local health department shall:

(a) Make a record of the report;

(b) Answer inquiries or render assistance regarding the report if requested by the reporting entity; and

(c) Forward the report to the Kentucky Department for Public Health by electronic or fax submission of a report, or in writing within five (5) business days.

(14) General Reporting. A report made within three (3) months, as required by Section 16 of this administrative regulation, shall be made electronically, by fax, or by mail.

(15) A report submitted by fax or by mail shall be made using one (1) of the following reporting forms:

(a) EPID 200, Kentucky Reportable Disease Form;

(b) EPID 250, Kentucky Reportable MDRO Form, until electronic reporting is available pursuant to Section 9(1) of this administrative regulation;

(c) EPID 394, Kentucky Reportable Disease Form, Hepatitis Infection in Pregnant Women or Child (~~aged under the age of~~ five 5 years or less);

(d) EPID 399, Perinatal Hepatitis B Prevention Form for Infants;

(e) Adult HIV/AIDS Confidential Case Report form; or

(f) Pediatric HIV/AIDS Confidential Case Report form.

(16) Information to be reported. Except as provided in subsections (3) and (7) of this section, a report required by this administrative regulation shall include:

(a) Patient name;

(b) Date of birth;

(c) Gender;

(d) Race;

(e) Ethnicity;

(f) Patient address;

(g) County of residence;

(h) Patient telephone number;

(i) Name of the reporting medical provider or facility;

(j) Address of the reporting medical provider or facility; and

(k) Telephone number of the reporting medical provider or facility.

(17) A reporting health professional shall furnish the information listed in subsection (16) of this section and Section 2(6)(b) of this administrative regulation.

Section 5. Notifiable Infectious Conditions Requiring Urgent Notification. Notification of the following diseases shall be considered urgent and shall be made within twenty-four (24) hours:

(1) Anthrax;

(2) Botulism;

(3) Brucellosis (multiple cases, temporally or spatially clustered);

(4) Diphtheria;

(5) Hepatitis A, acute;

(6) Measles;

(7) Meningococcal infections;

(8) Novel influenza A virus infections;

(9) Plague;

(10) Poliomyelitis;

(11) Rabies, animal;

(12) Rabies, human;

(13) Rubella;

(14) Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV) disease;

(15) Smallpox;

(16) Tularemia;

(17) Varicella; [Yellow fever; and]

(18) Viral hemorrhagic fevers due to:

(a) Crimean-Congo Hemorrhagic Fever virus;

(b) Ebola virus;

(c) Lassa virus;

(d) Lujo virus;

(e) Marburg virus; or

(f) New world arenaviruses including:

1. Guanarito virus;

2. Junin virus; [.]

3. Machupo virus; and

4. Sabia virus; and

(19) Yellow fever.

Section 6. Notifiable Infectious Conditions and Notifiable Non-Infectious Conditions Requiring Priority Notification. Notification of the following diseases or conditions shall be considered priority and shall be made within one (1) business day:

(1) Arboviral diseases, neuroinvasive and non-neuroinvasive, including:

(a) California serogroup virus diseases, including diseases caused by:

1. California encephalitis virus;

2. Jamestown Canyon virus;

3. Keystone virus;

4. La Crosse virus;

5. Snowshoe hare virus; and

6. Trivittatus viruses;

(b) Chikungunya virus disease;

(c) Eastern equine encephalitis virus disease;

(d) Powassan virus disease;

(e) St. Louis encephalitis virus disease;

(f) Venezuelan equine encephalitis disease;

(g) West Nile virus disease; [and]

(h) Western equine encephalitis virus disease; and

(i) Zika virus disease or infection or the birth of a child to a mother who was Zika-positive or Zika-inconclusive during any stage of pregnancy or during the periconceptional period;

(2) Brucellosis (cases not temporally or spatially clustered);

(3) Campylobacteriosis;

(4) Carbon monoxide poisoning;

(5) Cholera;

(6) [(5)] Cryptosporidiosis;

(7) [(6)] Dengue virus infections;

(8) [(7)] Escherichia coli O157:H7;

(9) [(8)] Foodborne disease outbreak;

(10) [(9)] Haemophilus influenzae invasive disease;

(11) [(10)] Hansen's disease (leprosy);

(12) [(11)] Hantavirus infection, non-Hantavirus pulmonary syndrome;

(13) Hantavirus pulmonary syndrome (HPS);

(14) [(infections; (12))] Hemolytic uremic syndrome (HUS), post-diarrheal;

(15) [(13)] Hepatitis B, acute;

(16) [(14)] Hepatitis B infection in a pregnant woman;

(17) [(15)] Hepatitis B infection in an infant or a child aged five (5) years or less;

(18) [(16)] Newborns born to Hepatitis B positive mothers at the time of delivery;

(19) [(17)] Influenza-associated mortality [in a pregnant woman];

(18) Influenza-associated pediatric mortality];

(20) Leptospirosis;

- (21)[(19)] Listeriosis;**
- (22)[(20)] Mumps;**
- (23)[(21)] Norovirus outbreak;**
- (24)[(22)] Pertussis;**
- (25)[(23)] Pesticide-related illness, acute;**
- (26)[(24)] Psittacosis;**
- (27)[(25)] Q fever;**
- (28)[(26)] Rabies post-exposure prophylaxis;**
- (27)] Rubella, congenital syndrome;**
- (29)[(28)] Salmonellosis;**
- (30)[(29)] Shiga toxin-producing E. coli (STEC);**
- (31)[(30)] Shigellosis;**
- (32)[(31)] Streptococcal toxic-shock syndrome;**
- (33)[(32)] Streptococcus pneumoniae, invasive disease;**
- (34)[(33)] Tetanus;**
- (35)[(34)] Toxic-shock syndrome (other than Streptococcal);**
- (36)[(35)] Tuberculosis;**
- (37)[(36)] Typhoid fever;**
- [(37) Varicella-associated mortality;]**
- (38) Vibriosis; and**
- (39) Waterborne disease outbreak.**

Section 7. Notifiable Infectious Conditions and Notifiable Non-Infectious Conditions Requiring Routine Notification. Notification of the following diseases shall be considered routine and shall be made within five (5) business days:

- (1) Babesiosis;
- (2) Coccidioidomycosis;
- (3) Creutzfeldt-Jakob disease;
- (4) Ehrlichiosis/Anaplasmosis;
- (5) Hepatitis C, acute;
- (6) Hepatitis C infection in a pregnant woman;
- (7) Hepatitis C infection in an infant or a child aged five (5) years or less;
- (8) Newborns born to Hepatitis C positive mothers at the time of delivery;
- (9) Histoplasmosis;
- (10) Lead poisoning;
- (11) Legionellosis;
- (12) Lyme Disease;
- (13) Malaria;
- (14) Spotted Fever Rickettsiosis (Rocky Mountain Spotted Fever);
- (15) Toxoplasmosis; and
- (16) Trichinellosis (Trichinosis).

Section 8. Notifiable Infectious Conditions Requiring Routine Notification by Electronic Laboratory Reporting. (1) Beginning October 1, 2016, notification of the following diseases shall be considered routine and shall be electronically reported to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) business days:

- (a) Cyclosporiasis;
- (b) Giardiasis;
- (c) Hepatitis B laboratory test results whether reported as positive or negative;

1. Include the serum bilirubin levels taken within ten (10) days of the test of a patient who has tested positive; or

2. Include the serum alanine aminotransferase levels taken within ten (10) days of the test of a patient who tested positive;

- (d) Hepatitis C laboratory test results whether reported as positive or negative;

1. Include the serum bilirubin levels taken within ten (10) days of the test of a patient who has tested positive; or

2. Include the serum alanine aminotransferase levels taken within ten (10) days of the test of a patient who tested positive;

and

- (e) Varicella laboratory test results reported as positive for:
 - 1. Isolation of varicella virus from a clinical specimen;
 - 2. Varicella antigen detected by direct fluorescent antibody test;
 - 3. Varicella-specific nucleic acid detected by polymerase chain

reaction (PCR); or

4. A significant rise in serum anti-varicella immunoglobulin G (IgG) antibody level by a standard serologic assay.

(2) Reports made pursuant to this section shall include a diagnosis.

Section 9. Multi-Drug Resistant Organisms and Other Organisms Requiring Routine Notification by Electronic Laboratory Reporting. (1) Beginning October 1, 2016, notification of the following diseases shall be considered routine and shall be electronically reported to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) business days:

(a) Vancomycin-intermediate Staphylococcus aureus (VISA), which includes S. aureus cultured from any specimen that the results show a minimum inhibitory concentration (MIC) of 4-8 µg/mL per standard laboratory methods;

(b) Vancomycin-resistant Staphylococcus aureus (VRSA), which includes S. aureus cultured from any specimen that the results show a minimum inhibitory concentration (MIC) of greater than or equal to 16 µg/mL per standard laboratory methods;

(c) Methicillin-resistant Staphylococcus aureus (MRSA), which includes S. aureus cultured from any specimen that tests oxacillin-resistant, ceftazidime-resistant, or methicillin-resistant by standard susceptibility testing methods, or by a laboratory test that is FDA-approved for MRSA detection from isolated colonies. These methods may also include a positive result by any FDA-approved test for MRSA detection;

(d) Vancomycin-resistant Enterococcus species (VRE), **only those[regardless of whether] identified to the species level, that are[is] resistant to Vancomycin by standard susceptibility testing methods or by results from any FDA-approved test for VRE detection from specific specimen sources;**

(e) Clostridium difficile (C. difficile) identified from a positive laboratory test result for a C. difficile toxin A or B (includes molecular assays {PCR} or toxin assays) or a toxin-producing organism detected by culture or other laboratory means performed on a stool sample;

(f) Carbapenem-resistant Enterobacteriaceae (CRE), **which includes Escherichia coli, Klebsiella oxytoca, Klebsiella pneumoniae, or Enterobacter species testing resistant to imipenem, meropenem, doripenem, or ertapenem by standard susceptibility testing methods or by production of carbapenemase by an isolate demonstrated by using a recognized test[or any Enterobacteriaceae species testing non-susceptible (resistant or intermediate) to imipenem, meropenem, or doripenem, by standard susceptibility testing methods and resistant to all third-generation cephalosporins tested];**

(g) **Cephalosporin-resistant Klebsiella, which includes Klebsiella oxytoca, Klebsiella pneumoniae, or a Klebsiella species testing non-susceptible (resistant or intermediate) to ceftazidime, cefotaxime, ceftriaxone, or cefepime;**

(h) Extended-spectrum beta-lactamase Gram negative organisms (ESBL) Enterobacteriaceae species non-susceptible (resistant or intermediate) to ceftazidime, cefepime, ceftriaxone, or cefotaxime;

(i)(h) Multidrug-resistant – Acinetobacter - Non-susceptibility (resistant or intermediate) to at least one (1) agent in at least three (3) antimicrobial classes of the following six (6) classes:

- 1. Ampicillin-sulbactam;
- 2. Cephalosporins (cefepime, ceftazidime);
- 3. β-lactam-β-lactamase inhibitor combination (piperacillin, piperacillin-tazobactam);
- 4. Carbapenems (imipenem, meropenem, doripenem);
- 5. Fluoroquinolones (ciprofloxacin or levofloxacin); and
- 6. Aminoglycosides (gentamicin, tobramycin, or amikacin); and

(j)(i) Multidrug-resistant Pseudomonas - Non-susceptibility, resistant or intermediate, to at least one (1) agent in at least three (3) antimicrobial classes of the following five (5) classes:

- 1. Cephalosporins (cefepime, ceftazidime);
- 2. β-lactam-β-lactamase inhibitor combination (piperacillin, piperacillin-tazobactam);

3. Carbapenems (imipenem, meropenem, doripenem);
4. Fluoroquinolones (ciprofloxacin or levofloxacin); and
5. Aminoglycosides (gentamicin, tobramycin, or amikacin).

(2) The report of an organism under this section shall include the following:

- (a) Date of specimen collection;
- (b) Source of specimen;
- (c) Susceptibility pattern; and
- (d) Name of the ordering health professional.

(3) Upon a test result performed by a medical laboratory which indicates infection with an agent associated with one (1) or more of the diseases or conditions or a multi-drug resistant organism specified in this section, the director of the medical laboratory shall electronically report the result to the Kentucky Department for Public Health through the Kentucky Health Information Exchange within five (5) days.

(4) The report shall include a diagnosis.

Section 10. Newly Recognized Infectious Agents, HAI Outbreaks, Emerging Pathogens, and Pathogens of Public Health Importance. (1) The following shall be reported immediately by telephone to the Kentucky Department for Public Health:

(a) A suspected incidence of bioterrorism caused by a biological agent;

(b) Submission of a specimen to the Kentucky Division of Laboratory Services for select agent identification or select agent confirmation testing; or

(c) An outbreak of a disease or condition that resulted in multiple hospitalizations or death.

(2) An unexpected pattern of cases, suspected cases, or deaths which may indicate the following shall be reported immediately by telephone to the local health department in the county where the health professional is practicing or where the facility is located:

(a) A newly-recognized infectious agent;

(b) An outbreak;

(c) An emerging pathogen which may pose a danger to the health of the public;

(d) An epidemic; or

(e) A non-infectious chemical, biological, or radiological agent.

(3) A report of the following shall be considered priority and shall be reported to the local health department in the county where the health professional is practicing or where the facility is located within one (1) business day:

(a) Suspected Staphylococcal or other foodborne intoxication; or

(b) Salmonellosis or other foodborne or waterborne infection.

(4) The local health department shall:

(a) Investigate the outbreak or occurrence;

(b) Carry out public health protection measures to address the disease or condition involved; and

(c) Make medical and environmental recommendations to prevent future similar outbreaks or occurrences.

(5) The local health department may seek assistance from the Kentucky Department for Public Health.

Section 11. Laboratory Surveillance. (1) Medical or national reference laboratory results for the following shall be considered routine:

(a) Influenza virus isolates;

(b) PCR-positive test results for influenza virus; and

(c) DNA molecular assays for influenza virus.

(2) The report shall include specific laboratory information pertinent to the result.

(3) Upon request by the Kentucky Department for Public Health, a health facility laboratory or a medical laboratory shall report the number of clinical isolates and information regarding the antimicrobial resistance patterns of the clinical isolates at intervals no less frequently than three (3) months for the following:

(a) Staphylococcus aureus;

(b) Enterococcus species; or

(c) An organism specified in a request that includes a justification of its public health importance.

Section 12. Healthcare-Associated Infection Surveillance. (1) A healthcare facility in Kentucky that participates in CMS reporting programs shall authorize the CDC to allow the Kentucky Department for Public Health to access health care-associated infection data reported to NHSN.

(2) The Kentucky Department for Public Health shall preserve patient confidentiality and shall not disclose to the public any patient-level data obtained from any health care facility.

(3) The Kentucky Department for Public Health may issue reports to the public regarding healthcare-associated infections in aggregate data form which:

(a) May identify individual health care facilities; and

(b) Shall comply with methodology developed by the CDC and CMS for national reporting of health care-associated infections.

(4) The Kentucky Department for Public Health may evaluate healthcare-associated infection data for accuracy and completeness.

Section 13. Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) Surveillance. (1) A report of an HIV infection or AIDS diagnosis shall be considered routine and shall be reported within five (5) business days of diagnosis on one (1) of the following forms:

(a) Adult HIV/AIDS Confidential Case Report form; or

(b) Pediatric HIV/AIDS Confidential Case Report form.

(2) Health professionals and medical laboratories shall report:

(a) A positive test result for HIV infection including a result from:

1. 3rd generation immunoassay;

2. 4th generation immunoassay;

3. Western Blot;

4. PCR;

5. HIV-1 or HIV-2 differentiating such as Multispot;

6. HIV antigen;

7. HIV antibody;

8. CD4+ assay including absolute CD4+ cell counts and CD4+%;

9. HIV Viral Load Assay including detectable and undetectable values; or

10. A positive confirmatory serologic test result for HIV infection; or

(b) A diagnosis of AIDS that meets the definition of AIDS established within the CDC guidelines.

(3) A case report for a resident of Jefferson, Henry, Oldham, Bullitt, Shelby, Spencer, or Trimble County shall be submitted to the HIV/AIDS Surveillance Program of the Louisville-Metro Health Department.

(4) A case report for a resident of the remaining Kentucky counties shall be submitted to the HIV/AIDS Surveillance Program of the Kentucky Department for Public Health, Division of Epidemiology and Health Planning.

(5) A case report for a person with an HIV infection without a diagnosis of AIDS shall include the following information:

(a) The patient's full name;

(b) The patient's complete address;

(c) Date of birth using the format MMDDYYYY;

(d) Gender;

(e) Race;

(f) Ethnicity;

(g) Risk factor as identified by CDC;

(h) County of residence;

(i) Name of provider and facility submitting report including contact information;

(j) Specimen collected;

(k) Date and type of HIV test performed using the format MMDDYYYY;

(l) Results of CD4+ cell counts and CD4+%;

(m) Results of viral load testing;

(n) Results of PCR, HIV culture, HIV antigen, and HIV antibody, if performed;

(o) Results of TB testing, if available; and

(p) HIV status of the person's partner, spouse, or children, as applicable.

- (6) A report of an AIDS case shall include:
 - (a) Information in subsections (2) through (5) of this section;
 - (b) Opportunistic infections diagnosed; and
 - (c) Date of onset of illness.

(7) A report of AIDS shall be made whether or not the patient has been previously reported as having an HIV infection.

(8) If the patient has not been previously reported as having an HIV infection, the AIDS report shall also serve as the report of HIV infection as required by subsection (2) through (5) of this section.

Section 14. Sexually Transmitted Disease (STD). (1) Notification of a probable diagnosis of an STD as specified in subsection (4) or (7) of this section shall be made.

(2) The report shall provide the following information:

- (a) Pregnancy status; and
- (b) Clinical, epidemiologic, laboratory, and treatment information pertinent to the disease.

(3) Upon a laboratory test result which indicates infection with an agent associated with one (1) or more of the diseases or conditions specified in subsection (4) and (7) of this section, a medical laboratory shall report to the Kentucky Department for Public Health information required by Section 4(16) of this administrative regulation.

(4) Sexually Transmitted Diseases Requiring Priority Notification. A report of the following shall be considered priority and shall be made within one (1) business day:

- (a) Congenital syphilis; or
- (b) Syphilis - primary, secondary, or early latent.

(5) Upon receipt of a report for a disease or condition specified in subsection (4) of this section, a local health department shall:

- (a) Investigate the report;
- (b) Carry out public health protection measures to address the disease or condition; and
- (c) Forward the report to the Kentucky Department for Public Health within one (1) business day.

(6) The local health department may seek assistance from the Kentucky Department for Public Health.

(7) Sexually Transmitted Diseases Requiring Routine Notification. A report of the following shall be considered routine and shall be made within five (5) business days:

- (a) Chancroid;
- (b) Chlamydia trachomatis infection;
- (c) Gonorrhea;
- (d) Granuloma inguinale;
- (e) Lymphogranuloma venereum; or
- (f) Syphilis, other than primary, secondary, early latent, or congenital.

(8) Upon receipt of a report for a disease or condition specified in subsection (7) of this section, a local health department shall:

- (a) Make a record of the report using Form EPID 200, Kentucky Reportable Disease Form;
- (b) Forward the report to the Kentucky Department for Public Health within five (5) business days; and
- (c) Render assistance if requested by the reporting entity or the Kentucky Department for Public Health.

Section 15. Tuberculosis. (1) A pharmacist shall give notice if two (2) or more of the following medications used for the initial treatment of active tuberculosis are dispensed to an inpatient in a health facility or to an ambulatory patient in a health facility or a pharmacy:

- (a) Rifampin or rifabutin;
- (b) Isoniazid;
- (c) Pyrazinamide; and
- (d) Ethambutol.

(2) A report of tuberculosis shall be considered priority and shall be reported to the local health department serving the county in which the patient resides.

(3) If the local health department cannot be reached, notification shall be given to the Kentucky Department for Public Health.

(4) The report shall include:

- (a) Information required in Section 4(16) of this administrative

regulation; and

- (b) Names of the medications dispensed.

Section 16. Asbestosis, Coal Worker's Pneumoconiosis, and Silicosis. (1) A health professional shall report a diagnosis of the following to the Kentucky Department for Public Health within three (3) months of diagnosis:

- (a) Asbestosis;
- (b) Coal worker's pneumoconiosis; or
- (c) Silicosis.

(2) A report required under this section shall include the following information regarding the patient:

- (a) Name;
- (b) Address;
- (c) Date of birth; and
- (d) County of residence.

Section 17. Reporting of Communicable Diseases in Animals.

(1) A diagnosis in an animal of a condition known to be communicable to humans, except for rabies, shall require routine notification.

(2) A veterinarian shall report the diagnosis within five (5) business days to the local health department serving the county in which the animal is located.

(3) If a laboratory test indicates infection of an animal with an agent associated with a condition known to be communicable to humans, the director of a medical laboratory shall report the result to the local health department serving the county in which the animal is located within five (5) business days.

(4) The local health department receiving the report shall:

- (a) Investigate the report;
- (b) Carry out public health protection measures for the control of communicable diseases; and
- (c) Forward the report to the Kentucky Department for Public Health within five (5) business days.

(5) The local health department may seek assistance from the Kentucky Department for Public Health.

Section 18. Kentucky Department for Public Health Advisory.

(1) If the Secretary of the Cabinet for Health and Family Services or the Commissioner of the Department for Public Health determines that a disease not presently listed in this administrative regulation requires reporting, the secretary or commissioner may issue a Kentucky Public Health Advisory.

(2) The Kentucky Public Health Advisory shall include:

- (a) Date and time the advisory is issued;
- (b) A unique number to identify the advisory;
- (c) Names for the disease or condition;
- (d) A description of the disease or condition;
- (e) Recommendations for health professionals, health facilities, and laboratories; and
- (f) Notification requirements including:

- 1. The notification time interval;
- 2. Methods for notification; and
- 3. Forms to be completed and submitted with the notification.

(3) The duty to report by health professionals, health facilities, and laboratories pursuant to a Kentucky Public Health Advisory shall begin upon receipt of the advisory and shall remain in effect until the advisory is rescinded by order of the secretary or the commissioner.

Section 19. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) Form "EPID 200, Kentucky Reportable Disease Form", 6/2016[9/2014];
- (b) Form "EPID 250, Kentucky Reportable MDRO Form", 6/2014;
- (c) Form "EPID 394, Kentucky Reportable Disease Form, Hepatitis Infection in Pregnant Women or Child (~~aged[under the age of] five years or less~~)", 9/2016[~~11/2013~~];
- (d) Form "EPID 399, Perinatal Hepatitis B Prevention Form for Infants", 4/2012;
- (e) Form "Adult HIV Confidential Case Report Form", 3/2013;

and

(f) Form "Pediatric HIV Confidential Case Report Form", 3/2013.

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

HIRAM POLK, MD, FACS, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: September 12, 2016

FILED WITH LRC: September 14, 2016 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes notification standards and specifies the diseases requiring immediate, urgent, priority, routine, or general notification, in order to facilitate rapid public health action to control diseases, and to permit an accurate assessment of the health status of the Commonwealth.

(b) The necessity of this administrative regulation: KRS 211.180 requires the Cabinet to implement a statewide program for the detection, prevention, and control of diseases. This regulation outlines the process and methods of reporting and surveillance of diseases of concern for the public's health.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.180 requires the cabinet to collect disease data and KRS 214.010 requires every physician, Advanced Practice Registered Nurse, or household to notify the local health department of the existence of diseases and conditions of public health importance. This regulation outlines the appropriate way to report and collect this information including what should be reported.

(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 that require the Cabinet to collect disease data and protect the health of the public. This administrative regulation contains the diseases that require notification and when, how, and where to make that notification are outlined to give clear guidance to those entities required to report.

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

(a) How the amendment will change this existing administrative regulation: The amendment makes clarifications in the age of children with Hepatitis being reported (age five or less) and the notification of Zika virus (disease or infection and children born to mothers who were Zika-positive or Zika-inconclusive during pregnancy or periconception). The amendment adds carbon monoxide poisoning, leptospirosis, and all cases of varicella and splits Hantavirus into two reportable conditions to be consistent with the Centers for Disease Control and Prevention (CDC). Varicella was moved from priority reporting to urgent reporting because a varicella vaccine may be given to susceptible contacts to prevent secondary cases if administered within five days of exposure. The amendment includes the notification of all influenza-associated mortality events instead of just those affecting pregnant women and children, as this information is frequently requested of the Department for Public Health (DPH) and receiving this notification would give DPH the necessary information to have an accurate depiction of the state of influenza in Kentucky each year. The amendment also deletes notification of rabies post exposure prophylaxis as this is a treatment and not rabies itself, which remains reportable in both humans and animals. Reporting this use of treatment is burdensome and irrelevant. A multi-drug resistant organism is being added to the notification list as it has become increasingly important in healthcare-associated infections and

knowledge has increased of its antibiotic resistance. Also, the Hepatitis reporting form is being modified to fit previously-required information.

(b) The necessity of the amendment to this administrative regulation: The World Health Organization declared Zika virus a Public Health Emergency of International Concern on February 1, 2016. According to the Centers for Disease Control and Prevention (CDC), as of August 17, 2016, 2,260 confirmed cases of Zika virus had been reported in the United States. Ten of these cases were Kentuckians who contracted the illness while traveling to other countries. Requiring notification of Zika virus disease or infection to the local health department and Kentucky Department for Public Health is crucial to investigating the source of the disease and taking action to prevent an outbreak of disease. Reporting the birth of children to mothers who were Zika-positive or Zika-inconclusive during pregnancy or periconception will allow DPH to investigate and provide follow-up tests and guidance to care if necessary. Other amendments were made to be consistent with the CDC's list of Nationally Notifiable Conditions and eliminate one useless reporting burden.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.180 requires the cabinet to collect disease data and KRS 214.010 requires every physician, Advanced Practice Registered Nurse (APRN), or household to notify the local health department of the existence of diseases and conditions of public health importance and these added conditions, especially Zika virus disease or infection, are very much of public health importance.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky hospitals and healthcare facilities, Kentucky physicians and APRNs, state and national laboratories, local health departments, the Kentucky Department for Public Health, and any Kentucky citizen exposed to or potentially exposed to a reportable disease or condition will 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 questions (3) will have to take to comply with this administrative regulation or amendment: Kentucky hospitals, healthcare facilities, physicians, and APRNs will be required to notify their local health department of any cases of Zika virus disease or infection or babies born to Zika-positive mothers. The local health department will investigate the report and notify the Kentucky Department for Public Health. This notification is already being done for many other diseases and conditions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): There is no additional cost to hospitals, healthcare facilities, physicians, etc. to report by fax or telephone the information requested. A reported case of Zika virus disease will require investigation by a local sanitarian to conduct a thorough survey of the area, costing personnel time and approximately \$100 per pesticide application. This process will be occurring throughout the state even if reporting is not required. Local health departments have received over \$500,000 in Public Health Emergency Preparedness (PHEP) grant funding from the CDC to support activities related to Zika virus disease investigation and prevention. The Department for Public Health, Division of Laboratory Services, has received PHEP grant funding for the cost of Zika virus disease testing, supplies, postage for sending specimens, and electronic reporting.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Decreased risk of the Zika virus disease or infection in Kentucky.

(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 to the Department to require this notification.

(b) On a continuing basis: There is no additional cost to the

Department to require this notification.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no cost to the DPH to implement and enforce this mandatory notification.

(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 implement this amendment.

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

(9) TIERING: Is tiering applied? No. This administrative regulation is applicable to all affected 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? Kentucky hospitals and healthcare facilities, Kentucky physicians and APRNs, state and national laboratories, local health departments, the Kentucky Department for Public Health, and any Kentucky citizen exposed to or potentially exposed to a reportable disease will be affected by this regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 211.090(3), 211.180(1), and 214.010.

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 does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? Local health departments have received over \$500,000 in Public Health Emergency Preparedness (PHEP) grant funding from the CDC to support activities related to Zika virus disease investigation and prevention. The Department for Public Health, Division of Laboratory Services, has received PHEP grant funding for the cost of Zika virus disease testing, supplies, postage for sending specimens, and electronic reporting. The administration of this program has an administrative cost, but it will regardless of the implementation of this regulation.

(d) How much will it cost to administer this program for subsequent years? The extent of administrative actions related to this program is dependent on subsequent funding. If grant funding is decreased, preventive services performed as part of an investigation for Zika virus disease will be decreased.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Health Care (Amended After Comments)

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

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

STATUTORY AUTHORITY: KRS 216B.042, 216B.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires that the Kentucky Cabinet for Health and Family Services regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation of and services provided by primary care centers.

Section 1. Definitions. (1) "Behavioral health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy or a medical officer of the government of the United States while engaged in the performance of official duties who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or a licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A physician assistant licensed under KRS 311.840 to 311.862;

(h) A marriage and family therapist licensed and practicing in accordance with KRS 335.300;

(i) A professional clinical counselor licensed and practicing in accordance with KRS 335.500; or

(j) A licensed professional art therapist as defined by KRS 309.130(2).

(2) "Behavioral health professional under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) Marriage and family therapist associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4); or

(f) Licensed professional art therapist associate as defined by KRS 309.130(3).

(3) "Center" means a primary care center.

(4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(5) "Child with a severe emotional disability" is defined by KRS 200.503(3).

(6) "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

(7) "Licensed behavior analyst" is defined by KRS 319C.010(6).

(8) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

(9) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

(10) "Peer support specialist" means a paraprofessional who meets the application, training, examination, and supervision requirements of 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240.

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

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

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

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

(b)1. Has a master's degree in nutrition; and

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

(c)1. Has a bachelor of science degree in home economics; and

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

(12) "Severe mental illness" means the conditions defined by KRS 210.005(2) and (3).

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

(a) Have permanent facilities; and

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

(2) A primary care center shall provide:

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

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

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

(2) Administrator.

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

(b) In the absence of the administrator, responsibility shall be delegated to a similarly qualified staff person.

(3) Policies.

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

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

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

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

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

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

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

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

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

1. Written protocols, including standing orders, rules of practice, and medical directives that apply to services provided by the center. The protocols shall be signed by the medical director; and

2. Patient care policies for patients held in the center's holding-observation accommodations.

(c) A system shall be established to ensure that, if feasible, the

patient shall be always cared for by the same health professional or health team, to assure continuity of care.

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

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

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

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

3. Informed of his or her medical condition, unless medically contraindicated as documented in his or her medical record;

4. Afforded the opportunity to participate in the planning of his or her medical treatment and to refuse to participate in experimental research;

5. Encouraged and assisted to understand and exercise his or her patient rights;

6. Assured confidential treatment of his or her records and shall be afforded the opportunity to approve or refuse release of the records to any individual not involved in the patient's care, except as required by applicable law or third-party payment contract; and

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

(4) Personnel.

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

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

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

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

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

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

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

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

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

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

(d) Nurse. An advanced practice registered nurse or a registered nurse employed by the center directly or by contract shall provide services within his or her relative scope of practice pursuant to KRS Chapter 314.

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

(f) In-service training.

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

2. The training programs shall include:

a. Thorough job orientation for new personnel; and

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

(5) Medical records.

(a) Ownership.

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

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

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

(b) Confidentiality and security: use and disclosure.

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

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

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

(c) The center shall maintain a medical record for each patient. The medical record shall include:

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

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

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

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

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

(e) Transfer of records. The center shall:

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

2. Upon proper release, transfer medical records or an abstract if requested.

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

1. Retained for six (6) years; or

2. If a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(6) Linkage agreements.

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

1. Hospitals; and

2. Emergency medical transportation services in the service area.

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

1. Appropriate referral and acceptance of patients from the center;

2. Appropriate coordination of discharge planning with center staff; and

3. The center to receive a copy of the discharge summary for each patient referred to the center.

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

1. Transfer of information;

2. Provision of transportation;

3. Sharing of services, equipment, and personnel;

4. Provision of total care or portions thereof in relation to facility and agency capability; and

5. Patient record confidentiality pursuant to all applicable federal and state law.

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

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

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

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

(b) Provides for appropriate responses to findings;

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

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

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

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

(g) Collects and organizes data for each indicator;

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

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

(j) Communicates relevant information to other individuals, departments, or services as to the quality assurance program.

Section 4. Provision of Services. (1)(a) Hours of operation and coverage. Scheduled hours of the center's operation shall reasonably accommodate the various segments of the population served.

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

(2) Basic services. The center shall provide directly at least the following services:

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

(b) Emergency services.

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

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

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

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

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

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

(e) Chronic illness management; and

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

(3) Supplemental services.

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

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

1. Pharmacy: licensed pharmacist;

2. Dentistry: licensed dentist;

3. Optometry: licensed optometrist or ophthalmologist;

4. Midwifery services: certified nurse midwife;

5. Family planning;

6. Nutrition: qualified dietitian or nutritionist;

7. Social service counseling: licensed social worker;

8. Home health: licensed home health agency; and
9. Behavioral health services.

(c) A center that does not have a linkage agreement with the supplemental services pursuant to paragraph (b) of this subsection, but documents a good faith attempt to enter into the linkage agreement, shall be exempt from the linkage agreement requirement.

(4) Extension services.

(a)1. The center may provide basic primary care services as described in subsection (2) of this section, one (1) or more supplemental services as described in subsection (3) of this section, or one (1) or more outpatient behavioral health services as described in Section 5 of this administrative regulation in locations separate from its permanent facility.

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

(b) Except for an extension located at a school, each extension that provides one (1) or more of the basic primary care services described in subsection (2) of this section shall be staffed with at least:

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

2. One (1) physician who is:

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

- b. Available through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

(c) Except for an extension located at a school, each extension that provides one (1) or more supplemental services described in subsection (3) of this section, or one (1) or more outpatient behavioral health services described in Section 5 of this administrative regulation shall maintain a core staff of appropriately licensed or certified health professionals as necessary to carry out the services provided at the extension site.

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

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

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

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

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

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

(6) Holding-observation accommodations. If holding-observation accommodations are maintained by the center, the center shall comply with the following requirements:

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

(b) The decision to hold a patient shall be the responsibility of a physician employed directly or under contract with the center; and

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

(7) Plan of care. The center shall establish and periodically update a written plan of care of all patients or family units, reflecting staff discussion of all medical and social information

obtained relative to the patient and the patient's family.

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

Section 5. Outpatient behavioral health services. (1) A primary care center may provide one (1) or more of the following for the treatment of individuals with a mental health disorder, substance abuse disorder, or co-occurring disorder:

(a) Screening, that shall be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice to determine the:

1. Likelihood that an individual has a mental health, substance use, or co-occurring disorder; and

2. Need for an assessment;

(b) Assessment that shall:

1. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, licensed assistant behavior analyst working under the supervision of a licensed behavior analyst, a certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate practicing within his or her scope of practice who gathers information and engages in a process with the client, thereby enabling the professional to:

- a. Establish the presence or absence of a mental health, substance use, or co-occurring disorder;

- b. Determine the client's readiness for change;

- c. Identify the client's strengths or problem areas that may affect the treatment and recovery processes; and

- d. Engage the client in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the client to develop a plan of care if a clinical disorder or service need is assessed; and

4. Not include psychological or psychiatric evaluations or assessments;

(c) Psychological testing that shall:

1. Be performed by a licensed psychologist, licensed psychological associate, or licensed psychological practitioner; and

2. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities and an interpretation and written report of testing results;

(d) Crisis intervention that:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to the client or another individual;

2. Shall consist of clinical intervention and support services necessary to provide:

- a. Integrated crisis response;

- b. Crisis stabilization interventions; or

- c. Crisis prevention activities;

3. Shall be provided:

- a. On-site at the facility;

- b. As an immediate relief to the presenting problem or threat;

and

- c. In a face-to-face, one-on-one encounter;

4. May include:

- a. Verbal de-escalation;

- b. Risk assessment; or

- c. Cognitive therapy;

5. Shall be provided by one (1) or more of the following practicing within his or her scope of practice:

- a. Behavioral health professional;

- b. Behavioral health professional under clinical supervision;

- c. Certified alcohol and drug counselor;

- d. Licensed clinical alcohol and drug counselor; or

- e. Licensed clinical alcohol and drug counselor associate;

6. Shall be followed by a referral to noncrisis services, if

applicable; and

7. May include:
 - a. Further service prevention planning, including:
 - (i) Lethal means reduction for suicide risk; or
 - (ii) Substance use disorder relapse prevention; or
 - b. Verbal de-escalation, risk assessment, or cognitive therapy;
 - (e) Day treatment that shall:
 1. Be a nonresidential, intensive treatment program designed for children who:
 - a. Have a substance use disorder, mental health disorder, or co-occurring disorder;
 - b. Are under twenty-one (21) years of age; and
 - c. Are at high risk of out-of-home placement due to a behavioral health issue;
 2. Consist of an organized behavioral health program of treatment and rehabilitative services for substance use disorder, mental health disorder, or a co-occurring disorder;
 3. Have unified policies and procedures that address:
 - a. The organization's philosophy;
 - b. Admission and discharge criteria;
 - c. Admission and discharge process;
 - d. Staff training; and
 - e. Integrated case planning;
 4. Include the following:
 - a. Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;
 - b. Behavior management and social skill training;
 - c. Independent living skills that correlate to the age and development stage of the client; and
 - d. Services designed to explore and link with community resources before discharge and to assist the client and family with transition to community services after discharge;
 5. Be provided as follows:
 - a. In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);
 - b. On school days and during scheduled school breaks;
 - c. In coordination with the child's individual educational plan or Section 504 plan if the child has an individual educational plan or Section 504 plan;
 - d. By personnel that includes the following practicing within his or her scope of practice:
 - (i) Behavioral health professional;
 - (ii) Behavioral health professional under clinical supervision;
 - (iii) Certified alcohol and drug counselor;
 - (iv) Licensed clinical alcohol and drug counselor;
 - (v) Licensed clinical alcohol and drug counselor associate; or
 - (vi) Peer support specialist; and
 - e. According to a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider; and
 6. Not include a therapeutic clinical service that is included in a child's individualized education plan;
 - (f) Individual outpatient therapy that shall:
 1. Be provided to promote the:
 - a. Health and well-being of the client; or
 - b. Recovery from a substance related disorder;
 2. Consist of:
 - a. A face-to-face encounter with the client; and
 - b. A behavioral health therapeutic intervention provided in accordance with the client's plan of care;
 3. Be aimed at:
 - a. Reducing adverse symptoms;
 - b. Reducing or eliminating the presenting problem of the client;
 - and
 - c. Improving functioning;
 4. Not exceed three (3) hours per day; and
 5. Be provided by the following personnel practicing within his or her scope of practice:
 - a. Behavioral health professional;
 - b. Behavioral health professional under clinical supervision;
 - c. Licensed behavior analyst;

- d. Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;
- e. Certified alcohol and drug counselor;
- f. Licensed clinical alcohol and drug counselor; or
- g. Licensed clinical alcohol and drug counselor associate;
- (g) Group outpatient therapy that shall:
 1. Be provided to promote the:
 - a. Health and well-being of the client; or
 - b. Recovery from a substance related disorder;
 2. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the client's plan of care;
 3. Excluding multi-family group therapy, be provided in a group setting of nonrelated individuals, not to exceed twelve (12) individuals in size. For group outpatient therapy, a nonrelated individual means any individual who is not a:
 - a. Spouse;
 - b. Significant other;
 - c. Parent or person with custodial control;
 - d. Child;
 - e. Sibling;
 - f. Stepparent;
 - g. Stepchild;
 - h. Step-brother;
 - i. Step-sister;
 - j. Father-in-law;
 - k. Mother-in-law;
 - l. Son-in-law;
 - m. Daughter-in-law;
 - n. Brother-in-law;
 - o. Sister-in-law;
 - p. Grandparent; or
 - q. Grandchild;
 4. Focus on the psychological needs of the client as evidenced in the client's plan of care;
 5. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;
 6. Not include:
 - a. Physical exercise;
 - b. A recreational activity;
 - c. An educational activity; or
 - d. A social activity;
 7. Not exceed three (3) hours per day per client unless additional time is medically necessary in accordance with 907 KAR 3:130;
 8. Ensure that the group has a deliberate focus and defined course of treatment;
 9. Ensure that the subject of group outpatient therapy shall be related to each client participating in the group; and
 10. Be provided by one (1) or more of the following personnel practicing within his or her scope of practice, and who shall maintain individual notes regarding each client within the group in the client's record:
 - a. Behavioral health professional;
 - b. Behavioral health professional under clinical supervision;
 - c. Licensed behavior analyst;
 - d. Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;
 - e. Certified alcohol and drug counselor;
 - f. Licensed clinical alcohol and drug counselor; or
 - g. Licensed clinical alcohol and drug counselor associate;
 - (h) Family outpatient therapy that shall:
 1. Consist of a face-to-face behavioral health therapeutic intervention provided through scheduled therapeutic visits between the therapist, at least one (1) member of the client's family, and the client unless the client's presence is not required in his or her plan of care;
 2. Address issues interfering with the relational functioning of the family;
 3. Seek to improve interpersonal relationships within the client's home environment;
 4. Be provided to promote the health and well-being of the client or recovery from a substance use disorder;

5. Not exceed three (3) hours per day per client unless additional time is medically necessary in accordance with 907 KAR 3:130; and

6. Be provided by one (1) or more of the following personnel practicing within his or her scope of practice:

- a. Behavioral health professional;
- b. Behavioral health professional under clinical supervision;
- c. Certified alcohol and drug counselor;
- d. Licensed clinical alcohol and drug counselor; or
- e. Licensed clinical alcohol and drug counselor associate;

(i) Collateral outpatient therapy that shall consist of a face-to-face behavioral health consultation on behalf of a client under the age of twenty-one (21):

- 1. With a:
 - a. Parent;
 - b. Caregiver;
 - c. Person who has custodial control;
 - d. Household member;
 - e. Legal representative;
 - f. School staff person; or
 - g. Treating professional;

2. Provided by one (1) or more of the following personnel practicing within his or her scope of practice:

- a. Behavioral health professional;
- b. Behavioral health professional under clinical supervision;
- c. Licensed behavior analyst;
- d. Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;
- e. Certified alcohol and drug counselor;
- f. Licensed clinical alcohol and drug counselor; or
- g. Licensed clinical alcohol and drug counselor associate; and

3. Provided upon the written consent of a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21). Documentation of written consent shall be signed and maintained in the client's record;

(i) Service planning that shall be provided by a behavioral health professional, behavioral health professional under clinical supervision, licensed behavior analyst, or licensed assistant behavior analyst working under the supervision of a licensed behavior analyst to:

1. Assist a client in creating an individualized plan for services needed for maximum reduction of the effects of a mental health disorder;

2. Restore a client's functional level to the client's best possible functional level; and

3. Develop a service plan that:

- a. Shall be directed by the client; and
- b. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan;

(k) Screening, brief intervention, and referral to treatment for substance use disorders that shall:

1. Be an evidence-based early intervention approach for an individual with non-dependent substance use prior to the need for more extensive or specialized treatment;

2. Consist of:

a. Using a standardized screening tool to assess the individual for risky substance use behavior;

b. Engaging a client who demonstrates risky substance use behavior in a short conversation that includes feedback and advice; and

c. Referring the client to therapy or other services that address substance use if the client is determined to need additional services; and

3. Be provided by one (1) or more of the following personnel practicing within his or her scope of practice:

- a. Behavioral health professional;
- b. Behavioral health professional under clinical supervision;
- c. Certified alcohol and drug counselor;
- d. Licensed clinical alcohol and drug counselor; or
- e. Licensed clinical alcohol and drug counselor associate;

(l) Comprehensive community support services that shall:

1. Consist of activities needed to allow an individual with a mental health disorder to live with maximum independence in the community through the use of skills training as identified in the client's treatment plan;

2. Consist of using a variety of psychiatric rehabilitation techniques to:

- a. Improve daily living skills;
- b. Improve self-monitoring of symptoms and side effects;
- c. Improve emotional regulation skills;
- d. Improve crisis coping skills; and
- e. Develop and enhance interpersonal skills; and

3. Be provided by one (1) or more of the following personnel practicing within his or her scope of practice:

- a. Behavioral health professional;
- b. Behavioral health professional under clinical supervision;
- c. Community support associate;
- d. Licensed behavior analyst; or
- e. Licensed assistant behavior analyst; or

(m) A therapeutic rehabilitation program for an adult with a severe mental illness or child with a severe emotional disability that shall:

1. Include services designed to maximize the reduction of mental illness or emotional disability and restoration of the client's functional level to the individual's best possible functioning;

2. Establish the client's own rehabilitative goals within the person-centered plan of care;

3. Be delivered using a variety of psychiatric rehabilitation techniques focused on:

- a. Improving daily living skills;
 - b. Self-monitoring of symptoms and side effects;
 - c. Emotional regulation skills;
 - d. Crisis coping skills; and
 - e. Interpersonal skills; and
4. Be provided individually or in a group by a:

- a. Behavioral health professional;
- b. Behavioral health professional under clinical supervision; or
- c. Peer support specialist.

(2) Plan of care.

(a) Each client receiving outpatient behavioral health services from a primary care center shall have an individual plan of care signed by a behavioral health professional.

(b) A plan of care shall:

1. Describe the services to be provided to the client, including the frequency of services;

2. Contain measurable goals for the client to achieve, including the expected date of achievement for each goal;

3. Describe the client's functional abilities and limitations or diagnosis listed in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders;

4. Specify each staff member assigned to work with the client;

5. Identify methods to involve the client's family or significant others if indicated;

6. Specify criteria to be met for termination of treatment;

7. Include any referrals necessary for services not provided directly by the primary care center; and

8. State the date scheduled for review of the plan.

(c) The client shall participate to the maximum extent feasible in the development of his or her plan of care, and the participation shall be documented in the client's record.

(d)1. The initial plan of care shall be developed through multidisciplinary team conferences at least thirty (30) days following the first ten (10) days of treatment.

2. The plan of care for individuals receiving intensive outpatient program services shall be reviewed every thirty (30) days thereafter and updated every sixty (60) days or earlier if clinically indicated.

3. Except for intensive outpatient program services, the plan of care for individuals receiving any other outpatient behavioral health service described in subsection (1) of this section shall be reviewed and updated every six (6) months or earlier if clinically indicated.

4. The plan of care and each review and update shall be

signed by the participants in the multidisciplinary team conference that developed it.

(3) Client Records.

(a) A client record shall be maintained for each individual receiving outpatient behavioral health services.

(b) Each entry shall be:

1. Current;

2. Dated;

3. Signed; and

4. Indexed according to the service received.

(c) Each client record shall contain:

1. An identification sheet, including the client's:

a. Name;

b. Address;

c. Age;

d. Gender;

e. Marital status;

f. Expected source of payment; and

g. Referral source;

2. Information on the purpose for seeking a service;

3. If applicable, consent of appropriate family members or guardians for admission, evaluation, and treatment;

4. Screening information pertaining to the mental health or substance use disorder;

5. If applicable, a psychosocial history;

6. If applicable, staff notes on services provided;

7. If applicable, the client's plan of care;

8. If applicable, assigned status;

9. If applicable, assigned status;

10. If applicable, assigned therapists; and

11. If applicable, a termination study recapitulating findings and events during treatment, clinical impressions, and condition on termination.

ROBERT S. SILVERTHORN, JR., Inspector General

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: September 13, 2016

FILED WITH LRC: September 14, 2016 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Stephanie Brammer-Barnes, Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the licensure requirements for the operation of, and services provided by primary care centers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish licensure requirements for the operation of primary care centers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 by establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting forth the cabinet's licensure requirements for primary care centers.

(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: Currently, 902 KAR 20:058 requires primary care center extension sites to have at least one (1) full-time advanced practice registered nurse (APRN) or physician assistant (PA), and one (1) physician who must be physically present no less than once every two (2) weeks, except in extraordinary circumstances. The amendment and amended after comments administrative regulation will allow primary care centers to staff any extension that is not located in a school with a core staff of appropriately licensed

or certified health professionals as necessary to carry out services if the extension provides only supplemental services. Extension sites that provide basic primary care services must continue to meet the requirement for at least one (1) full-time APRN or PA, and one (1) physician no less than once every two (2) weeks. The amendment and amended after comments administrative regulation will also allow primary care centers to provide outpatient behavioral health services. In response to comments received during the public comment period, the amended after comments administrative regulation recognizes the American Osteopathic Board of Neurology and Psychiatry as a certifying body for psychiatrists licensed to practice in Kentucky.

(b) The necessity of the amendment to this administrative regulation: This amended after comments administrative regulation is needed to allow primary care center extension sites to specialize, thereby increasing access to a single service such as dental care or other supplemental service. This amended after comments administrative regulation also enhances access to outpatient behavioral health services by allowing primary care centers to provide such services under their scope of licensure. In response to comments received during the public comment period, this amended after comments administrative regulation recognizes the American Osteopathic Board of Neurology and Psychiatry as a certifying body for psychiatrists licensed to practice in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: This amended after comments administrative regulation conforms to the content of the authorizing statutes by ensuring that licensure standards and procedures are satisfactory to ensure safe, adequate, and efficient health facilities.

(d) How the amendment will assist in the effective administration of the statutes: This amended after comments administrative regulation assists in the effective administration of the statutes by reinforcing the cabinet's licensure requirements for primary care centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amended after comments administrative regulation affects health care facilities licensed by the Cabinet's Office of Inspector General as primary care centers. There are currently 146 licensed primary care centers with 211 extension sites.

(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: Under this amended after comments administrative regulation, a primary care center will be allowed to staff an extension not located in a school with a core staff of appropriately licensed or certified health professionals as necessary to carry out services if the extension provides only supplemental services. This amended after comments administrative regulation further allows primary care centers to provide outpatient behavioral health services.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amended after comments administrative regulation will allow primary care center extension sites to specialize, thereby increasing access to a single service such as dental care or other supplemental service. This amended after comments administrative regulation is also intended to enhance access to outpatient behavioral health services.

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

(a) Initially: No costs are necessary to implement this amendment.

(b) On a continuing basis: No costs are necessary to implement this amendment.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation is from agency funds and state general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No 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.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities who elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects primary care centers. There are currently 146 licensed primary care centers with 211 extension sites.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042

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 amended after comments administrative regulation will not generate additional revenue for state or local government during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended after comments administrative regulation will not generate additional revenue for state or local government during subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are necessary to administer this program during the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are necessary to administer this program for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Protection and Permanency (Amended After Comments)

922 KAR 1:500. Educational and training vouchers.

RELATES TO: KRS Chapter 13B, 164.2847, 610.110(6), 620.020(5), 620.140(1)(d), 45 C.F.R. 1355.20(a), 20 U.S.C. 1001, 1002, [See:]1087II, 42 U.S.C. 677(d)(2), (i)

STATUTORY AUTHORITY: 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal

funds and necessary to cooperate with other state and federal agencies for proper administration of the cabinet and its programs. In addition, 42 U.S.C. 677(i) makes available vouchers for education and training to youths who have aged out of foster care or were adopted from foster care at age sixteen (16) or older. This administrative regulation establishes eligibility and an application process, specifies allowable uses, and provides a procedure for administrative hearings pertaining to the educational and training vouchers.

Section 1. Definitions. (1) "Cost of attendance" is defined by 20 U.S.C. 1087II.

(2) "Educational and training voucher" means resources provided to an eligible individual to meet educational or training purposes as specified under 42 U.S.C. 677(i).

(3) "Foster care" is defined by KRS 620.020(5) and 45 C.F.R. 1355.20(a).

(4) "Institution of higher education" is defined by 20 U.S.C. 1001 and 1002.

(5) "Tuition waiver" means waiver of tuition and mandatory fees for Kentucky foster or adopted children pursuant to KRS 164.2847 and 922 KAR 1:450.

Section 2. Eligibility. (1) An individual shall be eligible to receive an educational and training voucher if the individual:

(a) Is committed to the cabinet in accordance with:

1. KRS 620.140(1)(d); or

2. KRS 610.110(6);

(b) Was adopted from foster care after attaining sixteen (16) years of age; or

(c) Left foster care upon attaining eighteen (18) years of age.

(2) An individual shall maintain eligibility until twenty-three (23) years of age if the individual:

(a) Receives an educational and training voucher prior to reaching twenty-one (21) years of age; and

(b) Is enrolled in an institution of higher education and is making satisfactory progress towards completion:

1. As determined by the institution of higher education; and

2. In accordance with Section 3(2)(3(3)) of this administrative regulation.

Section 3. Application Process. (1) To request an education and training voucher, an applicant shall submit a completed ["DPP-334, Request for Educational and Training Voucher Funds"] to the cabinet;

(a) Upon initial application for enrollment into an institution of higher education;

(b) When the student transfers to another institution of higher education; or

(c) If a student has not been enrolled continuously at the same institution of higher education.

(2)(a) To maintain eligibility in accordance with Section 2 of this administrative regulation, for each semester or equivalent term of instruction, the cabinet shall contact the National Student Clearinghouse to verify an applicant's enrollment in an institution of higher education.

(b) If verification cannot be obtained through the National Student Clearinghouse in accordance with paragraph (a) of this subsection, the cabinet shall notify the applicant, and the applicant shall:

1. Contact the applicant's institution of higher education; and

2. Request that written confirmation of enrollment from the institution of higher education be sent to the cabinet.

(3) If an applicant is determined ineligible by the cabinet, the cabinet shall provide notification, in writing, to the applicant stating the reason for ineligibility. ~~An applicant shall submit a new "DPP-334, Request for Educational and Training Voucher Funds" for each semester or equivalent term of instruction.~~

~~(3) To maintain eligibility, as specified in Section 2 of this administrative regulation, for each semester or equivalent term of instruction, an individual shall submit to the cabinet a "DPP-335, Monthly Academic Standing and Enrollment Verification" on a~~

monthly basis to the address on the form].

Section 4. Allowable Payments. (1) An educational and training voucher shall be used to:

(a) Assist an eligible individual to prepare for and enter an institution of higher education, including:

1. A fee for an educational aptitude examination to qualify for or apply to an institution of higher education;

2. An entrance or application fee required by an institution of higher education;

3. An enrollment fee or deposit required by an institution of higher education;

4. Cost of an educational aptitude course to prepare the eligible individual for an examination as specified in this subsection; or

5. An expense, in addition to an expense specified in subparagraphs 2 and 3 of this paragraph, required for entrance by the institution of higher education; or

(b) Pay for the cost of attendance at an institution of higher education.

(2) An educational and training voucher shall not exceed the lesser of \$5,000 per year or the total cost of attendance per year.

(3) To the extent that funds are available, the cabinet shall authorize payment for an application for an educational and training voucher to an eligible individual.

(4) In accordance with 42 U.S.C. 677(d)(2), an educational and training voucher shall not be approved for the same purpose as a tuition waiver or other student financial aid.

Section 5. Service Appeal. An applicant who is determined ineligible for an educational and training voucher shall have access to an administrative hearing in accordance with 922 KAR 1:320.

Section 6. Incorporation by Reference. (1) ~~The following material is incorporated by reference:~~

(a) "DPP-334, Request for Educational and Training Voucher Funds", ~~11/16/10/16~~, is incorporated by reference ~~edition 8/03~~; and

(b) "DPP-335, Monthly Academic Standing and Enrollment Verification, edition 8/03".

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

ADRIA JOHNSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: September 12, 2016

FILED WITH LRC: September 14, 2016 at 3 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Elizabeth Caywood, Tricia Orme,

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes eligibility and an application process, specifies allowable uses, and provides a procedure for administrative hearings pertaining to the educational and training vouchers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish eligibility and an application process, specify allowable uses, and provide a procedure for administrative hearings pertaining to the educational and training vouchers.

(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 eligibility, application, payment, and appeals for the educational and training voucher applicants.

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This administrative regulation assists in effective administration of the statutes by establishing eligibility, application, payment, and appeals for educational and training voucher 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 to this administrative regulation clarifies the process by which an applicant requests an educational and training voucher and revises the process by which the cabinet verifies an applicant's enrollment in an institution of higher education. A youth has historically had to complete the DPP-335 to verify enrollment for the voucher. The new process proposed within this amendment will utilize the National Student Clearinghouse database to verify a youth's enrollment with an institution of higher education, or in those infrequent instances that the Clearinghouse is unable to verify a youth's enrollment, the institution will be contacted to provide the verification.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to clarify application requirements and streamline the enrollment verification process. The proposed enrollment verification process is reflective of other states practices (i.e., national trend), and it is anticipated to reduce the opportunity for fraud within the program, alleviate administrative burdens for all parties, and improve normalcy for the youth.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by clarifying the processes for application and verification of enrollment for educational and training vouchers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by clarifying the process by which educational and training vouchers are requested and improving programmatic efficiencies and integrity.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation will affect those foster and adoptive youth who apply for and receive educational and training vouchers. There are typically 100-150 youth who receive a voucher each year. For calendar year 2015, there were 165 youth who received a voucher. This amendment will also affect institutions for higher education.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The timing of application submissions will be clarified for affected youth through this administrative regulation. The burden associated with enrollment verification requirements of youth applying for educational and training vouchers will also be reduced through the cabinet's use of the National Student Clearinghouse. Institutions of higher education will likewise experience a reduced administrative burden.

(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 not impose a new or additional cost on affected entities; rather, affected entities should realize reduced administrative burden.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Application requirements, specifically when an application is necessary, will be clarified for youth. In addition, historically, youth applying for educational and training vouchers have been required to submit a monthly academic standing form. This has been reported to make youth feel segregated and different from their peers. The removal of the requirement to complete the DPP-335, as proposed in this regulatory amendment, will allow foster and adoptive youth to have an experience more like their peers. Administrative burdens on post-secondary education institutions will also be reduced through

this proposed new verification process.

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

(a) Initially: The administrative body projects a cost increase of \$500 and \$750 per year for the cabinet to verify student enrollment through the National Student Clearinghouse (i.e., approximately \$2.50 per query). The revised verification process will prevent fraudulent activity and reduce administrative burden associated with the former process, offsetting costs associated with fees accrued through the use of the National Student Clearinghouse. The costs will be absorbable.

(b) On a continuing basis: The administrative body anticipates ongoing costs associated with this regulatory amendment will be similar to the initial costs of implementation as outlined in response to item (5)(a).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation are supported through federal funds under Title IV-E of the Social Security Act. Vouchers are 100% federally funded.

(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 minimal costs associated with the cabinet's use of the National Student Clearinghouse will not require an increase in fees or funding. The costs will be absorbable within existing appropriations.

(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 either 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.

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 subsequent years.

(c) How much will it cost to administer this program for the first year? The administrative body projects a cost increase of \$500 and \$750 per year for the cabinet to verify student enrollment through the National Student Clearinghouse (i.e., approximately \$2.50 per query). The revised verification process will prevent fraudulent activity and reduce administrative burden associated with the former process, offsetting costs associated with fees accrued through the use of the National Student Clearinghouse. The costs will be absorbable within existing agency appropriations.

(d) How much will it cost to administer this program for subsequent years? The administrative body projects costs associated with the implementation of this administrative regulation will be vary from year to year, but will remain consistent with the projections in item (3)(c).

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 677

2. State compliance standards. KRS 194A.050(1)

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 677

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 is 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(1), 42 U.S.C. 677

(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

PROPOSED AMENDMENTS

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
(Amendment)

16 KAR 1:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial.

RELATES TO: KRS 161.028(1), 161.120, 218A.010(5)
STATUTORY AUTHORITY: KRS 161.028(1), 161.120(1), 161.175(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining an educator's[a teaching] certificate. The EPSB is authorized to revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued to Kentucky certified educators for reasons delineated in KRS 161.120(1). KRS 161.175(2) authorizes the Education Professional Standards Board to promulgate administrative regulations requiring an educator[a teacher] whose certificate has been suspended or revoked by the Education Professional Standards Board because the educator[teacher] engaged in misconduct involving the illegal use of controlled substances to submit to drug testing. This administrative regulation identifies the conditions for initiating a disciplinary action against an educator's[a teaching or administrative] certificate and establishes procedures for certificate reinstatement, reissuance, and application denial.

Section 1. Purpose. (1) In order to support the mission of the Education Professional Standards Board (EPSB), the EPSB may take action against an educator's certificate in an effort:

(a) To ensure that an educator has an understanding of an educator's professional duties and responsibilities; and

(b) To protect students, parents of students, school personnel, or school officials.

(2) The board may take action against any certificate issued under KRS 161.010 to 161.100 for any of the reasons set forth in KRS 161.120(1).

Section 2. Complaints and Reports. (1) A complaint may be made by any person, organization, or entity. The complaint shall be in writing and shall be signed by the person offering the complaint. The complaint shall be sent to the offices of the EPSB. The complaint shall contain:

(a) The name, phone number, and address of the person making the complaint, and the name of the educator against whom the complaint is made. If known, the person making the complaint shall include the address of the school district where the educator works; and

(b) A clear and concise description of the issues of fact.

(2) A report shall be sent to the EPSB by superintendents of local school districts pursuant to KRS 161.120(2)(a).

(a) A superintendent's duty to report shall include the reporting of criminal convictions discovered by the district pursuant to KRS 160.380 even if the conviction occurred prior to the date the educator's certification was issued.

(b) The superintendent or the superintendent's designee shall have thirty (30) days from the date that superintendent receives notice of the criminal conviction to report that criminal conviction to the EPSB pursuant to KRS 161.120(2)(a).

(3) EPSB staff shall do an initial review of all complaints and reports to determine whether there is sufficient credible evidence that a violation of KRS 161.120(1) may have occurred. If the report or complaint contains sufficient credible evidence that a violation of KRS 161.120(1) may have occurred, EPSB staff shall open a file and assign that file a number.

(a) The EPSB staff shall send a copy of these complaints and reports by certified mail to the educator's address on file with

EPSB.

(b) The educator shall have the right to file a rebuttal with the EPSB within thirty (30) calendar days from the date the educator receives the complaint or report from the EPSB.

(c) Upon receipt of the educator's rebuttal or return of the notice as undeliverable, EPSB staff shall add the case to the EPSB's docket and prepare the file for board review by redacting all educator's identifiers.

(d) The board shall determine whether the nature and quality of the alleged violation warrants dismissal, training, admonishment, further investigation, or initiation of a hearing.

(e) In making its determination, the board shall consider if the allegation, if proven, would warrant sanction by the board.

(f) When making a determination as to the level of sanctions warranted, the board shall consider the following factors:

1. The seriousness of the alleged violation;

2. Whether the alleged violation was premeditated or intentional;

3. Whether an attempt to conceal the alleged violation was made;

4. Whether there were any prior violations;

5. Whether training is appropriate to prevent further violations;

6. Whether the sanction is necessary to deter future violations;

or

7. Other relevant circumstances or facts.

(4)(a) If the board determines that sanctions are warranted, the board shall refer the matter to hearing.

(b) If the board refers the matter to hearing, the board shall, by majority vote, approve the issuance of a notice of hearing and the statement of charges. The statement of charges shall include specific reasons for the board's proposed action, including the:

1. Statutory or regulatory violation;

2. Factual basis on which the disciplinary action is based; and

3. Penalty sought.

(c) The parties may agree to resolve the matter informally at any time. Any agreement to resolve the matter informally shall be memorialized in an agreed order and approved by the board. The agreed order shall be signed by the educator, the educator's attorney, and the board chair.

(d) The EPSB staff shall initiate the hearing process within thirty (30) days after the board refers the matter to hearing.

Section 3. (1) The hearing shall be held in accordance with KRS Chapter 13B.

(2) Either party may be entitled to a reasonable continuance of the hearing date for good cause.

(3) The educator has the right to request a private in-person hearing.

(a) The educator shall waive the right to an in-person hearing if the educator fails to specifically make the request for an in person hearing in writing.

(b) Even if the educator elects to proceed with a private hearing, the hearing transcript for that private hearing shall be subject to disclosure after the board issues its final decision unless exempt from disclosure by law.

(c) All hearings shall be conducted in the office of the Education Professional Standards Board, 100 Airport Road, Frankfort, Kentucky 40601 unless a new location is agreed upon by the parties.

(4) The hearing officer's recommended order shall include a discussion of the factors set forth in Section 2(3)(f) of this administrative regulation when recommending sanctions.

(5) A party may file any exceptions to the recommended order within fifteen (15) calendar days after receiving the recommended order.

(a) This time limit shall not be extended and responses to exceptions shall not be considered by the board.

(b) Any disagreement with a factual finding or conclusion of law in the recommended order not contained in the exceptions shall be waived.

Section 4. Final Decision. (1) In making its final decision, the board shall consider the record including the recommended order and any exceptions filed.

(2) After the board chair certifies that a quorum is present, a majority of the voting members present shall be required to make a final decision on the recommended order, agreed order, or request for the issuance of an order of default judgment.

(3) The board may delegate to the board chair the authority to sign a decision made or order issued under this section on behalf of a majority of the board members.

Section 5. Procedure for Suspension, Surrender, or Revocation of a Certificate. (1) When the board issues a final decision, the EPSB staff shall mail a copy of the final decision to the educator using the address the educator provided to the Education Professional Standards Board.

(2) A record of board action shall become part of the educator's official records maintained by EPSB staff.

(3) Immediately following the issuance of the board's final decision, the EPSB staff shall notify the reporting parties of the action taken.

(4) EPSB staff shall also ensure that the suspension, surrender, or revocation is noted on EPSB's Web site.

(5) EPSB staff shall also ensure that the information is provided to the National Association of State Directors of Teacher Education and Certification (NASDTEC) for inclusion in the NASDTEC Clearinghouse. The clearinghouse is a searchable database administered by NASDTEC relating to educator certification and discipline.

Section 6. Procedure for Reinstatement of a Suspended Certificate. (1) Reinstatement of a suspended certificate for reasons other than misconduct involving the illegal use of controlled substance as defined in KRS 218A.010(5).

(a) A certificate that has been suspended by the EPSB shall not be reinstated until the certificate holder has met all conditions and requirements ordered by the EPSB.

(b) If a certificate lapses during a period of suspension, the certificate holder shall apply for renewal of the certificate at the end of the suspension period. The board shall renew the certification if the certificate holder has met all educational requirements for renewal and has completed all of the conditions and requirements ordered by the board.

(c) The burden to initiate the process to reinstate a suspended certificate shall be on the certificate holder.

1. When the suspension does not include conditions, the EPSB staff shall remove all references of the suspension from the Web site at the conclusion of the suspension period.

2. When the suspension includes conditions, the certificate holder shall provide the EPSB proof that all conditions have been met.

a. The EPSB shall reinstate the certificate at the conclusion of the suspension period once the EPSB receives evidence from the certificate holder demonstrating that the conditions of suspension were met.

b. The EPSB shall remove from its Web site any reference to the suspension once the certificate holder has provided evidence that the conditions of suspension have been met.

(d) The record of suspension as well as reinstatement of the certification shall become part of the educator's official certification records, but the record of suspension shall not be referenced on any certificate subsequently issued to the certificate holder.

(2) Reinstatement of a suspended certificate for misconduct involving the illegal use of controlled substance as defined in KRS 218A.010(5).

(a) In addition to conditions for reinstatement of a suspended certificate established in subsection (1) of this section, the certificate holder shall provide written evidence that the certificate holder has submitted to a drug test at the certificate holder's own expense administered by a drug testing facility approved by the board within thirty (30) days of reinstatement or submission of an application for reissuance of the certificate.

(b) The certificate holder shall arrange for the drug testing

facility to send the results of the drug test directly to the EPSB.

(c) A certificate holder subject to the terms of this subsection may petition the EPSB to approve a drug testing facility of the certificate holder's choice.

1. Petition to Approve Drug Testing Facility. The petition shall contain the following information:

a. The drug testing facility's name and location;
b. The name and telephone number for the director of the facility;

c. The method of test specimen collection;
d. The drug testing facility's method of assuring identity of the test subject;

e. Procedures for testing specimens, including forensic testing methods; and
f. Chain of custody protocols.

2. The drug testing facility shall test at a minimum for the following named controlled substances:

a. Marijuana;
b. Cocaine;
c. Opiates;
d. Amphetamines;
e. Phencyclidine;
f. Morphine;
g. MDMA (Ecstasy);
h. Methadone;
i. Benzodiazepines;
j. Barbiturates; and
k. Oxycodone.

(d) If the results of the drug test indicate illegal drug use by the certificate holder, the certificate shall not be reinstated or reissued.

Section 7. Procedure for Reissuance of a Certificate after Revocation. (1) When revocation was for reasons other than misconduct involving the illegal use of controlled substance as defined in KRS 218A.010(5), the conditions established in this subsection shall apply.

(a) The former certificate holder shall complete the same application that all educators in Kentucky shall complete to obtain certification.

(b) The former certificate holder shall bear the burden of proving that the certificate holder is fit for practice.

(c) The former certificate holder shall satisfy all current educational requirements for the certificate sought.

(d) The Education Professional Standards Board may include terms and conditions that the board reasonably deems appropriate as a condition of reissuance in accordance with KRS 161.120(11)(b) if reissuing the certificate.

(2) If revocation was for misconduct involving the illegal use of controlled substance as defined in KRS 218A.010(5), the former certificate holder shall:

(a) Comply with the requirements established in Section 6(1) of this administrative regulation for reissuance of certification after revocation for all other offenses; and

(b) Submit to drug testing as established in Section 6(2) of this administrative regulation for the suspension resulting from illegal use of controlled substances.

(3) Regardless of the reason for the revocation, the revocation shall be noted on the certificate that is issued and shall remain on the EPSB Web site.

Section 8. [Initiating Disciplinary Action Against a Certificate. The Education Professional Standards Board may initiate disciplinary action against a Kentucky teaching or administrative certificate upon receipt from any source of a report or complaint which contains allegations that an individual who holds a Kentucky teaching or administrative certificate has engaged in conduct listed in KRS 161.120(1).

Section 2. Reinstatement and Reissuance of Certificate. (1)(a) A certificate that has been suspended by the Education Professional Standards Board shall not be reinstated until the certificate holder has met all conditions and requirements ordered by the Education Professional Standards Board.

~~(b) If a certificate lapses during a period of suspension, at the end of the suspension period and upon completion of all conditions and requirements ordered by the Education Professional Standards Board, the certificate holder shall apply for renewal of the certificate and shall meet all educational requirements for renewal of the certificate.~~

~~(2) An individual whose certificate has been revoked shall complete the "Application for Kentucky Certification or Change in Salary Rank", Form TC-1, incorporated by reference in 16 KAR 2:010, prior to the reissuance of the certificate.~~

~~(3) The burden of proving suitability for reissuance of a revoked certificate shall rest on the applicant seeking reinstatement.~~

~~(4) If reissuing a certificate, the Education Professional Standards Board may include terms and conditions that the board reasonably deems appropriate as a condition of reissuance in accordance with KRS 161.120(1)(b).~~

~~(5) An applicant for reissuance of a revoked certificate shall satisfy all current educational requirements for the certificate.~~

~~(6)(a) If a certificate is suspended or revoked because the certificate holder engaged in misconduct involving the illegal use of a controlled substance as defined in KRS 218A.010(5), in addition to conditions for reinstatement or reissuance, the certificate holder shall at the certificate holder's own expense provide written evidence that the certificate holder has submitted to a drug test administered by a drug testing facility approved by the Education Professional Standards Board within thirty (30) days of reinstatement or submission of an application for reissuance of the certificate.~~

~~(b) If the results of the drug test indicate drug use by the certificate holder, the certificate shall not be reinstated or reissued.~~

~~(c) The certificate holder shall arrange for the drug testing facility to send the results of the drug test directly to the Education Professional Standards Board.~~

~~(d) A drug test conducted under this subsection shall at a minimum test for the following controlled substances:~~

- ~~1. Marijuana;~~
- ~~2. Cocaine;~~
- ~~3. Opiates;~~
- ~~4. Amphetamines;~~
- ~~5. Phencyclidine;~~
- ~~6. Morphine;~~
- ~~7. MDMA (Ecstasy);~~
- ~~8. Methadone;~~
- ~~9. Benzodiazepines;~~
- ~~10. Barbiturates; and~~
- ~~11. Oxycodone.~~

~~(e) 1. A certificate holder subject to the terms of this subsection may petition the Education Professional Standards Board to approve a drug testing facility of the certificate holder's choice.~~

~~2. The petition shall contain the following information:~~

- ~~a. The drug testing facility's name and location;~~
- ~~b. The name and telephone number for the director of the facility;~~
- ~~c. The method of test specimen collection;~~
- ~~d. The drug testing facility's method of assuring identity of the test subject;~~
- ~~e. Procedures for testing specimens, including forensic testing methods; and~~
- ~~f. Chain of custody protocols.~~

Section 3.] Denial of Application for a Certificate. If the Education Professional Standards Board denies an individual's application for a Kentucky[teaching or administrative] certificate pursuant to this administrative regulation, the applicant[individual] may file an appeal in accordance with KRS 161.120(5)(a)2.

ANTHONY STRONG, Chair

APPROVED BY AGENCY: August 15, 2016

FILED WITH LRC: September 14, 2016 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016, at 1:00 p.m. at 100 Airport Road, Third Floor,

Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 31, 2016 at 11:59 p.m. 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: Lisa K. Lang, General Counsel, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, email LisaK.Lang@ky.gov, phone (502) 782-2147, fax (502) 564-7080.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa K. Lang

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation identifies the conditions for initiating a disciplinary action against a certificate and establishes procedures for certificate suspension, surrender, revocation, reinstatement, reissuance, and application denial.

(b) The necessity of this administrative regulation: KRS 161.028(1) authorizes the Education Professional Standards Board (EPSB) to establish standards and requirements for obtaining and maintaining a teaching certificate. The EPSB is authorized to revoke, suspend, or refuse to issue or renew: impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued to Kentucky certified educators for reasons delineated in KRS 161.120(1). KRS 161.175(2) authorizes the Education Professional Standards Board to promulgate administrative regulations requiring an educator whose certificate has been suspended or revoked by the Education Professional Standards Board because the educator engaged in misconduct involving the illegal use of controlled substances to submit to drug testing. This administrative regulation also identifies the conditions for initiating a disciplinary action against a teaching certificate and establishes procedures for certificate suspension, surrender, revocation, reinstatement, reissuance, and application denial.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028(1) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.175(2) authorizes the Education Professional Standards Board to promulgate administrative regulations requiring an educator whose certificate has been suspended or revoked by the Education Professional Standards Board because the educator engaged in misconduct involving the illegal use of controlled substances to submit to drug testing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the process for initiating a disciplinary action against a teaching certificate and establishes procedures for certificate suspension, surrender, revocation, reinstatement, reissuance, and application denial.

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

(a) How the amendment will change this existing administrative regulation: This amendment further clarifies the EPSB's procedures for certificate suspension, surrender, revocation, reinstatement, reissuance, and application denial and will ensure the efficient processing of complaints and reports filed against certificate holders.

(b) The necessity of the amendment to this administrative regulation: This amendment reflects changes the EPSB is making to its procedures for certificate suspension, surrender, revocation, reinstatement, reissuance, and application denial and will ensure the efficient processing of complaints and reports filed against certificate holders to ensure that certificate holders have an understanding of an educator's professional duties and

responsibilities and to protect students, parents of students, school personnel, or school officials.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028(1) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. As the EPSB is authorized to revoke, suspend, or refuse to issue or renew: impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued to Kentucky certified educators for reasons delineated in KRS 161.120(1) this amendment helps make clear the disciplinary process and will aid the efficient processing of complaints filed against certified educators. KRS 161.175(2) authorizes the Education Professional Standards Board to promulgate administrative regulations requiring an educator whose certificate has been suspended or revoked by the Education Professional Standards Board because the educator engaged in misconduct involving the illegal use of controlled substances to submit to drug testing.

(d) How the amendment will assist in the effective administration of the statutes: This amendment further clarifies the EPSB's procedures for certificate suspension, surrender, revocation, reinstatement, reissuance, and application denial and will ensure the efficient processing of complaints and reports filed against certificate holders.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect applicants seeking Kentucky educator certification, educators currently holding certificate, and superintendents for the 173 Kentucky public school districts that employ educators holding certifications.

(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 sets forth the actions an applicant that has been denied a teaching certificate must take in order to challenge a denial of a certificate. This administrative regulation sets forth the actions an educator may take if the EPSB initiates action against that educator's certificate. This administrative regulation sets forth the actions a superintendent must take when that superintendent becomes aware of violations of KRS 161.120. This amended regulation also makes clear that superintendents have a duty to report criminal convictions discovered by the district pursuant to KRS 160.380 even if the conviction occurred prior to the date the certificate holder's certification was issued.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will ensure that applicants for Kentucky educator certification and educators currently holding teaching certifications receive due process. This amendment will also support the superintendents in the 173 school districts in Kentucky in their efforts to protect the students in their charge.

(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: Funding used for the implementation and enforcement of this administrative regulation comes from restricted funds generated by educator certification application fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There is nothing in this amendment that will result in an increase in fees.

(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.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation. This regulation applies to all applicants for certification and current certificate holders 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? This administrative regulation will impact the Education Professional Standards Board as well as all school districts in Kentucky.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.028(1) and KRS 161.175(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. There should be no effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? Currently, the EPSB spends approximately \$518,000.00 per year to process complaints and reports against educators holding a certification.

(d) How much will it cost to administer this program for subsequent years? The EPSB hopes to reduce the administrative costs associated with the processing of complaints and reports against educators holding a certification as a result of the EPSB's efforts to streamline the complaint and report 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:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Education Professional Standards Board (Amendment)

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

RELATES TO: KRS 161.020, 161.028(1), 161.030(3), (4)

STATUTORY AUTHORITY: KRS 161.028(1)(a), 161.030(3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1)(a) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030(3) and (4) require the Education Professional Standards Board to select the appropriate assessments required prior to teacher certification. This administrative regulation establishes the examination prerequisites for teacher certification.

Section 1. A teacher applicant for certification shall successfully complete the applicable tests identified in this administrative regulation prior to Kentucky teacher certification.

Section 2. The Education Professional Standards Board shall require the test or tests and passing scores identified in this section for each new teacher applicant and each teacher seeking an

additional certificate. (1) An applicant for Interdisciplinary Early Childhood Education certification (birth to primary) shall take ~~one (1) of the following tests and achieve the corresponding passing score or higher:~~

~~(a) "Interdisciplinary Early Childhood Education (0023)" - 166;~~
or

~~(b) "Interdisciplinary Early Childhood Education (5023)" - 166.~~

(2) An applicant for Elementary certification (grades P-5) shall take "Elementary Education: Multi-Subjects Test (5031)" with the following passing scores on the corresponding test sections:

~~(a) [Until August 31, 2015:~~

~~1. "Reading and Language Arts (5032)" - 165;~~

~~2. "Mathematics (5033)" - 164;~~

~~3. "Social Studies (5034)" - 155; and~~

~~4. "Science (5035)" - 159; and~~

~~(b) Beginning September 1, 2015:~~

~~1.] "Elementary Education: Reading and Language Arts (5002)" - 157;~~

~~(b) [2.] "Elementary Education: Mathematics (5003)" - 157;~~

~~(c) [3.] "Elementary Education: Social Studies (5004)" - 155;~~
and

~~(d) [4.] "Elementary Education: Science (5005)" - 159.~~

(3) An applicant for certification at the middle school level (grades 5 through 9) shall take the content test or tests based on the applicant's content area or areas with the corresponding passing scores as identified in this subsection:

(a) Middle School English and Communications: "Middle School English Language Arts (5047)" - 164;

(b) Middle School Mathematics: "Middle School Mathematics (5169)" - 165;

(c) Middle School Science:

~~1. Until August 31, 2015, "Middle School Science (0439)" - 144; or~~

~~2. Beginning September 1, 2015, "Middle School Science (5440)" - 150; or~~

(d) Middle School Social Studies:

~~1. "Middle School Social Studies (0089)" - 149; or~~

~~2.] "Middle School Social Studies (5089)" - 149.~~

(4) An applicant for certification at the secondary level (grades 8 through 12) shall take the content test or tests corresponding to the applicant's content area or areas with the passing scores identified in this subsection:

(a) Biology:

~~1. "Biology: Content Knowledge (0235)" - 146; or~~

~~2.] "Biology: Content Knowledge (5235)" - 146;~~

(b) Chemistry:

~~1. "Chemistry: Content Knowledge (0245)" - 147; or~~

~~2.] "Chemistry: Content Knowledge (5245)" - 147;~~

(c) Earth Science:

~~1. "Earth and Space Sciences: Content Knowledge (0571)" - 147; or~~

~~2.] "Earth and Space Sciences: Content Knowledge (5571)" - 147;~~

(d) English: "English Language Arts: Content and Analysis (5039)" - 168;

(e) Mathematics: "Mathematics: Content Knowledge (5161)" - 160;

~~(f) [1.] Physics: "Physics: Content Knowledge (0265)" - 133; or~~

~~2.] "Physics: Content Knowledge (5265)" - 133; or~~

(g) Social Studies:

~~1. "Social Studies: Content and Interpretation (0086)" - 153; or~~

~~2.] "Social Studies: Content and Interpretation (5086)" - 153.~~

(5) An applicant for certification in all grades shall take the content test or tests corresponding to the applicant's area or areas of specialization identified in this subsection, and, if a passing score is established in this subsection, the applicant shall achieve the passing score or higher:

(a) Art:

~~1. "Art: Content and Analysis (0135)" - 161; or~~

~~2.] "Art: Content and Analysis (5135)" - 161;~~

~~(b) Chinese: "Chinese (Mandarin): World Language (5665)" - 164;~~

(c) French: "French: World Language (5174)" - 162;

(d) German: "German: World Language (5183)" - 163;

(e) Health: "Health Education (5551)" - 155;

(f) Health and Physical Education:

~~1. [a. Until August 31, 2015:~~

~~(i) "Health and Physical Education: Content Knowledge (0856)" - 156; or~~

~~(ii) "Health and Physical Education: Content Knowledge (5856)" - 156; or~~

~~b. Beginning September 1, 2015, "Health and Physical Education: Content Knowledge (5857)" - 160; and~~

~~2. [a.] "Physical Education: [Content and Design (0095)] - 169;~~
or

~~b.] "Physical Education: Content and Design (5095)" - 169;~~

(g) Integrated Music:

~~1. "Music: Content and Analysis (0114)" - 162; or~~

~~2.] "Music: Content and Instruction (5114)" - 162;~~

(h) Instrumental Music:

~~1. "Music: Content and Analysis (0114)" - 162; or~~

~~2.] "Music: Content and Analysis (5114)" - 162;~~

(i) Vocal Music:

~~1. "Music: Content and Analysis (0114)" - 162; or~~

~~2.] "Music: Content and Analysis (5114)" - 162;~~

(j) Latin:

~~1. "Latin (0601)" - 166; or~~

~~2.] "Latin (5601)" - 166;~~

(k) Physical Education:

~~1. "Physical Education: Content and Design (0095)" - 169; or~~

~~2.] "Physical Education: Content and Design (5095)" - 169;~~

(l) School Media Librarian:

~~1. "Library Media Specialist (0311)" - 156; or~~

~~2.] "Library Media Specialist (5311)" - 156;~~

(m) School Psychologist:

~~1. Until August 31, 2015, "School Psychologist (0401)" - 161;~~
or

~~2. Beginning September 1, 2015, "School Psychologist (5402)" - 147; or~~

(n) Spanish: "Spanish: World Language (5195)" - 168.

(6) Except as provided in subsection (7) of this section, an applicant for certification for teacher of exceptional children in Communication Disorders, Learning and Behavior Disorders, Hearing Impaired, Hearing Impaired with Sign Proficiency, Visually Impaired, or Moderate and Severe Disabilities shall take the content test or tests based on the applicant's area or areas of specialization with the corresponding passing scores as identified in this subsection:

(a) Communication Disorders:

~~1. [a. "Special Education: Core Content Knowledge and Applications (0354)" - 151; or~~

~~b.] "Special Education: Core Content Knowledge and Applications (5354)" - 151; and~~

~~2. [a. "Speech-Language Pathology (0330)" - 600; or~~

~~b. (i) Until August 31, 2015, "Speech-Language Pathology (5330)" - 600; or~~

~~(ii) Beginning September 1, 2015, "Speech-Language Pathology (5331)" - 162;~~

(b) Hearing Impaired:

~~1. [a. "Special Education: Core Knowledge and Applications (0354)" - 151; or~~

~~b.] "Special Education: Core Knowledge and Applications (5354)" - 151; and~~

~~2. [a. "Special Education: Education of Deaf and Hard of Hearing Students (0272)" - 160; or~~

~~b.] "Special Education: Education of Deaf and Hard of Hearing Students (5272)" - 160;~~

(c) Hearing Impaired With Sign Proficiency:

~~1. [a. "Special Education: Core Knowledge and Applications (0354)" - 151; or~~

~~b.] "Special Education: Core Knowledge and Applications (5354)" - 151;~~

~~2. [a. "Special Education: Education of Deaf and Hard of Hearing Students (0272)" - 160; or~~

~~b.] "Special Education: Education of Deaf and Hard of Hearing Students (5272)" - 160; and~~

3. "American Sign Language Proficiency Interview (ASLPI)" – 3+; ~~(One (1) of the following tests with a passing score of Intermediate Level:~~

- a. ~~"Sign Communication Proficiency Interview (SCPI)"; or~~
- b. ~~"Educational Sign Skills Evaluation (ESSE)";]~~

(d) Learning and Behavior Disorders:

~~[1. "Special Education: Core Knowledge and Mild to Moderate Applications (0543)" - 158; or~~

~~2.] "Special Education: Core Knowledge and Mild to Moderate Applications (5543)" - 158;~~

(e) Moderate and Severe Disabilities:

~~[1. "Special Education: Core Knowledge and Severe to Profound Applications (0545)" - 158; or~~

~~2.] "Special Education: Core Knowledge and Severe to Profound Applications (5545)" - 158; or~~

(f) Visually Impaired:

~~1.[a. "Special Education: Core Knowledge and Applications (0354)" - 151; or~~

~~b.] "Special Education: Core Knowledge and Applications (5354)" - 151; and~~

~~2.[a. "Special Education: Teaching Students with Visual Impairments (0282)" - 163; or~~

~~b.] "Special Education: Teaching Students with Visual Impairments (5282)" - 163.~~

(7) A holder of an exceptional child certificate in Learning and Behavior Disorders or Moderate and Severe Disabilities who is seeking additional certification for any exceptional children teaching certificate listed in subsection (6) of this section shall not be required to take[

~~(a) "Special Education: Core Knowledge and Applications (0354)"; or~~

~~(b)] "Special Education: Core Knowledge and Applications (5354)".~~

(8)(a) Except as provided in paragraph (b) of this subsection, an applicant for Career and Technical Education certification to teach in grades 5 - 12 shall take the content test or tests corresponding to the applicant's area or areas of specialization identified in this paragraph, and, if a passing score is established in this paragraph, the applicant shall achieve the passing score or higher:

1. Agriculture:

~~[a. Until August 31, 2015, "Agriculture (0700)" - 520; or~~

~~b. Beginning September 1, 2015,] "Agriculture (5701)" - 147;~~

2. Business and Marketing Education:

~~[a. "Business Education (0101)" - 154; or~~

~~b.] "Business Education (5101)" - 154;~~

3. Family and Consumer Science:

~~[a. Until August 31, 2015:~~

~~(i) "Family and Consumer Sciences (0121)" - 162; or~~

~~(ii) "Family and Consumer Sciences (5121)" - 162; or~~

~~b. Beginning September 1, 2015,] "Family and Consumer Sciences (5122)" - 153; or~~

4. Engineering and Technology Education:

~~[a. "Technology Education (0051)" - 159; or~~

~~b.] "Technology Education (5051)" - 159.~~

(b) An applicant for Industrial Education shall take the content test or tests corresponding to the applicant's area or areas of specialization with the passing scores identified in 16 KAR 6:020.

(9) An applicant for a restricted base certificate in the following area or areas shall take the content test or tests based on the applicant's area or areas of specialization with the corresponding passing scores as identified in this subsection:

(a) English as a Second Language:

~~1. Until August 31, 2017,] "English to Speakers of Other Languages (0361)" - 157; or~~

~~2.] "English to Speakers of Other Languages (5361)" - 157; or~~

~~2. Beginning September 1, 2017: "English to Speakers of Other Languages (5362)" - 155;~~

(b) Speech/Media Communications:

~~[1. "Speech Communication (0221)" - 146; or~~

~~2.] "Speech Communication (5221)" - 146; or~~

(c) Theater:

~~[1. "Theatre (0641)" - 162; or~~

~~2.] "Theatre (5641)" - 162.~~

(10) An applicant for an endorsement in the following content area or areas shall take the content test or tests based on the applicant's area or areas of specialization with the passing scores identified in this subsection:

(a) American Sign Language: "American Sign Language Proficiency Interview (ASLPI)"[administered by the Gallaudet University] - 3+;

(b) English as a Second Language:

~~1. Until August 31, 2017,] "English to Speakers of Other Languages (0361)" - 157; or~~

~~2.] "English to Speakers of Other Languages (5361)" - 157; or~~

~~2. Beginning September 1, 2017: "English to Speakers of Other Languages (5362)" - 155;~~

(c) Learning and Behavior Disorders, grades 8 - 12:

~~[1. "Special Education: Core Knowledge and Mild to Moderate Applications (0543)" - 158; or~~

~~2.] "Special Education: Core Knowledge and Mild to Moderate Applications (5543)" - 158;~~

(d) Literacy Specialist:

~~[1. "Reading Specialist (0301)" - 164; or~~

~~2.] "Reading Specialist (5301)" - 164;~~

(e) Gifted Education, grades primary - 12:

~~[1. Until August 31, 2015, "Gifted Education (0357)" - 152; or~~

~~2. Beginning September 1, 2015,] "Gifted Education (5358)" - 157; or~~

(f) Reading Primary through Grade 12:

~~[1. "Teaching Reading (0204)" - 153; or~~

~~2.] "Teaching Reading (5204)" - 153.~~

Section 3. In addition to the content area test or tests established in Section 2 of this administrative regulation, each new teacher shall take the pedagogy test and meet the passing score identified in this section that corresponds to the grade level of certification sought. If a certified teacher is seeking additional certification in any area, the applicant shall not be required to take an additional pedagogy test.

(1) An applicant for Elementary certification (grades primary – 5) shall take~~one (1) of the following tests and achieve the corresponding passing score or higher:~~

~~(a) "Principles of Learning and Teaching: Grades kindergarten – 6 (0622)" - 160; or~~

~~(b)] "Principles of Learning and Teaching: Grades kindergarten – 6 (5622)" - 160.~~

(2) An applicant for certification at the middle school level (grades 5 through 9) shall take~~one (1) of the following tests and achieve the corresponding passing score or higher:~~

~~(a) "Principles of Learning and Teaching: Grades 5 – 9 (0623)" - 160; or~~

~~(b)] "Principles of Learning and Teaching: Grades 5 - 9 (5623)" - 160.~~

(3) An applicant for certification at the secondary level (grades 8 through 12) shall take~~one (1) of the following tests and achieve the corresponding passing score or higher:~~

~~(a) "Principles of Learning and Teaching: Grades 7 – 12 (0624)" - 160; or~~

~~(b)] "Principles of Learning and Teaching: Grades 7 - 12 (5624)" - 160.~~

(4) An applicant for certification in all grades with a content area identified in Section 2(5) of this administrative regulation shall take one (1) of the following tests and achieve the corresponding passing score or higher:

~~(a)] "Principles of Learning and Teaching: Grades kindergarten – 6 (0622)" - 160;~~

~~(b)] "Principles of Learning and Teaching: Grades kindergarten – 6 (5622)" - 160;~~

~~(b)](e) "Principles of Learning and Teaching: Grades 5 – 9 (0623)" - 160;~~

~~(d)] "Principles of Learning and Teaching: Grades 5 – 9 (5623)" - 160; or~~

~~(c)](e) "Principles of Learning and Teaching: Grades 7 – 12 (0624)" - 160; or~~

~~(f)] "Principles of Learning and Teaching: Grades 7 - 12~~

(5624)" - 160.

(5) An applicant applying only for certification for teacher of exceptional children shall not be required to take a separate pedagogy test established in this section. The content area test or tests established in Section 2 of this administrative regulation shall fulfill the pedagogy test requirement for a teacher of exceptional children.

(6) An applicant for Career and Technical Education certification in grades 5 through 12 shall take one (1) of the following tests and receive the identified passing score:

~~(a) ["Principles of Learning and Teaching: Grades kindergarten - 6 (0622)"] - 160;~~

~~(b) ["Principles of Learning and Teaching: Grades kindergarten - 6 (5622)"] - 160;~~

~~(b)(c) ["Principles of Learning and Teaching: Grades 5 - 9 (0623)"] - 160;~~

~~(d) ["Principles of Learning and Teaching: Grades 5 - 9 (5623)"] - 160; or~~

~~(c)(e) ["Principles of Learning and Teaching: Grades 7 - 12 (0624)"] - 160; or~~

~~(f) ["Principles of Learning and Teaching: Grades 7 - 12 (5624)"] - 160.~~

Section 4. Assessment Recency. (1) A passing score on a test established at the time of administration shall be valid for the purpose of applying for certification for five (5) years from the test administration date.

(2) A teacher who fails to complete application for certification to the Education Professional Standards Board within the applicable recency period of the test and with the passing score established at the time of administration shall retake the applicable test or tests and achieve the passing score or scores required for certification at the time of application.

(3) The test administration date shall be established by the Educational Testing Service or other authorized test administrator.

Section 5. (1) An applicant for initial certification shall take the assessments on a date established by:

(a) The Educational Testing Service; or

(b) The agency established by the Education Professional Standards Board as the authorized test administrator.

(2) An applicant shall authorize test results to be forwarded by the Educational Testing Service, or other authorized test administrator, to the Kentucky Education Professional Standards Board and to the teacher preparation institution where the applicant received the relevant training.

(3)(a) Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration.

(b) An applicant shall seek information regarding the dates and location of the tests and make application for the appropriate examination prior to the deadline established and sufficiently in advance of anticipated employment to permit test results to be received by the Education Professional Standards Board and processed in the normal certification cycle.

Section 6. An applicant shall pay the examination fee established by the Educational Testing Service or other authorized test administrator for each relevant test required to be taken.

Section 7. An applicant who fails to achieve at least the minimum passing score on any of the applicable examinations may retake the test ~~or tests during one (1) of the scheduled test administrations~~.

Section 8. The Education Professional Standards Board shall collect data and conduct analyses of the scores and institutional reports provided by the Educational Testing Service or other authorized test administrator to determine the impact of these tests.

ANTHONY STRONG, Chair

APPROVED BY AGENCY: August 15, 2016

FILED WITH LRC: September 14, 2016 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016, at 9:00 a.m. at 100 Airport Road, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on October 31, 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: Lisa K. Lang, General Counsel, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, email LisaK.Lang@ky.gov, phone (502) 782-2147, fax (502) 564-7080.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa K. Lang

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the examination prerequisites for Kentucky teacher certification.

(b) The necessity of this administrative regulation: KRS 161.028(1)(a) requires that the Education Professional Standards Board establish requirements for obtaining and maintaining a teaching certificate. KRS 161.030(3)(a) states that the certification of all new teachers and teachers seeking additional certification shall require the successful completion of the appropriate assessments prior to certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028(1)(a) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030(3) and (4) require the Education Professional Standards Board to select and determine the appropriate level of achievement for assessments required prior to teacher certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes assessment requirements, corresponding passing scores, and effective dates for examination prerequisites of Kentucky teacher certification.

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

(a) How the amendment will change this existing administrative regulation: This amendment removes several discontinued tests and replaces some with their regenerated counterparts. This amendment removes beginning and end effective dates of assessments and passing score changes for tests which are discontinued, and replaces two assessments with two new assessments with the same name, but changes numbers associated with those assessments as well as the required passing scores.

(b) The necessity of the amendment to this administrative regulation: This amendment establishes the assessments required for teacher certification and sets the corresponding minimal acceptable passing scores for those assessments.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes assessment requirements and minimal acceptable achievement scores for those assessments as required by KRS 161.028(1)(a) and KRS 161.030(3)(a).

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies the assessments required for teacher certification and their corresponding minimal acceptable achievement scores for certification.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect candidates for Kentucky certification; higher education educator preparation program faculty of the twenty-five (25) colleges/universities who submit Kentucky certification recommendations on behalf of candidates, and the 173 Kentucky public school districts.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Candidates for teacher certification must ensure that they have taken and successfully passed the appropriate assessment for certification. Higher education educator preparation program faculty at the twenty-five (25) colleges/universities must notify candidates for certification and review their curriculum to implement changes, if necessary. The 173 public school districts will not have to take any action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost associated with this amendment. The cost associated with any new assessments is the same as the cost associated with the previous assessments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Teaching quality is the most important school-based factor in determining student success and we must ensure that all Kentucky teachers enter their classroom prepared to excel. These amendments reflect Kentucky's commitment to ensure that only academically qualified individuals are issued a teaching certificate, thus enabling them to provide instruction to Kentucky's children. All teacher candidates must successfully demonstrate essential knowledge via comprehensive assessments which help measure skills and content knowledge. Educator preparation programs must ensure their curriculum prepares teachers for the specific teaching field of the applicant, including content of the field and teaching of that content. The assessments measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky.

(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: Assessment fees are provided to the test administrator by the certification candidates.

(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: These assessments are not administered by the EPSB, therefore no fee or funding increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees have been increased. This is a cost to the certification candidate and is paid to the assessment administration agent.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation. All candidates for certification are required to take the specified assessment which measures content knowledge in the specific teaching field of the applicant. The EPSB does not administer these assessments nor does the EPSB set the rates for these assessments.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Education Professional Standards Board

as well as educator preparation program faculty of colleges/universities who submit Kentucky certification recommendations on behalf of candidates, and the Kentucky public school districts.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.028(1)(a) requires that the EPSB establish requirements for obtaining and maintaining a teaching certificate. KRS 161.030(3)(a) states that the certification of all new teachers and teachers seeking additional certification shall require the successful completion of the appropriate assessments prior to certification.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There should be no effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? Currently, the EPSB spends approximately \$25,000.00 per year to manage assessments.

(d) How much will it cost to administer this program for subsequent years? The administrative costs associated with this program are estimated to remain constant at approximately \$25,000.00 per year.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Education Professional Standards Board (Amendment)

16 KAR 7:010. Kentucky Teacher Internship Program.

RELATES TO: KRS 156.101, 161.028, 161.030, 161.048[-, 161.095]

STATUTORY AUTHORITY: KRS 161.028(1)(a), 161.030
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.030(5) requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. This administrative regulation establishes the requirements for the Kentucky Teacher Internship Program.

Section 1. Definitions. (1) ~~["Confirmation of Employment" means the electronic document or a hardcopy of the same name that is submitted to the Education Professional Standards Board by the employing school district or nonpublic school to document employment of a teacher intern.~~

(2) "Half-time basis" means teaching fifteen (15) hours per week in the teacher intern's area of certification.

(2) ~~(3)~~ "Instructional day" means a day that:

(a) The teacher intern is performing regular teaching responsibilities in an instructional setting, or is completing professional development for compensation from the district or employing school; and

(b) Does not include annual leave, sick leave, or other authorized or unauthorized leave time.

(3) "Resource teacher" means the classroom teacher that serves on a beginning teacher committee.

(4) ~~["Resource Teacher Time Sheet" means the electronic~~

document or a hardcopy of the same name that is submitted to the Education Professional Standards Board and is used by resource teachers to record in-class hours and, for compensation, resource teacher out-of-class hours.

(5) "Teacher intern" means any new teacher or out-of-state teacher with less than two (2) years of successful teaching experience, preschool through grade twelve (12), who has obtained a provisional certificate and is seeking initial certification in Kentucky.

(5) "Teaching standards" means the standards set forth in 16 KAR 1:010.

Section 2. Basis for Professional Judgment by the Beginning Teacher Committee. (1) A teacher intern and the beginning teacher committee shall follow the requirements established in this administrative regulation.

~~[(a)1. The teacher intern shall successfully complete a KTIP Teacher Performance Assessment.~~

~~2. The assessment shall be organized according to three cycles of the internship year and shall be a set of twelve (12) teaching tasks designed to provide interns the opportunity to demonstrate performance of the Kentucky Teacher Standards established by the Education Professional Standards Board in 16 KAR 1:010.~~

~~(b) The twelve (12) teaching tasks shall be grouped into three (3) components as follows:~~

~~1. Component I: Classroom Teaching, which shall include:~~

~~a. Task A-1: Teaching and Learning Context;~~

~~b. Task A-2: Lesson Plan;~~

~~c. Task B: Classroom Observation; and~~

~~d. Task C: Lesson Analysis and Reflection;~~

~~2. Component II: Professional Responsibilities, which shall include:~~

~~a. Task D: Collaborate to Address Special Learning Needs;~~

~~b. Task E: Assess and Manage Professional Growth; and~~

~~c. Task F: Leadership; and~~

~~3. Component III: Instructional Unit, which shall include:~~

~~a. Task G: Designing the Instructional Unit;~~

~~b. Task H: The Assessment Plan;~~

~~c. Task I: Designing Instructional Strategies and Activities;~~

~~d. Task J-1: Organizing and Analyzing the Results Reflecting on the Impact of Instruction; and~~

~~e. Task J-2: Communication and Follow-Up.]~~

~~(2) [In arriving at its professional judgment, the beginning teacher committee shall utilize the scoring rubrics contained within the KTIP Intern Performance Record, and take into consideration the progress of the teacher intern throughout the school year and, particularly, the level of performance that has been achieved near the end of the internship.] The beginning teacher committee shall determine the progress and improvement of the teacher intern, pursuant to KRS 161.030, by:~~

~~(a) A systematic observation of classroom performance;~~

~~(b) An ongoing review of documented evidence developed by the teacher intern of progress toward demonstration of the applicable teaching standards; and~~

~~(c) A review of the teacher intern's response to the suggestions and recommendations made by the beginning teacher committee during its meetings with the teacher intern throughout the internship.~~

(3) Throughout the internship, the teacher intern and the beginning teacher committee shall utilize the teaching[Kentucky Teacher] standards established by the Education Professional Standards Board in 16 KAR 1:010.

(4) The assessment shall be organized according to three (3) cycles of the internship designed to provide teacher interns the opportunity to demonstrate performance of the teaching standards established in 16 KAR 1:010[Teacher Interns and their committees shall use the indicators for each standard as outlined in the KTIP Intern Performance Record].

Section 3. Beginning Teacher Committee Membership Appointment. (1)(a) Each beginning teacher committee shall be composed of three (3) persons who have been appointed pursuant

to KRS 161.030(6).

(b) School districts shall maintain a pool of resource teachers and principals who have successfully completed the beginning teacher[Kentucky Teacher Internship Program] committee training in order to assure eligibility for appointment to beginning teacher committees.

~~(c)[(b)] The beginning teacher[Kentucky Teacher Internship Program] committee training may be approved for up to six (6)[~~twelve (12)~~] hours of professional development credit[toward the continuing education requirements] for resource teachers[pursuant to KRS 161.095] and Effective Instructional Leadership Act (EILA) credit for administrators pursuant to KRS 156.101.~~

(2) The employing school district shall recommend principals and resource teachers for appointments by the Education Professional Standards Board to beginning teacher committees.

(3) If the teacher intern is teaching at a nationally or regionally accredited nonpublic school without a principal, the accrediting organization's guidelines for designating the school head or school leader shall be used by the employing school in making the recommendation for appointment of the principal member. If no guidelines exist, the school shall provide a written rationale for the appointment to the Education Professional Standards Board for approval.

(4) Representatives of the teacher training institutions shall consult the Education Professional Standards Board with respect to the school districts and the geographical area to be served by teacher educator members on beginning teacher committees. All teacher educators shall have completed the beginning teacher[Kentucky Teacher Internship Program] committee training in order to assure eligibility for appointment to beginning teacher committees.

(5) The teacher training institution shall appoint a teacher educator no later than thirty (30) calendar days after being notified by the district or nonpublic school of the need for a teacher educator. ~~[If the teacher intern is employed after the date required to submit the Confirmation of Employment in accordance with Section 4(3)(a) of this administrative regulation, the teacher training institution shall appoint a teacher educator no later than ten (10) days after being notified by the district or nonpublic school of the need for a teacher educator.]~~

(6) If the superintendent or designated nonpublic school head or leader determines that a teacher educator is unsuitable for appointment, the superintendent or designated nonpublic school head or leader shall submit a written request for removal to the Education Professional Standards Board. The request shall contain the following:

(a) The facts and circumstances that form the basis for removal for cause; and

(b) The name of a qualified replacement submitted after consultation with the principal of the employing school and the Kentucky Teacher Internship Program university and district coordinators for that school district.

~~[(7) The Education Professional Standards Board shall send written notification to the teacher intern, the beginning teacher committee, the superintendent or designated nonpublic school head or leader, and the teacher training institution of its decision regarding the request for removal.]~~

Section 4. Requirements for Time in the Internship and Classroom Assignment. (1) The one (1) year internship shall be completed during one (1) of the following:

(a) No less than 140 instructional days of employment in a certified position in the teacher intern's area of certification for which the teacher intern receives compensation during one (1) school year; or

(b) Two (2) semesters totaling at least 140 instructional days of employment in a certified position in the teacher intern's area of certification for which the teacher intern receives compensation in two (2) consecutive school years.

(2) The internship shall be established for each teacher intern whose initial employment begins at any time during the school term except if the date of employment does not allow for completion of

at least seventy (70) instructional days of employment during the school year.

(a) If the period of employment is less than seventy (70) instructional days in a school year, the local school district shall declare an emergency as provided in KRS 161.100, authorizing the superintendent to request an emergency teaching certificate.

(b) The employing school district shall be responsible for providing assistance and supervision to the new teacher during the period of employment under an emergency certificate.

(3)(a) The school district or nonpublic school shall ~~complete and~~ submit to the Education Professional Standards Board ~~a~~ [the] confirmation of employment ~~in electronic form or in hard copy if the electronic submission system is unavailable~~:

~~1.-] within thirty (30) calendar days from the teacher intern's first instructional day~~ [date of hire or on or before October 15, whichever occurs first, for a teacher intern participating in the internship for the fall semester or full year; or

~~2. Within thirty (30) days from the date of hire or On or before February 15, whichever comes first, for a teacher intern participating in the internship for the spring semester].~~

~~(b) [If the teacher intern begins employment after the dates established for submission of the Confirmation of Employment in paragraph (a) of this subsection, the school district or employing school shall submit the Confirmation of Employment in electronic form or in hard copy if the electronic submission system is unavailable within ten (10) days of the date of hire.] A one (1) year internship certificate shall be issued in accordance with the provisions of 16 KAR 2:010 and 16 KAR 4:050.~~

(c) If the district or employing school fails to report verification of enrollment in the internship by the applicable timeline [date] established in paragraph (a) ~~or (b)~~ of this subsection, and there is insufficient time remaining for the teacher intern to complete the number of days required under subsection (1) of this section, the district or employing school shall declare an emergency as provided in KRS 161.100, and the teacher intern shall enroll in the internship in the next semester of employment when at least seventy (70) instructional days are available.

(d) Failure to confirm employment ~~[submit the completed Confirmation of Employment]~~ or declare an emergency in accordance with paragraph (a), (b), or (c) of this subsection shall:

1. Be a violation of KRS 161.020; and

2. Result in the number of days the teacher intern taught without a valid certificate being included in the out of field report submitted to the Commissioner of the Department of Education in accordance with KRS 161.1221.

(4) A teacher intern may participate in the internship if the intern is teaching in the intern's area of certification on at least a half-time basis. A school district or nonpublic school offering employment to a new teacher for part-time services which do not conform to the definition of half-time basis shall request a waiver from the Education Professional Standards Board staff for the new teacher to participate in the Kentucky Teacher Internship Program. The waiver request shall detail how the part-time employment offered by the district or nonpublic school is commensurate with the half-time basis requirement of this administrative regulation.

(5)(a) Termination or resignation of the internship shall be prohibited unless a written resignation detailing the facts surrounding the resignation is received and approved by:

1. The superintendent or designated nonpublic school head or leader; and

2. The Education Professional Standards Board staff.

(b) A teacher intern who terminates or resigns the internship without the approval of the Education Professional Standards Board staff shall be recorded as unsuccessfully completing the internship for that school year.

(6) The internship shall be established in a classroom which corresponds to the certificate of the teacher intern. An internship shall not be established in a classroom designated as an alternative school, classroom or program unless the district superintendent or designated nonpublic school head or leader submits a written request for a waiver to the staff of the Education Professional Standards Board. The request shall include the following:

(a) The type of students that attend the alternative school, classroom or program;

(b) The student selection and placement process;

(c) The level of support for students and faculty provided by the district or nonpublic school;

(d) The degree of administrative support within the school, classroom, or program;

(e) The location and facility that houses the school, classroom, or program;

(f) The instructional resources available to the faculty;

(g) The curriculum used by the school, classroom, or program;

(h) The manner in which the school, classroom, or program collaborates with other schools within the district;

(i) The current faculty and staff positions assigned to the school, classroom, or program;

(j) A brief description of how a teacher intern placed in the alternative school, classroom, or program could demonstrate that the teacher intern has met all of the applicable standards;

(k) Contact information for an individual who could provide additional information about the request; and

(l) A signed affidavit by the superintendent, the superintendent's designee, or the designated nonpublic school head or leader confirming the information.

(7) The Education Professional Standards Board staff shall grant the waiver if there is a determination that the request and accompanying documentation sufficiently demonstrate that:

(a) The level of support and services provided to the teacher intern assigned to an alternative school, classroom, or program is equivalent to that provided to a teacher intern placed in a nonalternative setting; and

(b) The teacher intern assigned to the alternative school, classroom, or program shall be provided the opportunity to successfully demonstrate all teaching [Kentucky Teacher] standards.

(8) If the waiver is granted, it shall remain in effect for the duration of the internship.

Section 5. Designation and Duties of Chair; Responsibilities of Resource Teacher, Teacher Intern, and Teacher Educator; Requirements for Timing and Content of Beginning Teacher Committee Meetings. (1) The principal member of the three (3) person beginning teacher committee shall serve as chair and shall be responsible for convening the committee and coordinating its efforts ~~[by scheduling observations and committee meetings]~~. The chair shall be responsible for the timely submission of all documents and reports of the beginning teacher committee to the Education Professional Standards Board as required by this administrative regulation. ~~[All documents and reports shall be submitted through the electronic reporting system, or by hard copy if the electronic reporting system is unavailable.]~~ In addition, the chair shall:

(a) 1. Make three (3) official observation visits to the teacher intern's classroom with each observation lasting one (1) hour in duration or one (1) class period; or

2. Make two (2) one (1) hour or one (1) class period observation visits followed by an observation of the teacher intern's one (1) hour or one (1) class period videotaped classroom lesson;

(b) Conduct a lesson plan review prior to each of the three (3) observations and a post-observation [postobservation] conference after each observation;

(c) Report progress observed and concerns to the committee at the scheduled committee meetings;

(d) Track and verify [Monitor] the time that the resource teacher spends with the teacher intern both in and out of class ~~[and sign the electronic version of the resource teacher time sheets or the hard copy of the resource teacher time sheets if the electronic reporting system is unavailable]; and~~

(e) Ensure that all program policies and procedures are followed.

(2) The resource teacher shall be a mentor to the teacher intern and assess the teacher intern's progress in the internship.

(a) The resource teacher, ~~[upon completion of Kentucky Teacher Internship Program Committee Training and;] upon~~

appointment, shall begin to assist the teacher intern.

(b) The resource teacher shall spend the required amount of hours working with the teacher intern in the classroom setting as specified in KRS 161.030(7).

1. As a portion of the hours, the resource teacher shall conduct:

a. Three (3) official observations with each observation lasting one (1) hour in duration or one (1) class period; or

b. Two (2) observations lasting one (1) hour in duration or one (1) class period followed by an observation of the teacher intern's one (1) hour or one (1) class period videotaped classroom lesson.

2. The observations shall be preceded by ~~a preobservation conference and~~ lesson plan review and shall be concluded with a post-observation~~[post-observation]~~ conference.

(c) Pursuant to the resource teacher requirements established in KRS 161.030(7), a resource teacher shall complete out-of-class time identified in KRS 161.030 in consultation with the teacher intern to:

1. Assist the teacher intern in the development of the professional growth plan;

2. Assist the teacher intern in areas identified in the professional growth plan;

3. Assist the teacher intern with instructional activities such as planning, management techniques, assessment, and parent conferences;

4. Assist the teacher intern in arranging to attend seminars, conferences, or lectures offering educational assistance commensurate with the teacher intern's professional growth plan;

5. Continually assess the teacher intern's progress in the internship in relation to each of the applicable teaching~~[Kentucky Teacher]~~ standards;

6. Provide the opportunity for the teacher intern to receive mentoring in a collaborative setting if the collaboration meets the needs of the teacher intern as defined in the professional growth plan. Mentoring in a collaborative setting shall be documented~~[on the Resource Teacher Time Sheet; and~~

7. ~~Enter and submit data into the online Resource Teacher Time Sheet or the hard copy of that document if the electronic reporting system is unavailable].~~

(d) The resource teacher shall divide the consultation time required in paragraphs (b) and (c) of this subsection into appropriate increments that provide support for the teacher intern throughout the internship. The resource teacher shall not spend this required consultation time with the teacher intern at required in-school or district-wide meetings, or any other activity for which the resource teacher receives compensation from the district or employing school, to include a professional development activity.

(3) The teacher intern shall:

(a) Complete all requirements of the Kentucky Teacher Internship Program as established in KRS 161.030 and this administrative regulation, including compliance with the applicable teaching~~[Kentucky Teacher]~~ standards;

(b) Attend the orientation~~[pre-observation]~~ and post-observation conferences with individual committee members, and all beginning teacher committee meetings;

(c) Participate with the resource teacher in consultation time to be spent outside of an instructional setting in the amount of time specified in KRS 161.030;

(d) Cooperate with the resource teacher in completing the instructional observations;

(e) Complete a professional growth plan~~[PGP]~~;

(f) Prepare for three (3) official one (1) hour observations by each committee member during the internship, including submitting a written lesson plan to the observer in a timely fashion prior to each visit. Each observation shall be one (1) hour in duration or one (1) class period;

(g) Develop documentary evidence of progress toward demonstration of the applicable standards for presentation and review at committee meetings; and

(h) Review all~~[electronic]~~ documents completed by the beginning teacher committee and affix a~~[an electronic]~~ signature if required.~~[If the electronic version of a document is unavailable through the electronic reporting system, the teacher intern shall~~

~~review and sign a hard copy version of the document.]~~

(4) The teacher educator shall:

(a) 1. Make three (3) official observations of the teacher intern with each observation lasting one (1) hour in duration or one (1) class period; or

2. Make two (2) observations of one (1) hour in duration or one (1) class period, followed by an observation of the teacher intern's one (1) hour or one (1) class period videotaped classroom lesson;

(b) Conduct a lesson plan review prior to each of the three (3) observations and a post-observation~~[post-observation]~~ conference after each observation; and

(c) Report progress observed and concerns to the committee at the scheduled committee meetings.

(5) Observations and committee meetings shall be scheduled in accordance with the following:

(a) The orientation meeting shall be held prior to the conduct of any formal classroom observations of the teacher intern;

(b) The classroom observations by all committee members shall occur prior to the corresponding committee meeting;

(c) The Cycle 1 classroom observations and~~[second]~~ committee meeting shall be held between one (1) and sixty (60) instructional days following the orientation meeting;

(d) The Cycle 2 classroom observations and~~[third]~~ committee meeting shall be held between sixty-one (61) and 110 instructional days following the orientation meeting; and

(e) The Cycle 3 taping and reviews of the video or classroom observations and~~[fourth]~~ committee meeting shall be held between 111 instructional days after the orientation meeting and by the closing day of the school year~~[140 instructional days following the orientation meeting]~~.

(6) Committees formed during the spring semester shall establish a meeting schedule that observes the time sequences established in subsection (5) of this section for the full-year teacher interns but which shall span the spring and fall semesters of two (2) consecutive school years.

(7)(a) Classroom observations conducted by committee members shall be:

1. Of at least one (1) hour or one (1) class period in duration; and

2. In the classroom or at the work station of the teacher intern.

(b) Additional classroom observations may be conducted at the option of the committee.

(c) All classroom observations shall be scheduled in advance in order to provide adequate time for preparation by the teacher intern.

(8) All members of the committee shall attend all four (4) meetings of the committee.

(9) At the orientation meeting of the beginning teacher committee, the following items shall be addressed:

(a) Expectations on the part of the teacher intern and each committee member;

(b) Procedures and materials for classroom observations;

(c) Use of classroom observation data in designing the teacher intern's professional growth plan;

(d) Requirements for the teacher intern for compiling documentary evidence of progress toward demonstration of the applicable teaching standards;

(e) General schedule for the events to take place during the internship program; and

(f) Work of the resource teacher with the teacher intern.

(10)(a) The primary purpose of the Cycle 1 and Cycle 2~~[second and third]~~ committee meetings shall be to provide the teacher intern with information based on classroom observations, review of the teacher intern's documented evidence of progress toward demonstration of the applicable teaching standards, and reports of the resource teacher that shall support the growth of the teacher intern.

(b) The committee shall provide the teacher intern at the cycle ~~committee~~~~[second, third, and fourth]~~ meetings with~~a consensus assessment of~~ the teacher intern's progress in the internship in relation to the applicable teaching~~[each of the Kentucky Teacher]~~ standards.

(11) The professional growth plan~~[PGP]~~ shall be initiated at

the Cycle 1~~[second]~~ committee meeting.

(12) The Cycle 2 committee~~[third]~~ meeting shall include a review of expectations for the performance of the teacher intern, taking into account the reflections of the teacher intern and the committee members, and incorporating these expectations and reflections into the professional growth plan~~[PGP]~~.

(13) The Cycle 3 committee~~[fourth]~~ meeting shall include a professional judgment by the committee members on the satisfactory completion of the one (1) year internship. This judgment shall be based upon the teacher intern's ability to meet the requirements of Kentucky Teacher Internship Program~~[all Kentucky Teacher Standards]~~.

(14) If all committee members believe that more time would allow for improved demonstration of the teaching standards, a fourth cycle may be conducted.

(15) Cycle 4 may include additional observations or a review of the teaching standards.

(16) Cycle 4 shall fall within the timelines of Cycle 3 and shall include a committee meeting. Upon completion of Cycle 4, the Cycle 4 results shall replace the Cycle 3 results.

Section 6. Decision by the Beginning Teacher Committee, Reporting, and Certification Actions. (1)(a) The decision of the beginning teacher committee as to satisfactory completion of the internship for all~~[full-year]~~ teacher interns shall be reported by the chair to the local school superintendent or other employer and to the Education Professional Standards Board~~[by May 1 or]~~ no later than two (2) weeks following the final committee meeting~~;~~ whichever occurs first.

~~(b) [For teacher interns completing the internship in December, the final report shall be submitted by December 15.]~~

~~(c) [If a teacher intern's performance is judged by the majority of the committee to be unsuccessful, the school district or employing school shall submit all relevant [the following] documentation to the Education Professional Standards Board by the deadline [deadlines] established in paragraph (a) [paragraphs (a) and (b)] of this subsection:]~~

~~1. Record of Teacher Internship Year;~~

~~2. Resource Teacher Time Sheets;~~

~~3. All Teacher Performance Assessment documents created in compliance with Section 2 of this administrative regulation;~~

~~4. School Calendar;~~

~~5. Video if available;~~

~~6. Any electronic communications that relate to any aspect of the internship sent to the teacher intern along with read receipts and responses back from the teacher intern if available; and~~

~~7. The KTIP Intern Performance Record or the KTIP IECE Intern Performance Record.]~~

~~(c) [(d)] All materials submitted shall become the property of the Education Professional Standards Board and shall not be returned to the teacher intern.~~

(2) Failure to meet the deadlines established in subsection (1) of this section may warrant action against the District Superintendent's or employing school head or leader's certification.

(3) If a teacher intern's performance is judged by the committee to be unsatisfactory, the teacher intern shall have the opportunity to repeat the internship during one (1) additional school year~~[contingent upon employment within the period of validity of the statement of eligibility for internship]~~. If the teacher intern does not successfully complete the internship~~[during the period of validity of the statement of eligibility]~~, the teacher intern shall requalify for admission to the remaining one (1) year of internship by meeting the requirements in effect at the time of reapplication for certification.

(4)(a) If the teacher intern is unable to complete the internship within one (1) school year in accordance with the requirements of Section 5 of this administrative regulation, an interim report shall be submitted to the Education Professional Standards Board~~[EPSB through the electronic system, or by hard copy if the electronic system is unavailable]~~ within ten (10) calendar days of the date the internship ceases.

(b) Under extraordinary circumstances and with the approval of the Education Professional Standards Board~~[EPSB]~~, the teacher

intern may continue the internship during a subsequent school year if employed in a public or nonpublic accredited school. Extraordinary circumstances shall include:

1. Medical condition~~[Serious medical conditions]~~;

2. Temporary disability; or

3. Military deployment.

(c) The provisions of Section 4(1)(a) or (b) of this administrative regulation shall not apply if the Education Professional Standards Board~~[EPSB]~~ approves the request for an exception based on extraordinary circumstances in this situation.

Section 7. Payments to Committee Members. (1) The Education Professional Standards Board shall contract with the local school district, or make other appropriate arrangements, for the direct service of a resource teacher to each teacher intern.

(2) A resource teacher shall:

(a) Not serve as a resource teacher for more than two (2) teacher interns concurrently; and

(b) Be paid a stipend in accordance with subsection (3) of this section.

(3)(a) Contingent upon funding, the Education Professional Standards Board shall provide a stipend~~[in an amount not to exceed \$1,400 per teacher intern]~~ to each resource teacher as compensation for out-of-class time spent with the teacher intern.

(b) The stipend shall be prorated if the required number of hours are not performed and documented pursuant to the requirements of Section 5(2) of this administrative regulation.

(c) The stipend shall be disbursed in accordance with KRS 161.030(6)(f) on a biannual basis corresponding to the semester in which the mentoring occurred or on an annual basis for full-year interns with payment being disbursed at the end of the one (1) year internship.

~~[1. The frequency of the disbursement shall be at the option of the district if the resource teacher is serving in a public school district.~~

~~2. If the resource teacher is serving in a nonpublic school, the frequency of the disbursement shall be determined by the submission of the resource teacher time sheets.]~~

Section 8. Appeals. (1)(a) If a Beginning Teacher Committee finds that a teacher intern was unsuccessful, the Education Professional Standards Board shall notify the teacher intern by certified mail to the last known address of the teacher intern on file with the Education Professional Standards Board. Service of the notice shall be deemed complete on the day the teacher intern receives the notice or on the day the Education Professional Standards Board receives the returned notice.

(b) To appeal the decision, the teacher intern shall file a written notice of appeal within thirty (30) calendar days of the date service was deemed complete~~[the written notice of finding of unsuccessful completion of the internship is received by the teacher intern. If the teacher intern fails to maintain a current address with the Education Professional Standards Board or refuses to claim the certified mail, the teacher intern shall file a written notice of appeal within thirty-five (35) days of the date the notice is mailed to the teacher intern's last known address].~~

(c) If a written notice of appeal is not received within the timeline established in paragraph (b) of this subsection, the Beginning Teacher Committee's decision shall be final.

(2)(a) Appeals by teacher interns shall be reviewed by a committee of four (4) persons. The appeals committee shall include:

1. One (1) teacher;

2. One (1) principal;

3. One (1) teacher educator; and

4. The Executive Director of the Education~~[Educational]~~ Professional Standards Board, or his or her designee.

~~(b) [The appeals committee members shall be chosen from a pool of committee candidates appointed annually by the Education Professional Standards Board.~~

~~(c) [An appeals committee member shall not take part in a decision in which the member has an interest or is biased.~~

(3)(a) The appeals committee shall review the written appeal

by the teacher intern, all beginning teacher committee reports, any additional documentation that accompanied the final report, and any written responses from the members of the beginning teacher committee.

(b) The appeals committee shall provide deference to the beginning teacher committee and base its recommendation upon the following requirements:

1. Evidence of the teacher intern's ability to meet the requirements of the applicable teaching[~~Kentucky Teacher~~] standards;

2. Appropriate documentation of the instructional setting and outside normal working hours spent by the resource teacher in assisting the teacher intern as specified in KRS 161.030(7);

3. Assignment of beginning teacher committee members in accordance with legal requirements;

4. Compliance with the requirements for the timing, content, reporting, and signing of teacher intern performance records, meeting and observation forms, and resource teacher time sheets; and

5. Agreement between teacher intern performance records, professional growth plans, beginning teacher committee meeting reports, the[~~teacher performance~~] assessment, and the final decision of the committee.

(4) The appeals committee shall make a recommendation to the Education Professional Standards Board on the appeal within sixty (60) calendar days following the receipt of the appeal, unless good cause exists for additional time.

(5) The Education Professional Standards Board shall issue a final decision in each appeal reviewed by the appeals committee. When making its final decision, the Education Professional Standards Board shall[~~may~~] consider only the appeals committee recommendation and the records reviewed by the appeals committee[~~in issuing its decision~~].

(6)[~~(5) If the decision of the beginning teacher committee is not upheld, the Education Professional Standards Board shall issue the appropriate certificate to the teacher intern.~~

(6) ~~If the decision of the beginning teacher committee is upheld, the Education Professional Standards Board shall issue another Statement of Eligibility for Internship, unless:~~

(a) ~~The teacher intern has exhausted the two (2)-year provision for participation in the Kentucky Teacher Internship Program; or~~

(b) ~~The period of validity of the statement of eligibility has expired.~~

(7) If the Education Professional Standards Board determines that there is sufficient credible evidence[~~during the appeal process, it becomes evident~~] that the beginning teacher committee has committed some procedural violation during the internship that[~~which~~] makes it impossible to determine if the teacher intern has in fact been unsuccessful, the Education Professional Standards Board may nullify the internship and allow the teacher intern to repeat the internship without penalty.

(7) In its final decision, the Education Professional Standards Board shall make a determination as to whether or not a certification shall be issued.

(8)[~~If the teacher intern is not satisfied with the decision of the board based on the recommendation of the appeals committee, the teacher intern may request a formal hearing under the provisions of KRS Chapter 13B. The request shall be filed in writing with the Executive Director of the Education Professional Standards Board within fifteen (15) calendar days of the date the board's decision is received by the teacher intern.~~

(9) In notifying the teacher intern of the board's decision, The Education Professional Standards Board shall send its decision[~~the decision of the board~~] by certified mail to the address of the teacher intern on file with the EPSB[~~last known address of the teacher intern~~]. Service shall be effective when the teacher intern receives the notice or when the Education Professional Standards Board receives the notice of return[~~If the teacher intern fails to maintain a current address with the Education Professional Standards Board, or refuses to claim the certified mail, the request for a hearing shall be filed in writing with the Executive Director of the Education Professional Standards Board within (20) calendar days of the date the board's decision is mailed to the teacher intern~~

~~by certified mail~~].

(9) If the teacher intern is not satisfied with the decision of the Education Professional Standards Board based on the recommendation of the appeals committee, the teacher intern may request a formal hearing under the provisions of KRS Chapter 13B. The request shall be filed in writing with the Executive Director of the Education Professional Standards Board within fifteen (15) calendar days of the date the board's decision is served on the teacher intern.

Section 9. A teacher intern who has not successfully completed the internship and has exhausted the two (2) year provision for participation in the Kentucky Teacher Internship Program shall not be eligible for a Kentucky teaching certificate under this administrative regulation.

[~~Section 10. A teacher intern serving the internship in Interdisciplinary Early Childhood Education (IECE) shall successfully demonstrate the Kentucky Teacher Standards as adapted to the IECE standards and shall utilize the KTIP-IECE Intern Performance Record.~~

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

(a) ~~"Confirmation of Employment", November 2004;~~

(b) ~~"KTIP Intern Performance Record", March 2008;~~

(c) ~~"KTIP IECE Intern Performance Record", March 2008;~~

(d) ~~"Record of Teacher Internship Year", March 2008; and~~

(e) ~~"Resource Teacher Time Sheet", March 2008.~~

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

ANTHONY STRONG, Chair

APPROVED BY AGENCY: August 15, 2016

FILED WITH LRC: September 14, 2016 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016, at 10:00 a.m. at 100 Airport Road, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on October 31, 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: Lisa K. Lang, General Counsel, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, email LisaK.Lang@ky.gov, phone (502) 782-2147, fax (502) 564-7080.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa K. Lang

(1) Provide a brief summary of 16 KAR 6:010

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the Kentucky Teacher Internship Program.

(b) The necessity of this administrative regulation: KRS 161.030(5) requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. This administrative regulation is necessary as it establishes the requirements for the Kentucky Teacher Internship Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028 requires the Education Professional Standards Board to establish the standards and requirements for maintaining a teaching certificate. KRS

161.030(5) requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. This administrative regulation establishes the requirements for the Kentucky Teacher Internship Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for the Kentucky Teacher Internship Program.

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

(a) How the amendment will change this existing administrative regulation: This administrative regulation addresses the requirements for the Kentucky Teacher Internship Program (KTIP). During 2014 and 2015, the Kentucky Advisory Council for Internships (KACI), at the direction of the Board, redesigned KTIP to align with the Kentucky Framework for Teaching using the district certified plan. The new program was piloted in 21 districts over the 2014-15 school year. Feedback was collected and used to further revise and refine KTIP process and sources of evidence. During 2016, all school district began using the revised KTIP with their new teachers after a waiver of this administrative regulation was approved by the Board. This proposed amendment reflects the redesigned KTIP.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to align KTIP with the Kentucky Framework for Teaching using the district certified plan and to meet the requirements of the Teacher Professional Growth and Effectiveness System (TPGES).

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.030(5) requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. This administrative regulation establishes the requirements for the Kentucky Teacher Internship Program required by KRS 161.030(5).

(d) How the amendment will assist in the effective administration of the statutes: This amendment further clarifies KTIP and aligns it with the Kentucky Framework for Teaching using the district certified plan.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Several hundred applicants seeking initial certification in Kentucky will be affected by this regulation. Approximately 173 school districts and dozens of private schools that participate in KTIP will be affected by this regulation. Additionally, individuals who serve on the internship committees as mentors will be affected.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action will be required of the applicants seeking initial certification in Kentucky, the school districts and private schools employing these applicants, or the individuals serving on the internship committees. In fact, this amendment to the regulation reduces the burden of the administrative paperwork that was previously associated with KTIP.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment seeks to simplify the KTIP process and reduce the administrative paperwork for all regulated entities involved with the KTIP while still providing applicants seeking initial certification a successful first year classroom experience by providing critical mentoring and feedback. Helping new teachers move through professional growth which is designed to enhance their ability to reflect on and analyze

their teaching and to make the curricular and instructional adjustments necessary to ensure maximum student learning is critical to student success in the Commonwealth.

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

(a) Initially: EPSB has capped spending at \$3,342,100.00 to administer the KTIP. If KTIP were fully funded, EPSB would spend approximately \$5,617,470.00.

(b) On a continuing basis: EPSB has capped spending at \$3,342,100.00 to administer the KTIP. If KTIP were fully funded, EPSB would spend approximately \$5,617,470.00.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: EPSB implements KTIP using funds from the EPSB's General Fund. Pursuant to the most recently passed biennial budget, EPSB may also use some restricted funds to help reduce the number of KTIP participants deferred due to insufficient funding each year.

(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 of this administrative regulation will not result in an increase in funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment of this administrative regulation does not establish fees nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation. All candidates for initial certification in Kentucky are required to do a one (1) year internship.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts and approved educator preparation programs at Kentucky public colleges/universities and the EPSB are 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 161.028 requires the EPSB to establish the standards and requirements for maintaining a teaching certificate. KRS 161.030(5) requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There should be no effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? Currently, the EPSB spends approximately \$3,342,100.00 per year to manage KTIP.

(d) How much will it cost to administer this program for subsequent years? To fully fund KTIP for all teachers seeking initial certification in Kentucky, EPSB would need to spend approximately \$5,617,470.00. Due to current funding constraints, the EPSB has capped spending at \$3,342,100.00.

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

Revenues (+/-): No revenue will be generated.

Expenditures (+/-): No additional expenditures will be generated.

Other Explanation:

**PERSONNEL CABINET
Office of the Secretary
(Amendment)**

101 KAR 2:210. 2017[2016] Plan Year Handbook for the Public Employee Health Insurance Program.

RELATES TO: KRS 18A.030, 18A.225, 18A.2254

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2017[2016] Plan Year as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2017[2016] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

Section 2. Incorporation by Reference. (1) "2017[2016] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2017[2016] edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

THOMAS B. STEPHENS, Secretary

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016 at 10:00 a.m. at 501 High Street, 3rd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (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 11:59 p.m. on October 31, 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: Sharron Burton, Deputy Executive Director, Office of Legal Services, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email Sharron.Burton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sharron Burton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2017 plan

year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to all plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2017.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2017 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2017 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS 18A.2254.

(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 an amendment. The existing administrative regulation incorporates by reference the 2016 plan year handbook which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2016. The amendment adds and incorporates by reference the 2017 plan year handbook which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2017.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2017. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2017 plan year handbook by reference in accordance with KRS 18A.2254.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2017 plan year handbook by reference in accordance with KRS 18A.2254.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 183,098 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects 291,438 members in the self-insured plan including employees and retirees, qualifying beneficiaries, and dependents.

(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: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2017 plan year handbook. The 2017 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2017 plan year.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for plan year 2017. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2017 plan year handbook into the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For plan year 2017, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. The Public Employee Health Insurance Program will not have any employer contribution adjustments for plan year 2017. There will be a 1% increase to employee contributions for two of the four plans offered in plan year 2017.

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

(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.

(b) On a continuing basis: Costs of implementing this administrative regulation on a continuing basis are believed to be minimal.

(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 the implementation of this administrative regulation will be the Public Employee Health Insurance Trust Fund.

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

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

(9) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect all employees of state and select county and local government entities, including employees of the local school boards and districts that participate in the Public Employee Health Insurance Program. As employers, this administrative regulation will affect state and select county and local government entities as well as local school boards and districts. This administrative regulation also affects certain retirees eligible to participate in the Program.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.225, 18A.2253, 18A.2254, 18A.2255, 18A.2259, 18A.226, 18A.227, 18A.2271, 18A.228, 18A.2286, 18A.2287; 26 U.S.C. 21, 105, 106, 125, 129, 152, and 213 (Internal Revenue Code); Prop. Treas. Reg. 1.125-1 through 7; the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010); and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

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, school 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 departments, school boards or school districts) for the first year? The administrative regulation will not generate any revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The administrative regulation will not generate any revenues.

(c) How much will it cost to administer this program for the first year? Costs of implementing this program are believed to be similar to previous plan years.

(d) How much will it cost to administer this program for subsequent years? Costs of implementing this program on a continuing basis are believed to be consistent with previous plan years. By law, an amended administrative regulation will be promulgated in 2017 and each subsequent plan year.

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

Revenues (+/-):

Expenditures (+/-)

Other Explanation:

GENERAL GOVERNMENT CABINET Kentucky State Board of Accountancy (Amendment)

201 KAR 1:015. Per diem compensation.

RELATES TO: KRS 325.230[~~325.240~~]

STATUTORY AUTHORITY: KRS 325.230(2), 325.240(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. KRS 325.230(2) requires the board to establish the amount of per diem compensation to be paid to board members, not to exceed \$200. This administrative regulation establishes the per diem amount to be received by board members.

Section 1. Each member of the board shall receive \$200[~~\$150~~] for each day spent in the discharge of his or her official duties.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

LORI WARDEN, President

APPROVED BY AGENCY: September 13, 2016

FILED WITH LRC: September 15, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016 at 10 a.m., EST at the office of the board located at 332 W. Broadway, Suite 310 Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by, five work days prior to the meeting, 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 the 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 October 31, 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: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281, email dick.carroll@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Richard Carroll

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes the per diem compensation for board members.

(b) The necessity of this administrative regulation: KRS 325.230(2) requires the per diem amount to be set by administrative regulation not to exceed \$200.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 325.230 Section 2 requires the per diem amount to be set by administrative regulation not to exceed \$200. This regulation sets the amount.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes the per diem compensation for board members.

(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: Increases the per diem amount paid to board members.

(b) The necessity of the amendment to this administrative regulation: To establish the new per diem amount.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 325.230(2) authorizes the per diem amount not to exceed \$200. This amendment does not exceed that amount.

(d) How the amendment will assist in the effective administration of the statutes: Provides the per diem amount.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board and the 7 board members.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The board will increase the per diem amount to \$200.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The per diem amount will increase from \$150 to \$200.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): An increase in the Board members per diem amount.

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

(a) Initially: Increasing the per diem amount \$50/ board member/ meeting.

(b) On a continuing basis: Same as above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency 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: None

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: None

(9) TIERING: Is tiering applied? No, since all board members are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

Board of Accountancy

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 325.240 and KRS 325.230(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. Increasing the per diem paid to each board member by \$50/meeting.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue.

(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? Approximately \$14,000. The amount will vary based upon the number of meetings each year and the number of members who attend the meetings.

(d) How much will it cost to administer this program for subsequent years? The same amount as set forth above. Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Kentucky State Board of Accountancy (Amendment)

201 KAR 1:065. Individual license renewal and fee.

RELATES TO: KRS 325.230[325.330]

STATUTORY AUTHORITY: KRS 325.240(2), 325.330(7)(b).

(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. KRS 325.330(7)(b) requires the board to promulgate administrative regulations establishing license renewal procedures for certified public accountants. This administrative regulation establishes the procedures and fees for a certified public accountant to renew their[a] license.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

Section 1. Except as provided in Section 2 of this administrative regulation, a certified public accountant seeking to renew his or her license shall:

- (1) Utilize the online License Renewal System offered by the board at www.cpa.ky.gov; and
- (2) Pay a non-refundable renewal fee in the amount of \$100.

Section 2. A certified public accountant who fails to renew his or her license by the August 1 deadline shall renew the license on or before September 1 by:

(1) Utilizing the online License Renewal System offered by the board at www.cpa.ky.gov;

(2) Paying the non-refundable \$100 renewal fee; and

(3) Paying a non-refundable \$100 late fee

[If a certified public accountant is unable to utilize the online procedure, he or she shall:

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

(2) Complete and submit the application to the board; and

(3) Submit a check or money order made payable to the Kentucky State Board of Accountancy in the amount of \$100].

Section 3. A certified public accountant who was convicted, pled guilty, entered a plea of no contest, an Alford plea, or a plea that resulted in a court suspending the imposition of a criminal penalty to any state or federal felony or misdemeanor charge within the two (2) year period prior to renewing their license shall submit:

(1) A License Renewal Form;

(2) A copy of the judgment or sentence of conviction;

(3) A criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is dated within one (1) month from the date the renewal form is submitted or similar document from the state agency where the conviction was entered;

(4) A letter of explanation;

(5) The non-refundable \$100 renewal fee by check or money order made payable to the Kentucky State Board of Accountancy; and

(6) A non-refundable \$100 late fee if the form is received in the board office after July 31.

Section 4. The board shall notify a licensee that his or her license is due to expire in accordance with the renewal dates established in KRS 325.330(7)(a).

Section 5.[4.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "License Renewal System", September 2016[January 2011]; and

(b) "License Renewal Form", September 2016[January 2011].

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

LORI WARDEN, President

APPROVED BY AGENCY: September 13, 2016

FILED WITH LRC: September 15, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016 at 10 a.m., EST at the office of the board located at 332 W. Broadway, Suite 310 Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by, five work days prior to the meeting, 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 the 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 October 31, 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: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281, email dick.carroll@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Richard Carroll

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes the license renewal process for CPAs.

(b) The necessity of this administrative regulation: KRS 325.330(7)(b) requires the board to establish a license renewal process and payment of fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the license renewal process for CPAs and the amounts of the fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes the license renewal process for CPAs and the associated 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: Eliminates the use of a paper application except for those convicted of a crime, establishes a late fee, and requires self-reporting of a criminal conviction.

(b) The necessity of the amendment to this administrative regulation: To eliminate the use of a paper application, establish a late fee, and require self-reporting of a criminal conviction.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 325.330(7)(b) and (d) authorizes the board to implement a license renewal process for CPAs and set fees.

(d) How the amendment will assist in the effective administration of the statutes: Eliminates the use of paper applications to renew a license except for those convicted of a crime and lists the amounts to renew a license.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Since the online renewal system was implemented in 2009 a few CPAs believed they qualified to renew a license by paper application but were in fact able to use the online system. Therefore very few would likely be affected. In the recent years no one has renewed by using a paper application. The overwhelming majority of CPAs renew their license prior to August 1 so only a few will be charged a late fee. We do not expect a large number to have to report a criminal conviction.

(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: Use the online license renewal process which the overwhelming majority of CPAs have used for years. Pay a late fee if they renew after their license has expired and report if they have been convicted of a crime.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The \$100 renewal fee that they pay regardless of the renewal process used plus the portal fee charged by ky.gov to use the online process. If they renew their license after it has expired they will also pay a \$100 late fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): CPAs who renew their license on time will not be treated the same as those who allow their license to expire.

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

(a) Initially: Nothing since this amendment only eliminates a paper application.

(b) On a continuing basis: Same as above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency 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: None

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Establishes a late fee to renew a license after it has expired.

(9) TIERING: Is tiering applied? No, since all CPAs are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Board of Accountancy

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 325.240 and KRS 325.330(7)(b) and (d).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This regulation provides the majority of the funding for the board.

(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? An unknown amount of revenue since it only impacts those who renew their license after it is expired.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? See above answer.

(c) How much will it cost to administer this program for the first year? Nothing for the amendment.

(d) How much will it cost to administer this program for subsequent years? The amendment will not impact the current amount.

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: The number of CPAs renewing after their license has expired varies from year to year.

GENERAL GOVERNMENT CABINET Kentucky State Board of Accountancy (Amendment)

201 KAR 1:100. Continuing professional education requirements.

RELATES TO KRS 325.230[325.330]

STATUTORY AUTHORITY: KRS 325.230(2), 325.240(2), 325.330(4)(a), (7)(b)1.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.240(2) authorizes the Kentucky State Board of Accountancy to promulgate administrative regulations for the administration of KRS Chapter 325. KRS 325.330(4) and (7)(b)1. require[requires] the board to promulgate administrative regulations to establish the[established] continuing professional education requirements for certified public accountants. This administrative regulation establishes the continuing professional education requirements a certified public accountant shall satisfy to renew a license.

Section 1. Definitions[Definition]. (1) "Continuing professional education hour" or "CPE hour" means a fifty (50) minute period excluding meals, breaks and business sessions.

(2) "Worked" means hours devoted by a licensee that are documented as billable and non-billable hours to a public accounting firm or client[Each unit of credit for a university or college course shall equal the following continuing professional education hours:

(1) One (1) semester hour equals fifteen (15) CPE hours; and

(2) One (1) quarter hour equals ten (10) CPE hours].

Section 2. Requirements for Continuing Professional Education Credit. (1) Each licensee who worked 3,000 hours or more in a public accounting firm licensed[registered] with the board during the two (2) calendar years prior to the renewal date of his or her license shall complete[report to the board successful completion of] eighty (80) CPE hours[of continuing professional education]. The eighty (80) hours shall be completed[earned] during the preceding two (2) calendar years. All other licensees shall complete[obtain] sixty (60) CPE hours.

(2)[Effective with license renewal for July 1, 2010 and subsequent years;] Each licensee shall complete[report to the board successful completion of] two (2) CPE hours[of continuing professional education] in professional ethics. These two (2) hours shall be included as part of the eighty (80) or sixty (60) CPE hours a licensee is required to complete to renew his or her license.

(3)(a) A certified public accountant who, for the[majority of the] two (2) calendar years prior to renewal of his or her license, did not operate or work in an office in this state shall satisfy the requirements of this section by complying with the continuing professional education requirements for renewal of his or her license:

1. In the state in which the licensee's principal office is located; or

2. In the state in which the office is located where the licensee worked a majority of the time.

(b) If the state designated by paragraph (a) of this subsection does not have continuing professional education requirements for renewal of a license, the licensee shall comply with all continuing professional education requirements for renewal of a license in this state.

Section 3. Each licensee who held a license for less than a full two (2) calendar year period shall obtain two (2) CPE hours[of continuing professional education] for each full month a license was held not to exceed the total number of required hours for the reporting period. The two (2) hours in professional ethics shall not be required to be part of the CPE hours completed in this time period.

Section 4. Waivers from Continuing Professional Education. (1)[The request for a reduction in or waiver of the continuing professional education requirements shall be submitted on a form prepared by the board:

(2)] A reduction or waiver may be granted by the board if the licensee:

(a) Establishes that he or she is physically or psychologically unable to complete the continuing professional education requirements. The licensee shall submit an Initial Request for CPE Waiver form with each request and a written statement:

1.[a statement] From a licensed physician or other appropriate licensed health care provider that substantiates the physical or psychological claim of the licensee; and

2. That describes the licensee's working status during the time they were unable to complete the continuing education, their current working status, and if they plan to return to work;

(b) Has encountered an extreme[a severe personal] hardship, which was so severe that[made] it was extremely difficult or impossible to meet the continuing professional education requirements. The licensee shall submit an Initial Request for CPE Waiver form and a written statement with each request:

1. That describes in detail the facts associated with the extreme hardship; and

2. Documentation to substantiate the extreme hardship[The hardship shall be described in writing on the waiver form. The board may request the licensee to substantiate with documentation the hardship described on the waiver form]; or

(c) Is completely retired from practice and is fifty-five (55) years of age or older. To be considered completely retired, the licensee shall not perform accounting services in the practice of public accounting (which includes the preparation of tax returns), education, government or industry except for management of personal assets or investments.

(2)[(3)] The board shall advise a licensee in writing whether the request is approved or denied.

(3)[(4)] A licensee granted a waiver shall reaffirm the basis of the waiver when the license is next renewed.

(4)[(5)] If the circumstances which form the basis of the waiver change, the licensee shall notify the board within thirty (30) days from the date of the change and resume compliance with the continuing professional education requirements from the date of the change.

(5) If the waiver request is granted, the licensee shall pay the license renewal fee listed in 201 KAR 1:065.

Section 5. Courses that[~~Exemption from Continuing Professional Education.~~] (1) ~~A licensee who at the time of renewal is sixty-five (65) years of age or older and has been licensed continuously for twenty-five (25) years or more shall be exempt from the continuing education requirements.~~

(2) ~~This exemption shall end after the renewal of licenses in 2009.~~

~~Section 6. Programs which~~ Qualify. (1) The overriding consideration in determining whether a specific course[program] qualifies as acceptable continuing professional education shall be whether it is a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant in this state.

(2) Continuing professional education courses[programs] may qualify only if:

(a) An outline of the course[program] is prepared in advance and preserved;

(b) The course[program] is at least one (1) CPE[continuing professional education] hour in length. Credit shall be awarded for a course less than fifty (50) minutes in length if it is part of a continuing professional education program where at least one (1) fifty (50) minute course is also being offered;

(c) The course[program] is conducted by a qualified instructor. A qualified instructor or discussion leader shall be anyone whose background training, education or experience makes it appropriate for him or her to lead a discussion on the subject matter of the particular course[program];

(d) A record of registration or attendance is maintained;and

(e) A course completion document is given to each attendee;and

(f) The course topic is an acceptable field of study.

(3) Acceptable fields of study[subject matter].

(a) The following fields of study[general subject matters] shall be considered acceptable if the courses[programs] satisfy all of the criteria established in Sections 1, 2, 3, and 5 of [by] this administrative regulation:

1. Accounting and finance[auditing];
2. Auditing[Taxation];
3. Taxation[Management services];
4. Business management services[Information technology];
5. Information technology[Communication arts];
6. Business communications[Mathematics];
7. Statistics;
8. Ethics;
9. Economics;
10. Business law;
11. Securities[Finance];
12. Marketing; and
13. Specialized areas of industry that contribute directly to the professional competence of a licensee;and

~~14. Administrative procedures associated with the offering and performance of attest services].~~

(b)[~~Areas other than those listed in paragraph (a) of this subsection may be acceptable if the licensee can demonstrate that they contribute directly to his or her professional competence as a certified public accountant.~~] The responsibility for substantiating that a particular course[program] is acceptable and meets the requirements of this administrative regulation shall be the obligation of the licensee.

(4) Acceptable[group] programs. The following[group] programs qualify for credit if they meet the standards specified in Sections 1, 2, 3, and 6 of this administrative regulation:

(a) Professional education and development programs of national, state and local accounting organizations;

(b) University or college courses.

1. Credit and not for credit courses completed at or through a university or college that is accredited by one (1) of the (6) six regional accrediting associations listed in 201 KAR 1:190, Section 4;

2. Documentation to verify completion of a course shall be issued by the appropriate representative of the university or college.

3. Each unit of credit for a university or college course shall be equal to the following CPE hours:

a. One (1) semester hour equals fifteen (15) CPE hours; and

b. One (1) quarter hour equals ten (10) CPE hours[(both credit and noncredit courses)]; and

(c) Formal in-firm education programs. Portions of a program devoted to firm administrative, financial, and operating matters shall not qualify.

(5) Formal individual study courses, Web casts, and online learning courses.

(a) The amount of credit allowed for any individual study course shall be recommended by the course sponsor.

(b) A licensee claiming credit for an individual study course shall obtain evidence of satisfactory completion of the course from the course sponsor.

(c) Credit shall be assigned to the reporting period in which the provider indicates the course was completed.

(6) Service as lecturer, discussion leader, or speaker.

(a) Instructors, discussion leaders and speakers may claim continuing professional education credit for both preparation and presentation time.

(b) Credit may be claimed for actual preparation time up to two (2) times the class contact hours.

(c) Credit as an instructor, discussion leader or speaker may be claimed if the presentation is one which would meet the requirements of Section 5[6] of this administrative regulation.

(d) Credit shall not be granted for repetitious presentations of courses[group programs] unless it can be demonstrated that the course[program] content was substantially changed and the change required significant additional study or research.

(e) Maximum credit for preparation and teaching[teachings] shall not exceed sixty (60) percent of the renewal period requirement.

(7) Published articles and books.

(a) Licensees may be awarded credit for[~~Credit may be awarded for published~~] articles or books[~~if they write if:~~]

1. The subject matter of the article or book contributes[contribute] directly to the professional competence of the licensee; and

2. Prior to publication, the licensee submits a final draft of the article or book to the board to review and determine the amount of credit to be awarded.

(b) Credit for preparation of the article or book shall not exceed[~~publications may be given on a self-declaration basis up to~~] twenty-five (25) percent of the total CPE[education] hours required.

(c)[~~In exceptional circumstances, a licensee may request additional credit by submitting the article or book to the board with an explanation of the circumstances which he or she believes justifies a greater amount of credit.~~]

(d)[~~The board shall make the final determination of~~]determine the amount of credit to be granted.

(8) Certifications and licenses. Licensees who receive a certification or license from a nationally organized business organization or a federal governmental entity following successful completion of an exam in one (1) of the fields of study listed in this section shall receive credit only for the length of time assigned by the organization or governmental entity to complete the examination.

Section 6. Programs that deal with the following subject areas shall not be considered acceptable continuing education:

- (1) Personal growth or development;
- (2) Self-realization;
- (3) Spirituality;
- (4) Personal health or fitness;
- (5) Sports and recreation;
- (6) Foreign languages cultures; and
- (7) Any other subjects that do not contribute directly to the professional competence of the licensee.

Section 7. Reporting and Controls. (1) Each licensee shall obtain the appropriate documentation to establish that he or she completed the continuing professional education requirements.

(2) This documentation shall be retained by each licensee for a period of five (5) years.

(3) The board shall conduct annually a random audit to verify a certain percentage of licensees completed the amount of continuing professional education hours required to renew his or her license. A licensee who misrepresented they completed the sixty (60) or eighty (80) CPE hours at the time the licensee renewed his or her license shall not be eligible for a retirement waiver after being selected to participate in an audit.

(4) Course completion evidence shall consist of a document prepared by the course sponsor indicating the licensee completed a formal program of learning. A document shall include the:

- (a) ~~Names[Name]~~ of the licensee and program sponsor;
- (b) Title and ~~field of study~~[description of course content];
- (c) Dates attended; and
- (d) Number of ~~CPE[continuing professional education]~~ hours awarded.

(5) A licensee who completed continuing professional education courses that complied with the requirements of this administrative regulation and were presented by or on behalf of his or her employer may submit to the board a list of the courses completed if the list contains the:

- (a) Information described in subsection (4) of this section; and
- (b) Signature of the person at the licensee's place of employment who verifies the accuracy of the information for a third party.

Section 8. Continuing Professional Education Sponsors. (1) Sponsors shall not be required to ~~be preapproved by~~[register with] the board.

(2) Detailed records of each program shall be kept by the sponsor ~~and~~[which] shall include:

- (a) The date of the program presentation;
- (b) The name of each instructor or discussion leader;
- (c) A listing of licensees attending each program presentation; and
- (d) A written ~~agenda~~[outline] of the program presentation.

(3) Records shall be kept by the sponsor for a period of five (5) years following the date each program is presented.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Initial Request for Waiver of CPE Requirements", September 2016[2009];

(b) "License Renewal-CPE Waiver Due to Medical ~~or Extreme~~[of] Personal Hardship", September 2016[2009]; and

(c) "License Renewal-CPE Retirement Waiver", September 2016[2009].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky

40202, Monday through Friday, 8 a.m. to 4:30 p.m.

LORI WARDEN, CPA, President

APPROVED BY AGENCY: September 14, 2016

FILED WITH LRC: September 15, 2016 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016 at 10 a.m., EST at the office of the board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by, five work days prior to the meeting, 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 the 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 October 31, 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: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281, email dick.carroll@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Richard Carroll

(1) Provide a brief summary of:

(a) What this administrative regulation does: Describes the procedures to be followed regarding continuing professional education.

(b) The necessity of this administrative regulation: To insure that CPAs are aware of the procedures that must be followed to satisfy the continuing education requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 325.340 and 325.330(7) authorize the board to establish continuing education requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Notifying CPAs of the requirements and procedures to be followed to obtain credit for continuing education to renew their license.

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

(a) How the amendment will change this existing administrative regulation: It will prohibit the use of personal development courses to satisfy the continuing education requirements, delete an exemption that has already expired, and include changes to the publishing requirement to obtain continuing education credit.

(b) The necessity of the amendment to this administrative regulation: To clarify to CPAs that personal development courses will not satisfy the requirements to be considered continuing education and the requirements to obtain credit for publishing.

(c) How the amendment conforms to the content of the authorizing statutes: The statute authorizes the board to establish the requirements by regulation.

(d) How the amendment will assist in the effective administration of the statutes: It will eliminate any confusion that personal development courses are not acceptable continuing education topics and the requirements to obtain credit for publishing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 7000 CPAs.

(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: Take courses that will improve them as a CPA not as a person and understand the revised publishing requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs vary depending upon the CPE courses.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Advise them that personal development courses will not be acceptable and list the publishing requirements.

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

(a) Initially: No increase in current expenses.

(b) On a continuing basis: No increase in expenses.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board operates solely on the funds contained its trust and agency account.

(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 necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There is no fee imposed by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied since all CPAs seeking to obtain CPE are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? State Board of Accountancy and licensees.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 325.240 and KRS 325.330(7)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(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? Nothing.

(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? Nothing.

(c) How much will it cost to administer this program for the first year? No increase in current expenses.

(d) How much will it cost to administer this program for subsequent years? No increase in current expenses.

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 Pharmacy (Amendment)

201 KAR 2:045. Technicians.

RELATES TO: KRS 315.010(18), (25), 315.020(4)(b), 315.191(1)(a), (g), (l)

STATUTORY AUTHORITY: KRS 315.010(18), (25), 315.020(4)(b), 315.191(1)(a), (g), (l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative

regulations governing pharmacy technicians. KRS 315.010(18) authorizes the board to permit a pharmacy technician to work under the general supervision of a pharmacist. KRS 315.191(1)(l) authorizes the board to promulgate administrative regulations establishing the qualifications a pharmacy technician is required to obtain prior to practicing under the general supervision of a pharmacist. This administrative regulation establishes the qualifications required for a pharmacy technician to practice under the general supervision of a pharmacist, and establishes the scope of practice for a pharmacy technician.

Section 1. A person shall be recognized by the board as a certified pharmacy technician, if:

(1)(a) ~~The person[He]~~ has successfully completed the ~~Pharmacy Technician Certification Exam (PTCE)[National Certification Examination]~~ administered by the ~~Pharmacy Technician Certification Board (PTCB) or the Examination for the Certification of Pharmacy Technicians (ExCPT) by the National Healthcare Association (NHA)[Institute for the Certification of Pharmacy Technicians (ICPT)]~~; and

(b) The certificate issued by the ~~PTCB or NHA[Pharmacy Technician Certification Board or the ICPT]~~ is current; or

(2) ~~The person[He]~~ has successfully completed the Nuclear Pharmacy Technician Training Program at the University of Tennessee.

Section 2. A certified pharmacy technician, subject to the supervision, as defined by KRS 315.010(25), of a pharmacist may perform the following functions:

(1) Certify for delivery unit dose mobile transport systems that have been refilled by another technician;

(2) Within a nuclear pharmacy, receive diagnostic orders; and

(3)(a) Initiate or receive a telephonic communication from a practitioner or practitioner's agent concerning refill authorization, after ~~the certified pharmacy technician[he]~~ clearly identifies himself or herself as a certified pharmacy technician; and

(b) If a practitioner or practitioner's agent communicates information that does not relate to the refill authorization:

1. A technician shall immediately inform the pharmacist; and

2. The pharmacist shall receive the communication.

Section 3. (1) A technician who has not been certified by ~~PTCB or NHA[the Pharmacy Technician Certification Board or the ICPT]~~ may perform the functions specified by Section 2 of this administrative regulation under the immediate supervision of a pharmacist.

(2) A function performed by a certified pharmacy technician or pharmacy technician shall be performed subject to the review of the pharmacist who directed the technician to perform the function.

(3) A pharmacist who directs a certified pharmacy technician or pharmacy technician to perform a function shall be responsible for the technician and the performance of the function.

SCOTT GREENWELL, R.Ph., President

APPROVED BY AGENCY: September 7, 2016

FILED WITH LRC: September 8, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 31, 2016, at 9 a.m. at the Board's office, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by five workdays prior to this 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 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 through October 31, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Steve Hart, Executive Director, Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Steve.Hart@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Steve Hart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements that govern pharmacy technicians and certified pharmacy technicians.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the requirements for recognition and scope of practice for technicians.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation pertains to pharmacy technicians that the authorizing statute permits the board to regulate and control.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Interested parties will understand the requirements to become a certified pharmacy technician, and the scope of practice of technicians.

(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 recognizes the exam administered by NHA, formerly known as ICPT.

(b) The necessity of the amendment to this administrative regulation: The amendment corrects the name of the association and exam offered by the business formerly known as ICPT.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment regulates and controls the testing of pharmacy technicians, as authorized by the scope of KRS 315.191(1)(a) and (g).

(d) How the amendment will assist in the effective administration of the statutes: The amendment establishes the required training for a certified pharmacy technician.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 500 technicians each year take an exam to work as a certified pharmacy technician; the number of certified pharmacy technicians who choose to take the ExCPT is 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: Pharmacy technicians may be credentialed by either of 2 entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of ExCPT is \$105 (slightly less than the \$129 for PTCE). The cost of the exam is collected by ExCPT, and not the board.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): An individual that passes the exam may be credentialed by NHA as a certified pharmacy technician.

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

(a) Initially: No new costs are required to implement this regulation by the board.

(b) On a continuing basis: No new costs will be incurred by the board.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is required for the board to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or

funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required because of the amendment to this regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all licensees that seek to be recognized as certified pharmacy technicians.

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 Pharmacy 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 315.191(1)(a) and (g) authorize the Board to promulgate administrative regulations to regulate and control all matters pertaining to pharmacy technicians.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? It will cost \$0 for the board to recognize ExCPT as an acceptable exam for a certified pharmacy technician in the first year.

(d) How much will it cost to administer this program for subsequent years? It will cost \$0 for the board to recognize ExCPT as an acceptable exam for a certified pharmacy technician 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 (+/-): \$0

Expenditures (+/-): \$0

Other Explanation: N/A

GENERAL GOVERNMENT CABINET Board of Pharmacy (Amendment)

201 KAR 2:050. Licenses and permits; fees.

RELATES TO: KRS 218A.205(3)(g), 315.035(1), (2), (4), 315.0351(1), 315.036(1), 315.050(5), 315.060, 315.110, 315.120, 315.402, 315.518(1), 315.520(4)

STATUTORY AUTHORITY: KRS 218A.205(3)(g), 315.191(1), 315.035(1), (2), (4), 315.036(1), 315.050(5), 315.060, 315.110(1), 315.120(4), 315.402(1), 315.518(1), 315.520(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(i) authorizes the board to assess reasonable fees for services rendered to perform its duties and responsibilities. This administrative regulation provides reasonable fees for this agency to perform all the functions for which it is responsible.

Section 1. The following fees shall be paid in connection with pharmacist examinations and licenses, pharmacy permits, intern certificates, and the issuance and renewal of licenses and permits:

(1) Application for a licensee for pharmacist examination -

\$150;

(2) Application and initial license for a pharmacist license by license transfer - \$250;

(3) Certifying the grades of a licentiate of Kentucky to the licensing agency of another state - ten (10) dollars;

(4) Annual renewal of a pharmacist license - seventy (70) dollars;

(5) Delinquent renewal penalty for a pharmacist license - seventy (70) dollars;

(6) Annual renewal of an inactive pharmacist license - ten (10) dollars;

(7) Pharmacy intern certificate valid six (6) years - twenty-five (25) dollars;

(8) Duplicate of original pharmacist license wall certificate - seventy-five (75) dollars;

(9) Application for a permit to operate a pharmacy - \$100;

(10) Renewal of a permit to operate a pharmacy - \$100;

(11) Delinquent renewal penalty for a permit to operate a pharmacy - seventy-five (75) dollars;

(12) Change of location or change of ownership of a pharmacy or manufacturer permit - seventy-five (75) dollars;

(13) Application for a permit to operate as a manufacturer - \$100;

(14) Renewal of a permit to operate as a manufacturer - \$100;

(15) Delinquent renewal penalty for a permit to operate as a manufacturer - \$100;

(16) Change of location or change of ownership of a wholesale distributor license - seventy-five (75) dollars;

(17) Application for a license to operate as a wholesale distributor - \$100;

(18) Renewal of a license to operate as a wholesale distributor - \$100;

(19) Delinquent renewal penalty for a license to operate as a wholesale distributor - \$100; and

(20) Query to the National Practitioner Data Bank of the United States Department of Health and Human Services – twenty-five (25) dollars;

~~(21) Application for a license to operate as a home medical equipment supplier - \$200;~~

~~(22) Renewal for a license to operate as a home medical equipment supplier - \$200; and~~

~~(23) Delinquent renewal penalty for a license to operate as a home medical equipment supplier - \$150].~~

SCOTT GREENWELL, R.Ph., President

APPROVED BY AGENCY: September 7, 2016

FILED WITH LRC: September 8, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 31, 2016, at 9 a.m. at the Board's office, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by five workdays prior to this 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 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 through October 31, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Steve Hart, Executive Director, Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email steve.hart@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Steve Hart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes fees.

(b) The necessity of this administrative regulation: This regulation establishes fees that must be paid in connection with the practice of pharmacy in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation establishes fees that are authorized by KRS 315.191(1)(i).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Interested parties are able to ascertain pharmacy-related 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: The amendment deletes fees pertaining to home medical equipment service providers.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary since the Board of Pharmacy no longer regulates home medical equipment service providers. HB 562 was passed in the 2016 General Session, and home medical equipment service providers are now regulated pursuant to KRS 309.400-309.422.

(c) How the amendment conforms to the content of the authorizing statutes: The Board of Pharmacy no longer regulates home medical equipment providers, so obsolete language must be deleted from the administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: The amendment deletes fees pertaining to home medical equipment service providers, since HB 562 repealed the authority of the Board of Pharmacy to regulate home medical equipment service providers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 718 home medical equipment service providers were previously licensed by the Board of Pharmacy.

(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: Home medical equipment service providers are not required to take any action 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 is no cost for home medical equipment service providers to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): 718 home medical equipment service providers will not be paying fees to the Board of Pharmacy.

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

(a) Initially: No costs will be incurred. The Board will not have the revenue from home medical equipment service providers, but it will also not have the expenses associated with administration and enforcement.

(b) On a continuing basis: No costs will be incurred.

(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 for implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required because of the amendment to 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 since fees for home medical equipment service providers will not be collected by the Kentucky Board of Pharmacy, and this shall apply uniformly to all home medical equipment service providers.

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 Pharmacy will no longer collect fees for home medical equipment service providers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. HB 562.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There is no cost to delete fees for home medical equipment service providers.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated in subsequent years by deleting fees for home medical equipment service providers.

(c) How much will it cost to administer this program for the first year? There is no cost to delete fees for home medical equipment service providers.

(d) How much will it cost to administer this program for subsequent years? There is no cost in subsequent years to delete fees for home medical equipment service providers.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Kentucky Board of Pharmacy (Amendment)

201 KAR 2:076.[Parenteral pharmaceutical] Compounding.

RELATES TO: KRS 217.055(2), 217.065(7), 218A.010(13)(a), 315.020(1), 315.035(6), 315.0351, 315.191(1)(a), (g)

STATUTORY AUTHORITY: KRS 315.020(1), (2), 315.035(6), 315.0351[315.065(1), (2)], 315.191(1)(a), (g)

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Board of Pharmacy is responsible to insure minimum standards of practice of[parenteral] compounding by pharmacies. The board is also responsible to insure the safety of all products provided to the citizens of the commonwealth. This administrative regulation establishes the requirements for compounding non-sterile and sterile preparations.

Section 1. (1) A policy and procedure manual for non-sterile and sterile[parenteral pharmaceutical] compounding shall be available at a pharmacy for inspection purposes.

(2) The manual shall include policies and procedures for:

(a)[(1)] Oncology drugs;

(2)] Disposal of unused supplies and medications;

(b)[(3)] Drug destruction and return;

(c)[(4)] Drug dispensing;

(d)[(5)] Drug labeling;

(e)[(6)] Storage;

(7)] Duties and qualifications for staff;

(f)[(8)] Equipment;

(9)] Handling of hazardous wastes;

(g)[(10)] Investigation drug protocol;

(h)[(11)] Safety;

(i)[(12)] Recordkeeping;

(j)[(13)] Reference material; and

(k)[(14)] Sanitation;

(15)] Security[;

(16)] Transportation; and

(17)] Quality assurance, as relates to:

(a) Recall procedures;

(b) Storage and dating;

(c) Educational procedures for staff and patient;

(d) Sterile procedures, to include routine maintenance and hood certification; and, if necessary,

(e) Sterile testing of end products, operator procedures, and environment].

(3) The manual shall be reviewed and revised on an annual basis.

Section 2. (1) All non-sterile compounded preparations shall be compounded pursuant to United States Pharmacopeia (USP) 795.

(2) All sterile compounded preparations shall be compounded pursuant to USP 797.

(3) All hazardous sterile and non-sterile compounded preparations shall be compounded pursuant to USP 800.

(4) A person compounding or assisting in the practice of pharmacy by compounding shall be, to the satisfaction of the PIC, adequately trained by a knowledgeable person or institution to compound each preparation[The following physical requirements are in addition to other requirements set forth in KRS 217.055 and 315.020:

(1) The licensed pharmacy shall have a designated area for preparing compounded parenteral pharmaceuticals. This area shall be designed to withstand routine disinfecting procedures and shall be kept free of particulate generators, e.g., corrugated cardboard containers. This area shall be designed to avoid unnecessary traffic and airflow disturbances. It shall be used only for the preparation of sterile products. It shall be of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

(2) The minimum equipment shall be:

(a) Laminar airflow hood or Class 100 clean room;

(b) Sink with hot and cold running water which is convenient to the compounding area;

(c) Appropriate disposal containers for used needles, syringes, and if applicable, cytotoxic and hazardous wastes from preparation of said agents;

(d) A Class II vertical flow biological safety cabinet, if oncology agents are prepared;

(e) Refrigerator or freezer with a thermometer; and

(f) A temperature controlled delivery container (not required if delivered in the same facility).

(3) The minimum supplies shall be:

(a) Disposable needles, syringes, and other supplies needed for aseptic parenteral compounding;

(b) Disinfectant cleaning solutions;

(c) Hand-washing agent with bactericidal action;

(d) Disposable, lint-free towels or equivalent;

(e) Appropriate filters and filtration equipment;

(f) Oncology drug spill kit; and

(g) Disposable gowns, and sterile disposable gloves.

(4) This area of the pharmacy shall not be accessible to the public and no one shall have access without supervision of the pharmacist.

(5) The pharmacy shall have current reference materials related to sterile products].

Section 3. (1) A facility that compounds non-sterile or sterile preparations[Each licensed pharmacy] shall be managed by a

pharmacist-in-charge (PIC) licensed to practice pharmacy in the commonwealth and who is knowledgeable in the specialized functions of preparing and dispensing compounded non-sterile and sterile preparations[pharmaceuticals], including the principles of aseptic technique and quality assurance.

(2) The PIC[pharmacist-in-charge] shall be responsible for the purchasing, storage, compounding, repackaging, dispensing, and distribution of all drugs and preparations[pharmaceuticals]. The pharmacist shall also be responsible for the development and continuing review of all policies and procedures, training manuals, and the quality assurance programs, and as well as participation in those aspects of the facility's patient care evaluation program relating to pharmaceutical material utilization and effectiveness.

(3) The PIC[pharmacist-in-charge] may be assisted by additional personnel adequately trained in this area of practice. A pharmacist shall be accessible at all times at each licensed facility to respond to patients' and other health professionals' questions and needs.]

Section 4. (1) The pharmacist shall receive a written, electronic, facsimile, or verbal prescription, or medical[direct copy] order from a prescriber before dispensing any compounded, non-sterile or sterile preparation[parenteral product]. These prescriptions or medical[direct copy] orders shall contain the following:

- (a) Patient's name, and species if not human;
- (b) Patient's address on controlled substances prescriptions or location (room number);
- (c) Drug name and strength;
- (d) Directions for use;
- (e) Date;
- (f) Authorized prescriber's name;
- (g) Prescriber's address and DEA number, if applicable;
- (h) Refill or end date instructions, if applicable; and
- (i) Dispensing quantity, if applicable.

(2) A pharmacy generated profile shall be maintained separate from the prescription file. The patient profile shall be maintained under the control of the PIC[pharmacist-in-charge] for a period of two (2) years following the last dispensing activity. In addition, a medication administration record (MAR) as part of the institutional[medical] record shall be retained for a period of five (5) years from date of the patient's discharge from the facility, or in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longer. Supplemental records may also be employed as necessary. The patient profile shall contain:

- (a) Patient's name;
- (b) Name of compounded preparation[Sterile product] dispensed;
- (c) Date dispensed;
- (d) Drug content and quantity; and
- (e) Patient's directions.

(3) Each compounded preparation[sterile pharmaceutical] dispensed to patients shall be labeled with the following information:

- (a) Name, address, and telephone number of the licensed pharmacy, if product will leave the premises;
- (b) Date;
- (c) Identifying number;
- (d) Patient's full name;
- (e) Name of each drug, strength, and amount;
- (f) Directions for use, including infusion rate;
- (g) Required controlled substances transfer warnings, where applicable;
- (h) Beyond use[Expiration] date;
- (i) Identity of dispensing pharmacist;
- (j) Storage requirements, when applicable; and
- (k) Auxiliary labels, when applicable.

(4) The pharmacist in charge shall maintain access to and submit, as appropriate, such records and reports as are required to insure the patient's health, safety, and welfare. Records shall be readily available, maintained for two (2) years at facility not

computerized, but for five (5) years at facility utilizing computerized recordkeeping, and subject to inspection by the Board of Pharmacy or its agents. These shall include the following:

- (a) Patient profile;
- (b) Purchase records;
- (c) Biennial controlled substances inventories;
- (d) Policy and procedures manual;
- (e) Policies and procedures for hazardous[cytotoxic] wastes, if applicable;
- (f) Quality assurance records; and
- (g) Such other records and reports as may be required by law and rules and administrative regulations of the Kentucky Board of Pharmacy.

(5) Information regarding individual patients shall be maintained in a manner to assure confidentiality of the patient's records. Release of this information shall be in accordance with federal and state laws.

[(5) The pharmacist in charge shall be responsible for the environmental control of all products shipped. Any compounded, sterile pharmaceutical that is frozen or requires refrigeration shall be shipped or delivered to a patient in appropriate temperature controlled delivery containers, if the product leaves the premises.

(6) The pharmacist in charge shall be responsible for assuring that there is a system for the disposal of hazardous waste in a manner that does not endanger the public health.

(7) A quality assurance program documented by the pharmacist shall be available to provide accountability for the manufacturing and distribution of sterile parenteral products.

Section 5. Licensed pharmacies that prepare oncology agents shall meet the following additional requirements in order to insure the protection of the personnel involved:

(1) All oncology agents shall be compounded in a vertical flow, Class II, biological safety cabinet, and other products may be compounded in this cabinet;

(2) Protective apparel shall be worn by personnel compounding oncology drugs, and this shall include disposable gloves and gowns;

(3) Proper aseptic and safety techniques shall be used by personnel compounding oncology agents;

(4) Appropriate disposable procedures for cytotoxic waste shall be developed that comply with applicable state and federal regulations;

(5) Written procedures for handling both major and minor spills of cytotoxic agents shall be developed; and

(6) Prepared doses of oncology drugs shall be dispensed, shipped, or delivered in a manner to minimize the risk of accidental rupture of the primary container and labeled with a distinctive cautionary label as being hazardous.

Section 6. There shall be a documented, ongoing quality control program that monitors personnel performance, equipment, and facilities. Quality assurance procedures, at a minimum, shall include:

- (1) Recall procedures;
- (2) Storage and dating;
- (3) Educational procedures for staff;
- (4) Sterile procedures;
- (5) Hood or clean room annual certification by an independent contractor in accordance with federal standard 209B and NSF standard No. 49;
- (6) Prefilter cleaning and replacement when appropriate;
- (7) Justification of the chosen expiration dates for compounded parenteral products; and
- (8) Documentation of quality assurance audits at regular, planned intervals, including infection control and sterile technique audits.]

Section 5.[7.] Violation of any provision of this administrative regulation shall constitute unethical or unprofessional conduct in accordance with KRS 315.121.

Section 6. Incorporation by Reference. (1) The following

material is incorporated by reference:

(a) USP 795, Revision Bulletin Official January 1, 2014;

(b) USP 797, Revision Bulletin dated 2007; and

(c) USP 800, Official August 1, 2016 with USP implementation date of July 1, 2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m.

SCOTT GREENWELL, R.Ph., President

APPROVED BY AGENCY: September 7, 2016

FILED WITH LRC: September 8, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 31, 2016, at 9 a.m. at the Board's office, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by five workdays prior to this 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 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 through October 31, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Steve Hart, Executive Director, Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Steve.Hart@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Steve Hart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards of practice for compounding non-sterile, sterile, and hazardous preparations.

(b) The necessity of this administrative regulation: This regulation is necessary to ensure the safety of compounded products provided to the citizens of this Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes compounding requirements for pharmacies and pharmacists; the Board is authorized to promulgate administrative regulations pertaining to pharmacies and pharmacists.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Pharmacies and pharmacists will have notice of minimum standards for compounded preparations.

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

(a) How the amendment will change this existing administrative regulation: The amendment establishes that compounded preparations shall be compounded pursuant to standards of United States Pharmacopeia (USP), which is already recognized by the Cabinet for Health and Family Services.

(b) The necessity of the amendment to this administrative regulation: The amendment establishes the standards under which compounded products shall be prepared.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment establishes: health and sanitation standards as authorized by KRS 315.035(6); a duty of the pharmacist-in-charge, as required by KRS 315.020(1) and 315.0351(7), to be knowledgeable in the preparation of compounded products to ensure quality assurance; standards pertaining to pharmacies and pharmacists, authorized by KRS

315.191(1)(a) and (g).

(d) How the amendment will assist in the effective administration of the statutes: The amendment establishes clear standards of practice for compounded preparations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates approximately 1200 pharmacies will 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: Pharmacists and pharmacies will have to comply with USP standards. USP standards are already recognized by the Cabinet for Health and Family Services and approximately 35 boards of pharmacy.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to pharmacies that are in compliance with these standards; standards that have been in place since 2004.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this regulation greatly increases patient safety.

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

(a) Initially: No new costs will be incurred.

(b) On a continuing basis: No new costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Enforcement of this regulation shall be accomplished through inspections. The Board of Pharmacy generates its own revenues without contribution by the General Assembly.

(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 because of the amendment to this regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all that prepare compounded sterile, non-sterile or hazardous products.

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 Pharmacy 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 315.191(1)(a) and (g) authorize the Board to promulgate administrative regulations to regulate and control pharmacies and pharmacists (includes pharmacists-in-charge). The Board may promulgate health and sanitation standards pursuant to KRS 315.035(6). KRS 315.020(1) and 315.0351(7) require a pharmacist-in-charge in all pharmacies.

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 for the agency, since enforcement of compounding is and has been a responsibility of inspectors.

(d) How much will it cost to administer this program for subsequent years? No additional cost for the agency, since enforcement of compounding is and has been a responsibility of inspectors.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employment and Training
(Amendment)

787 KAR 1:070. Reasonable time for protesting claim.

RELATES TO: KRS 341.370(3), 341.530(3)

STATUTORY AUTHORITY: KRS 151B.020, 341.115, 341.370(3), 341.530(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.370(3) and 341.530(3) require the secretary to promulgate administrative regulations establishing what constitutes reasonable time within which an employer shall protest a claim by a former worker. This administrative regulation establishes the requirements for determining reasonable time.

Section 1. (1) Except as provided in Section 2 of this administrative regulation, the reasonable time referred to in KRS 341.370(3) or 341.530(3) shall not extend beyond ten (10)~~fifteen (15)~~ days after the date of the first notice to the employer from the department that a claim has been filed.

(2) In computing this ten (10)~~fifteen (15)~~ day period:

(a) The day following the date of mailing of the notice shall be considered the first day; and

(b) The date the employer's return notice is received by the department shall be determined as provided in 787 KAR 1:230.

Section 2. (1) If the employer is not the worker's most recent employer and has not received Form UI-412A as provided in 787 KAR 1:060, the reasonable time referred to in KRS 341.530(3) shall not extend beyond ten (10)~~fifteen (15)~~ days after the date of first notice to the employer from the department that a claim has been filed.

(2) In computing the ten (10)~~fifteen (15)~~ day period:

(a) The day following the date of mailing of the notice shall be considered the first day; and

(b) The date the employer's return notice is received by the department shall be determined as provided in as 787 KAR 1:230.

JASON DUNN, Executive Director

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016 at 10:00 a.m. at the offices of the Office of Employment and Training, 275 E. Main Street, 2nd floor, Executive Director's Office, Frankfort, Kentucky 40621. Individuals interested in being heard at this hearing shall notify this agency in writing 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public

hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 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: Katie Houghlin, Assistant Director, Unemployment Benefits, 275 East Main, 2C, Frankfort, Kentucky 40602, phone (502) 564-2900 email KatieM.Houghlin@ky.gov, fax (502) 564-5502.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Katie Houghlin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes what constitutes reasonable time within which an employer shall protest a claim by a former worker.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements for determining reasonable time within which employers shall protest claims by former workers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115 gives the secretary the power and authority to promulgate administrative regulations necessary in the administration of KRS Chapter 341. KRS 341.370(3) and 341.530(3) require the secretary to promulgate administrative regulations establishing what constitutes reasonable time within which an employer shall protest a claim by a former worker. This administrative regulation sets forth that reasonable time.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets the time period for employer protest of a claim by a former worker.

(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 reestablishes the protest period to ten (10) days rather than fifteen (15) days.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary because of the negative impact on first payment timeliness measurements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 341.115 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow the Division to meet timeliness requirements as set forth by the Department of Labor.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 95,000 active employer accounts in Kentucky which have the potential for an unemployment claim at some point during their worker's employment or upon departure.

(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 protest period would change from fifteen (15) days to ten (10) days. The employer would need to protest within this shortened time period.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost associated to the employer.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals receiving benefits will not experience the additional five (5) day delay in receiving benefits.

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

(a) Initially: Minimal program changes will be necessary to Division's computer system. These programming changes will be negligible costs and absorbed in the course of normal operating expenses.

(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? Unemployment Insurance is entirely federally funded. Unemployment Insurance administrative funds will be used to make the necessary updates to the computer system.

(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 fees necessary for this change. The unemployment insurance program is entirely federally funded and any technical changes necessary will be funded by unemployment insurance administrative funds.

(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? This informs the employing unit of the protest period for a claim by a former worker. This amendment will be applied to all employers and tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Any state or local government (including cities, counties, fire departments, or school districts) protesting a claim by a former worker.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 341.370(3) & 341.530(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? No revenue will be generated with the implementation of this administrative regulation 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? No revenue will be generated with the implementation of this administrative regulation for subsequent years.

(c) How much will it cost to administer this program for the first year? Implementation of this amendment will create no additional administrative costs in the first full year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer this program for subsequent years.

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

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department of Workforce Investment Kentucky Office of Assistive Technology (Amendment)

789 KAR 1:010. General eligibility criteria for assistive technology loans.

RELATES TO: KRS 151B.450-151B.475

STATUTORY AUTHORITY: KRS 151B.465(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.465(9) requires the Board of Directors of the Kentucky Assistive Technology Loan Corporation to promulgate administrative regulations through the cabinet to establish and administer a program for providing low-interest loans to qualified borrowers through qualified lenders for the acquisition of assistive technology. This administrative regulation prescribes when, and under what conditions, assistive technology loans shall be provided, in order to distribute limited funds equitably over the population of qualified borrowers.

Section 1. Definitions. (1) "KATLC" means the Kentucky Assistive Technology Loan Corporation.

(2) "Nonprofit organization" means an incorporated entity under the provisions of KRS 273.163 to 273.387 that is in good standing with the Kentucky Office of the Secretary of State.

Section 2. Loan Purposes. The board shall:

(1) Consider:

(a) A loan for the acquisition of assistive technology equipment if the equipment is essential to compensate for the limitations caused by the disability; or

(b) An additional loan to finance a repair or provide maintenance; and

(2) Depending on the availability of funds and the applicant's eligibility for a loan, include in the amount of the loan:

(a) The cost of an assistive technology service, including an assessment or training, if the service is directly related to the assistive technology device; or

(b) An extended service agreement or warranty.

Section 3. Eligibility to Apply for a Low Interest Loan. (1) Except as provided in subsection (2) of this section, to be eligible to apply for a low interest loan, an applicant shall:

(a) Be an individual who meets the definition of qualified borrower established in KRS 151B.450(6) with a disability that is not of a temporary, transient, or acute nature;

(b) Be eighteen (18) years old and have the legal authority to enter into a contract; and

(c) Be a resident of Kentucky for at least six (6) continuous months prior to the date of application.

(2) To be eligible to apply for a low interest loan, a nonprofit organization shall:

(a) Provide assistive technology to an individual with disabilities who is a resident of Kentucky; and

(b) Affirm that, and explain how, the adaptive equipment will be used for a current or potential employee, client, customer, or other associated individual with disabilities as required by KRS 151B.450(6).

Section 4. Initial Verification of Disability. An applicant for an initial loan shall verify disability by furnishing one (1) or more of the following:

(1) A statement from a licensed medical professional indicating how the disability substantially affects one (1) or more major life activities as described in KRS 151B.450;

(2) Proof of enrollment in one of the following:

(a) State vocational rehabilitation program;

(b) Social Security Disability Insurance (SSDI);

(c) Medicare enrollment based on disability;

(d) Medicaid enrollment based on disability;

(e) Veterans Administration enrollment based on current disability; or

(f) Educational services enrollment under an individualized family service plan or individualized education plan; or

(3) Other proof of a disability that affects a major life activity as required by KRS 151B.450(6).

Section 5. Required KATLC Application Information. The following material shall be required as part of the loan request:

(1) Legal name, current address and telephone number, and Social Security number (if a nonprofit organization, the employer identification number shall substitute for the Social Security number);

(2) Nature of relationship to a person with a disability (if applicant does not have a disability);

(3) Nature of disability and how it affects one (1) or more major life activities as described in KRS 151B.450;

(4) Description of the assistive technology being requested and how it will compensate for the limitations of a disability and improve the quality of life of an individual with a disability;

(5) Amount of money requested including the cost for an extended warranty, necessary training, or other item requested to be included in the amount of the loan. An itemized price quote from the potential seller shall be attached;

(6) Total current monthly income with sources;

(7) Total monthly installment payments, which shall include the amount paid in rent, mortgage, credit card payments, or unsecured loans;

(8) A signed statement that all submitted information is truthful and accurate;

(9) A signed waiver allowing the release of information about the individual between the board and the qualified lender; and

(10) If the applicant is a nonprofit organization, proof of that status as defined in Section 1(2) of this administrative regulation.

Section 6. Loan Application Procedure. (1) A loan request shall:

(a) Include as attachments all required information and documentation; and

(b) Be submitted to the KATLC, 275 E Main Street Mail Drop 2-EK, Frankfort Kentucky 40621, 1-877-675-0195.

(2) After review of the request, the board of directors shall require the applicant to obtain an evaluation from an assistive technology professional, medical professional, or other professional if more information is needed for the board to make a decision.

(3) An application shall include a quote for the total price of the equipment or service for which the loan is being requested. The board shall require the applicant to obtain additional price quotes if it considers the submitted quote to be unusually high, unless the applicant can demonstrate that the equipment is available from a single source.

(4) The applicant shall be referred to a qualified lender that has previously entered into an agreement with the board that specifies the terms and conditions under which the qualified lender may make a loan. The qualified lender shall conduct a credit check of the applicant.

(5) The qualified lender may reject the loan application. The board may override the denial based upon the following criteria:

(a) Medical debt;

(b) Payment of current obligations;

(c) Financial support from family;

(d) Existence of co-signer;

(e) Down payment; and

(f) No credit history or limited credit history.

(6) KATLC shall notify the applicant of its decision in writing, or in appropriate alternative format as requested, within fifteen (15) days after the decision is made.

(7)(a) If desired, an applicant who is aggrieved by a decision of the board shall petition the board for reconsideration, in writing or in appropriate alternative format, and may provide additional documentation related to credit history, income, or assistive technology that addresses the stated reasons for denial.

(b) The board shall:

1. Consider the new information;

2. Provide the applicant with an opportunity to be heard; and

3. Inform the applicant of its decision at the meeting or in writing or in appropriate alternative format within seven (7) days if the applicant is not present at the meeting. The decision of the board shall be final.

Section 7. General Loan Requirements. (1) The minimum amount of a loan shall be \$500 and the maximum amount of a loan shall be ~~\$50,000~~[\$25,000], except that the maximum amount for home modifications shall be \$15,000.

(2) The period of a loan shall be from a minimum of one year to a maximum of ten years or the estimated life of a device, whichever is less. The loan period shall be congruent with the agreement between the board and the qualified lender pursuant to Section 10 of this administrative regulation.

(3) The assistive technology that can be titled shall be titled in the name of the qualified borrower with the board or its agent as lien holder.

(4) The board or the qualified lender may require a qualified borrower to insure the equipment for the remaining value of the loan.

(5) The qualified borrower shall be responsible for the repair or maintenance of the equipment. An additional loan may be considered to finance a repair or maintenance.

(6) An individual may obtain more than one (1) loan if the total amount of all loans ~~does~~[do] not exceed ~~\$50,000~~[\$25,000].

(7) The qualified lender may require a down payment.

Section 8. Priority Consideration. An application shall be considered in the order in which it was received according to the following order of preference:

(1) An individual with a disability or parent or legal guardian of a person with a disability who has no current loans through the board;

(2) An individual with a disability or parent or legal guardian of a person with a disability who has one (1) or more existing loans through the board; and

(3) A nonprofit organization.

Section 9. Confidentiality. The application and all submitted information shall be held confidential. (1) KATLC shall use an identification number for each application. Unless otherwise required, the name, Social Security number, address, telephone number, and electronic mail address of the applicant shall not be revealed.

(2) The board shall meet in closed session if discussing an appeal of an individual application and shall refer to an application in open session by its identification number.

(3) The secretary of the cabinet or a designee shall maintain access to all records relating to an application or loan.

Section 10. Agreement with a Qualified Lender. (1) In contracting with one (1) or more qualified lenders, the board shall give primary consideration to:

(a) The lender's ability to provide loans statewide;

(b) The most favorable interest rate available for technology loans;

(c) The most favorable interest rate to be paid on corporation deposits; and

(d) The funds to be made available for technology loans over and above the amount of corporation funds on deposit.

(2) A qualified lender shall:

(a) Execute a written agreement with the board that establishes the requirements and conditions for issuing a loan, the length of the loan, and procedures for collecting on delinquent or defaulted loans; and

(b) Agree to abide by all administrative regulations pertinent to the corporation in relation to loans.

PATRICK B. SHIRLEY, Staff Attorney

For ROWENA HOLLOWAY, Chair

APPROVED BY AGENCY: September 14, 2016

FILED WITH LRC: September 15, 2016 at noon

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 27, 2016, at 9:00am, at the McDowell Center, 8412 Westport Road, Louisville, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 October 31, 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: Patrick Shirley, Staff Attorney, 300 Sower Blvd., 4th Floor, phone 502-564-4641, email patrickb.shirley@ky.gov, fax 502-564-9990.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Patrick Shirley

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes guidelines for administration and regulation of Kentucky's Assistive Technology Loan Corporation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement provisions of KRS 151B.450-475.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides information necessary for specific guidance and operation of the state's assistive technology program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides specific administrative guidance for the implementation of the state's assistive technology program.

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

(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to adapt the regulations to provide better guidance to individuals who are interested in obtaining a loan for assistive technology. It will also raise the amount of the loan that an individual may obtain and that the Board may authorize.

(b) The necessity of the amendment to this administrative regulation: The changes made to the regulation were needed to more clearly define what is expected of individuals that apply for and obtain a loan from the assistive technology program. Modifications of vehicles are expensive and the Board needs to raise the amount it can loan to individuals so that the individuals are not left short in obtaining the modifications.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statute by specifying guidance for the requirements of obtaining a loan for the purchase of assistive technology.

(d) How the amendment will assist in the effective administration of the statutes: This amendment more clearly defines to applicants and recipients what benefits they can obtain and the expectations of repaying the loan.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Disabled individuals that seek to obtain a loan for the purchase of assistive technology.

(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 applicants and recipients will not have to take any action to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Nothing.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They may be entitled to receive a larger loan.

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

(a) Initially: No additional costs are expected.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no need for 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 fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all disabled 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? Kentucky Assistive Technology Loan Corporation

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 151B.450-475

(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:

PUBLIC PROTECTION CABINET Department of Housing Buildings and Construction Division of Plumbing (Amendment)

815 KAR 20:010. Definitions for 815 KAR Chapter 20.

RELATES TO: KRS 132.010(9), (10), Chapter 318

STATUTORY AUTHORITY: KRS[13A.120,] 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code to regulate plumbing. The office is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This administrative regulation establishes definitions for terms used in 815 KAR Chapter 20[relates to the

definitions needed to interpret other sections of the subsequent administrative regulations or comprising the State Plumbing Code. This amendment creates an additional definition for use in the State Plumbing Code to clarify the type and size of rock to use for bedding under piping. It was approved by the Plumbing Code Committee and Board of Housing].

Section 1. Definitions[Definition of Terms]. (1) "ABS" means acrylonitrile-butadiene-styrene.

(2) "Administrative authority" means the Department[Office] of Housing, Buildings and Construction or any person or agency authorized by the department[office] to administer and enforce the provisions of the state plumbing code.

(3)[(2)] "Air break (drainage system)" means a piping arrangement in which a drain from a fixture, appliance, or device discharges indirectly into another fixture, receptacle, or interceptor at a point below the flood level rim.

(4)[(3)] "Air gap (drainage system)" means the unobstructed vertical distance through the free atmosphere between the outlet of waste pipe and the flood level rim of the receptacle into which it is discharging.

(5)[(4)] "Air gap (water distribution system)" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

(6)[(5)] "Anchors" means "supports" as defined by this administrative regulation.

(7)[(6)] "Apprentice[plumber]" is[as] defined by[in] KRS 318.010(7).

(8)[(7)] "Approved" means accepted or acceptable under an applicable specification stated or cited in this code.

(9)[(8)] "Area drain" means a receptacle designed to collect surface or storm water from an open area.

(10)[(9)] "Aspirator" means a fitting or device supplied with water or other fluid under positive pressure, which passes through an integral orifice or "constriction" causing a vacuum. Aspirators are often referred to as "suction" apparatus[.] and are similar in operation to an ejector.

(11) "ASTM" means American Society for Testing and Materials.

(12)[(10)] "Autopsy table" means a fixture or table used for postmortem examination of a body.

(13)[(11)] "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back siphonage is one type of backflow.

(14)[(12)] "Backflow connection" means any arrangement whereby backflow may occur (see "cross connection" as defined by this administrative regulation).

(15)[(13)] "Backflow preventer" means a device or means to prevent backflow.

(16)[(14)] "Backflow preventer, reduced pressure zone type" means an assembly of differential valves and check valves, including an automatically opened spillage port to the atmosphere.

(17)[(15)] "Back siphonage" means the flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other sources into a potable water supply pipe due to a negative pressure in a[such] pipe.

(18)[(16)(a)] "Basement" means the lowest level of a dwelling unit, which is wholly or partly below the ground level in which the entrance and exit is made by use of a stairway or other mechanical means and which may or may not have an entrance and exit at the basement floor level.

(19)[(17)] "Basement floor drain[drains]" means a drain placed in the basement floor of a residence that does or does[which may or may] not receive sanitary waste water.

(20)[(17)] "Battery of fixtures" means any group of two (2) or more similar adjacent fixtures that[which] discharge into a common horizontal waste or soil branch.

(21)[(18)] "Bedpan hopper" means "clinical sink" as defined by this administrative regulation.

(22)[(19)] "Bedpan steamer or boiler" means a fixture used for

scalding bedpans or urinals by direct application of steam of boiling water.

(23)[(20)] "Bedpan unit" means a small workroom in the nursing area designed and equipped for emptying, cleaning, and sometimes for steaming bedpans, and for no other purpose[purposes].

(24)[(21)] "Bedpan washer and sterilizer" means a fixture designed to wash bedpans and to flush the contents into the sanitary drainage system. It can[may] also provide for disinfecting utensils by scalding with steam or hot water.

(25)[(22)] "Bedpan washer hose" means a device supplied with hot and cold water and located adjacent to a water closet or clinical sink to be used for cleaning bedpans.

(26)[(23)] "Boiler blow-off" means an outlet on a boiler to permit emptying or discharge of sediment.

(27)[(24)] "Boiler blow-off tank" means a vessel designed to receive the discharge from a boiler blow-off outlet and to cool the discharge to a temperature that[which] permits its safe discharge to the drainage system.

(28)[(25)] "Branch" means that part of the piping system that[which] extends horizontally, at a slight grade, with or without lateral or vertical extensions or vertical arms, from the main to receive fixture outlets not directly connected to the main.

(29)[(26)] "Branch, fixture" means "fixture branch" as defined by this administrative regulation.

(30)[(27)] "Branch interval" means a distance along a soil or waste stack corresponding in general to a story height, but in no case less than eight (8) feet, within which the horizontal branches from one (1) floor or story of a building are connected to the stack.

(31)[(28)] "Branch vent" means a vent connecting one (1) or more individual vents with a vent stack or stack vent.

(32)[(29)] "Building" means a structure having walls and a roof designed and used for the housing, shelter, enclosure, or support of persons, animals or property.

(33)[(30)] "Building classification" means the arrangement of buildings in classes according to occupancy.

(34)[(31)] "Building drain" means that part of the lowest piping of a drainage system that[which] receives the discharge from soil, waste, or[and] other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall.

(35)[(32)] "Building drain; combined" means a building drain that[which] conveys both sewage and storm water or other drainage.

(36)[(33)] "Building drain; sanitary" means a building drain that[which] conveys sewage only.

(37)[(34)] "Building drain; storm" means a building drain that[which] conveys storm water or other drainage but not sewage.

(38)[(35)] "Building gravity drainage system" means a drainage system that[which] drains by gravity into the building sewer.

(39)[(36)] "Building sewer" means that part of the drainage system that[which] extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

(40)[(37)] "Building sewer; combined" means a building sewer that[which] conveys both sewage and storm water or other drainage.

(41)[(38)] "Building sewer; sanitary" means a building sewer that[which] conveys sewage only.

(42)[(39)] "Building sewer; storm" means a building sewer that[which] conveys storm water or other drainage but no sewage.

(43)[(40)] "Building subdrain" means that portion of a drainage system that[which] does not drain by gravity into the building sewer.

(44)[(41)] "Cesspool[Cesspools]" means a lined and covered excavation in the ground that[which] receives a discharge of domestic sewage or other organic wastes from a drainage system, so designed as to retain the organic matter and solids, but permitting the liquids to seep through the bottom and sides.

(45)[(42)] "Circuit vent" means a branch vent that serves two (2) or more traps and extends from the downstream side of the highest fixture connection of a horizontal branch to the vent stack.

(46)[(43)] "Clinical sink (bedpan hopper)" means a fixture for

the rinsing of bedpans and soiled linens[. Such fixture shall have a trap size on not less than three (3) inches].

(47)[(44)] "Code" is[as] defined by[in] KRS 318.010(11).

(48)[(45)] "Combination fixture" means a fixture combining one (1) sink and laundry tray or a two (2) or three (3) compartment sink or laundry tray in one (1) unit.

(49)[(46)] "Combined building drain" means "building drain; combined" as defined by this administrative regulation.

(50)[(47)] "Combined building sewer" means "building sewer; combined" as defined by this administrative regulation.

(51)[(48)] "Combination waste and vent system" means a specially designed system of waste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.

(52)[(49)] "Common vent" means a vent connecting at the junction of two (2) fixture drains and serving as a vent for both fixture drains.

(53)[(50)] "Conductor" means a pipe inside the building ~~that[which]~~ conveys storm water from the roof to a storm or combined building drain.

(54)[(51)] "Continuous vent" means a vertical vent that is a continuation of the drain to which it connects.

(55)[(52)] "Continuous waste" means a drain from two (2) or more fixtures connected to a single trap.

(56)[(53)] "Cross connection" means any physical connection or arrangement between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there ~~could[may]~~ be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems. (See "backflow" and "back siphonage" as defined by this administrative regulation.)

(57)[(54)] "Dead end" means a branch leading from a soil, waste or vent pipe, building drain, or building sewer, and terminating at a developed length of two (2) feet or more by means of a plug, cap, or other closed fitting.

(58)[(55)] "Developed length" means the length of a pipe line measured along the center line of the pipe and fittings.

(59)[(56)] "Diameter" means the nominal diameter as designated commercially.

(60)[(57)] "Domestic sewage" means the waterborne wastes derived from ordinary living processes.

(61)[(58)] "Double offset" means two (2) changes of direction installed in succession or series in a continuous pipe.

(62)[(59)] "Downspout" means "leader" as defined by this administrative regulation.

(63)[(60)] "Drain" means any pipe ~~that[which]~~ carries waste water or waterborne wastes in a building drainage system.

(64)[(61)] "Drainage pipe" means "drainage system" as defined by this administrative regulation.

(65)[(62)] "Drainage system";

(a) Means[includes] all the piping, within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal; and

(b) Does not mean:

1. It does not include] The mains of a public sewer system;

2. A[er] private or public sewage-treatment or disposal plant; or

3. Neither does this apply to] Plumbing appliances.

(66)[(63)] "Drainage system (building gravity)" means a drainage system ~~that[which]~~ drains by gravity into the building sewer.

(67)[(64)] "Drainage system (subbuilding)" means "building subdrain" as defined by this administrative regulation.

(68)[(65)] "Dry well" means "leaching well" as defined by this administrative regulation.

(69)[(66)] "Dual vent" means "common vent" as defined by this administrative regulation.

(70)[(67)] "Durham system" means a~~term used to describe~~ soil or waste system in which~~systems where~~ all piping is of threaded pipe, tube, or other~~such~~ rigid construction, using recessed drainage fittings to correspond to the types of piping.

(71)[(68)] "Dwelling unit" means one (1) or more rooms with provision for living, sanitary, and sleeping facilities arranged for the use of one (1) family or individual.

(72)[(69)] "DWV" means~~an abbreviated term for~~ drain, waste, and vent piping as used in common plumbing practice.

(73)[(70)] "Effective opening" means the minimum cross-sectional area at the point of water supply discharge, measured or expressed in terms of~~the~~ diameter of a circle, or~~the~~ if the opening is not circular, the diameter of a circle of equivalent cross-sectional area.

(74)[(71)] "Ejector" means "aspirator" as defined by this administrative regulation.

(75)[(72)] "Existing work" means a plumbing system or any part thereof installed prior to the effective date of this code.

(76)[(73)] "Farm" as associated with "farmstead" as defined by[which is defined in] KRS 318.010(8), means property ~~with[that shall have]~~ a bona fide "agricultural land" or "horticultural land" use as defined by KRS 132.010(9) and (10) and qualified by and registered with the PVA in that county.

(77)[(74)] "Fire line" means a system of pipes and equipment used exclusively to supply water for extinguishing fires.

(78)[(75)] "Fixture" means "plumbing fixture" as defined by this administrative regulation.

(79)[(76)] "Fixture branch" means the piping distance between a soil, waste, and vent stack and the fixture trap.

(80)[(77)] "Fixture drain" means the drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(81)[(78)] "Fixture supply" means the water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(82)[(79)] "Fixture unit, drainage (d.f.u.)" means a measure of the probable discharge into the drainage system by various types of plumbing fixtures. The drainage fixture-unit valve for a particular fixture depends on its volume rate of drainage discharge, on the time duration of a single drainage operation, and on the average time between successive operations. (Note: In general, on small systems, one (1) drainage fixture unit approximates one (1) cubic foot per minute.)

(83)[(80)] "Fixture unit, supply (s.f.u.)" means a measure of the probable hydraulic demand on the water supply by various types of plumbing fixtures. The supply fixture-unit valve for a particular fixture depends on its volume rate of supply, on the time duration of a single supply operation, and on the average time between successive operations.

(84)[(81)] "Flood level" means "flood level rim" as defined by this administrative regulation.

(85)[(82)] "Flood level rim" means the edge of the receptacle from which water overflows.

(86)[(83)] "Flooded" means the condition ~~that[which]~~ results at the point[when] the liquid in a container or receptacle rises to the flood-level rim.

(87)[(84)] "Floor drain" means a drain placed in the floor of a building for the purpose of receiving sanitary waste water.

(88)[(85)] "Floor pantry" means a workroom in the nursing area designed and equipped to prepare supplemental diets or beverages, and to assemble food trays at meal times if used in conjunction with decentralized food service.

(89)[(86)] "Flow pressure" means the pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide-open and flowing.

(90)[(87)] "Flush valve" means a device located at the bottom of a tank for slushing water closets and similar fixtures.

(91)[(88)] "Flushing type floor drain" means a drain ~~that[which]~~ is equipped with an integral water supply enabling flushing of the drain receptor and trap.

(92)[(89)] "Flushometer valve" means a device ~~that[which]~~ discharges a predetermined quantity of water to fixtures for flushing purposes and is closed by direct water pressure.

(93)[(90)] "Frost-proof closet" means a hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(94)[(91)] "Grade" means the fall (slope) of a line of pipe in

reference to a horizontal plane. In drainage it is usually expressed as the fall in a fraction of an inch per foot length of pipe.

(95) "Grade plane" means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane is established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1,829 mm) from the building, between the building and a point six (6) feet (1,829 mm) from the building.

(96)[(92)] "Grease interceptor" means "interceptor" as defined by this administrative regulation.

(97)[(93)] "Grease trap" means "interceptor" as defined by this administrative regulation.

(98)[(94)] "Grillage" means sand, pea gravel, or limestone rock sizes #57 and smaller[as defined by Kentucky Department of Highways and] used for bedding for piping systems.

(99)[(95)] "Hangers" means "supports" as defined by this administrative regulation.

(100)[(96)] "Horizontal branch drain" means a drain branch pipe extending laterally from a soil or waste stack or building drain, with or without vertical sections or branches, which receives the discharge from one (1) or more fixture drains and conducts it to the soil or waste stack or to the building drain.

(101)[(97)] "Horizontal pipe" means any pipe or fitting that[which] makes an angle of less than forty-five (45) degrees with the horizontal.

(102)[(98)] "Hose bibb" means a sill cock, wall hydrant, or similar faucet with a downward angled threaded nozzle.

(103)[(99)] "Hot water" means water at a temperature of not less than 120 degrees Fahrenheit.

(104) [(400)] "House drain" means "building drain" as defined by this administrative regulation.

(105)[(404)] "House sewer" means "building sewer" as defined by this administrative regulation.

(106)[(402)] "Indirect waste pipe" means a waste pipe not directly connected with the drainage system, but which discharges into the drainage system through an air break or air gap into a trap, fixture, receptor, or interceptor.

(107)[(403)] "Individual sewage disposal system" means a system for disposal of domestic sewage by means of a septic tank, cesspool, or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

(108)[(404)] "Individual vent" means a pipe installed to vent a fixture drain. It connects with the vent system above the fixture served or terminates outside the building into the open air.

(109)[(405)] "Individual water supply" means a supply other than an approved public water supply which serves one (1) or more families.

(110)[(406)] "Industrial floor drain" means a drain placed in the floor of a building other than in a toilet room or shower room to receive waste water.

(111)[(407)] "Industrial wastes" means liquid wastes resulting from the processes employed in industrial and commercial establishments.

(112)[(408)] "Insanitary" means contrary to sanitary principles; injurious to health.

(113)[(409)] "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity.

(114)[(410)] "Installed" means altered, changed, or a new installation.

(115)[(411)] "Invert" means the lowest portion of the inside of any horizontal pipe.

(116)[(412)] "Kitchen sink unit" means a sink, double or single compartment, food waste disposer, and dishwasher placed in a unit so arranged that the dishwasher abuts the sink.

(117)[(413)] "Lavatory" means a hand basin, such as in a bathroom.

(118)[(414)] "Leaching well or pit" means a pit or receptacle having porous walls that allow[which permit] the contents to seep

into the ground.

(119)[(415)] "Leader" means an exterior drainage pipe for conveying storm water from roof or gutter drains.

(120)[(416)] "Liquid waste" means the discharge from any fixture, appliance, area or appurtenance, which does not contain fecal matter.

(121)[(417)] "Load factor" means the percentage of the total connected fixture unit flow that[which] is likely to occur at any point in the drainage system.

(122)[(418)] "Local vent stack" means a vertical pipe to which connections are made from the fixture side of traps and through which vapor and foul air can[may] be removed from the fixture or device used on bedpan washers.

(123)[(419)] "Local ventilating pipe" means a pipe through which foul air is removed from a room or fixture.

(124)[(420)] "Loop vent" means a circuit vent that[which] loops back to connect with a stack vent instead of a vent stack.

(125)[(421)] "Main" means the horizontal, vertical, and continuous piping that[which] receives the waste, soil, main, or individual vents from fixture outlets, or traps, directly or through branch pipes.

(126)[(422)] "Main sewer" means "public sewer" as defined by this administrative regulation.

(127)[(423)] "Main vent" means the principal artery of the venting system to which vent branches can[may] be connected. (Manufacturer's Floor Drain. See "industrial floor drain" as defined by this administrative regulation.)

(128)[(424)] "Multiple dwelling" means a building containing more than two (2) dwelling units.

(129)[(425)] "Nominal pipe size" means a standard expression in inches and fractions thereof to designate the approximate inside diameter of a pipe, conduit, or tube.

(130)[(426)] "Nonpotable water" means water not safe for drinking, personal, or culinary use.

(131)[(427)] "Nuisance" means dangerous to human life or detrimental to health; whatever building, structure, or premise is not sufficiently ventilated, sewer, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink or water supply unwholesome.

(132)[(428)] "Nurses' station" means an area in the nursing unit separated from the corridor by counter or desk, designed to permit nurses to record and file each patient's history and progress, observation, and control of corridor, preparation of medicines, and maintain contact with patients, the hospital, and the outside by local and public means of communication.

(133)[(429)] "Offset" means a combination of elbows or bends that[which] bring one (1) section of the pipe out of line but into a line parallel with the other section.

(134)[(430)] "Oil interceptor" means "interceptor" as defined by this administrative regulation.

(135)[(431)] "Person" is[as] defined by[in] KRS 318.010(9).

(136)[(432)] "Pitch" means "grade" as defined by this administrative regulation.

(137)[(433)] "Plumber's apprentice" means any person other than a journeyman or master plumber, who, as his principal occupation, is engaged in working as an employee of a master plumber under the immediate and personal supervision of either a master or journeyman plumber in learning and assisting in the installation of plumbing.

(134)] "Plumbing" is[as] defined by[in] KRS 318.010(4).

(138)[(435)] "Plumbing appliance" means any one (1) of a special class of plumbing fixture that[which] is intended to perform a special function. Its operation and control may be dependent upon one (1) or more energized components, such as motors, controls, heating elements, or pressure or temperature-sensing elements. [Such] Fixtures can[may] operate automatically through one (1) or more of the following actions:

(a) A time cycle;

(b)[.] A temperature range;

(c)[.] A pressure range;

(d)[.] A measured volume or weight; or

(e) Manual adjustment or control[the fixture may be manually adjusted or controlled] by the user or operator.

(139)[(136)] "Plumbing appurtenance" means a manufactured device, or a prefabricated assembly of component parts, and[which] is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system. It is presumed that it performs some useful function in the operation, maintenance, servicing, economy, or safety of the plumbing system.

(140)[(137)] "Plumbing fixture":

(a) Means a receptacle or device that[which] is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom, or it discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or that[which] requires both a water supply connection and a discharge to the drainage system of the premises; and

(b) ~~Does not mean[- Plumbing appliances as a special class of fixture are further defined. This definition does not include the] piping that[which] carries water or sewage.~~

(141)[(138)] "Plumbing inspector" means a duly authorized employee or agent of the Department[Office] of Housing, Buildings and Construction who is charged with the responsibility of inspecting plumbing installations and with the enforcement of the state plumbing laws and code.

(142)[(139)] "Plumbing repair" means as used in the code to mean replacing a part or putting together that which is torn or broken.

(143)[(140)] "Plumbing system" means the following: appliances and water heaters; the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the house drain and house sewer; the storm water drainage within a building with their devices, appurtenances and connections all within and adjacent to the building.

(144)[(141)] "Pool" means "swimming pool" as defined by this administrative regulation.

(145)[(142)] "Potable water" means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Division of Water in 401 KAR Chapter 8[Quality] or the administrative regulations of the Department[Office] of Housing, Buildings and Construction.

(146)[(143)] "Private or private use" means, in the classification of plumbing fixtures, private applies to fixtures in residences and apartments and to fixtures in private bathrooms of hotels as well as similar installations in other buildings where the fixtures are intended for the use of a family or an individual.

(147)[(144)] "Private sewer" means a sewer, serving two (2) or more buildings, privately owned, and not directly controlled by public authority.

(148)[(145)] "Public or public use" means, in the classification of plumbing fixtures, public applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, railroad stations, public buildings, bars, public comfort stations, and other installations (whether pay or free) where a number of fixtures are installed so that the fixtures[their] use is similarly unrestricted.

(149)[(146)] "Public sewer" means a common sewer directly controlled by public authority.

(150)[(147)] "Public water main" means a water supply pipe for public use controlled by public authority.

(151) "PVC" means polyvinyl chloride.

(152)[(148)] "Receptor" means a fixture or device that[which] receives the discharge from indirect waste pipes.

(153)[(149)] "Relief vent" means an auxiliary vent that[which] permits additional circulation of air in or between drainage and vent systems.

(154)[(150)] "Replace" means to put something new or rebuilt in the place of that which was existing.

(155)[(151)] "Return offset" means a double offset installed so as to return the pipe to its original alignment.

(156)[(152)] "Revent pipe" means "individual vent" as defined by this administrative regulation.

(157)[(153)] "Rim" means an unobstructed open edge of a fixture.

(158)[(154)] "Riser" means a water supply pipe that[which] extends vertically one (1) full story or more to convey water to branches or to a group of fixtures.

(159)[(155)] "Roof drain" means a drain installed to receive water collecting on the surface of a roof and to discharge it into a leader or a conductor.

(160)[(156)] "Roughing-in" means the installation of all parts of the plumbing system that[which] can be completed prior to the installation of fixtures. This includes drainage, water supply,and vent piping, and the necessary fixture supports.

(161)[(157)] "Safe waste" means "indirect waste pipe" as defined by this administrative regulation.

(162)[(158)] "Sand interceptor" means "interceptor" as defined by this administrative regulation.

(163)[(159)] "Sand trap" means "interceptor" as defined by this administrative regulation.

(164)[(160)] "Sanitary sewer" means a sewer that[which] carries sewage and excludes storm, surface, and ground water.

(165)[(161)] "Scrub sink" means a device usually located in the operating suite to enable operating personnel to scrub their hands prior to operating procedures. The hot and cold water supply is activated by a knee-action mixing valve or by wrist or pedal control.

(166)[(162)] "Seepage well or pit" means a covered pit with open-jointed lining into which septic tank effluent is received that will seep or leach into the surrounding porous soil.

(167)[(163)] "Separator" means "interceptor" as defined by this administrative regulation.

(168)[(164)] "Septic tank" means a watertight receptacle that[which] receives the discharge of a building sanitary drainage system or part thereof, and is designed and constructed so as to digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint or perforated piping, or a seepage pit.

(169)[(165)] "Sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, including[and may include] liquids containing chemicals in solution.

(170)[(166)] "Sewage ejector[ejectors]" means a device for lifting sewage by entraining it in a high velocity jet of steam air or water.

(171)[(167)] "Side vent" means a vent connecting to the drain pipe through a fitting at an angle not greater than forty-five (45) degrees to the vertical.

(172)[(168)] "Size of pipe and tubing" means "diameter" as defined by this administrative regulation.

(173)[(169)] "Slope" means "grade" as defined by this administrative regulation.

(174)[(170)] "Soil pipe" means any pipe that[which] conveys the discharge of water closets or similar fixtures, with or without the discharges from other fixtures, to the house drain.

(175)[(171)] "Soil vent" means "stack vent" as defined by this administrative regulation.

(176)[(172)] "Special wastes" means wastes that[which] require special treatment before entry into the normal plumbing system.

(177)[(173)] "Special waste pipe" means pipes that[which] convey special wastes.

(178)[(174)] "Stack" means any vertical line of soil, waste, or vent piping.

(179)[(175)] "Stack group" means a group of fixtures located adjacent to the stack so that by means of proper fittings, vents can[may] be reduced to a minimum.

(180)[(176)] "Stack vent" means the extension of a soil or waste stack above the highest horizontal drain connected to the stack.

(181)[(177)] "Stack venting" means a method of venting a fixture or fixtures through the soil or waste stack.

(182)[(178)] "Sterilizer, boiling type" means a fixture (nonpressure type), used for boiling instruments, utensils, and other equipment (used for disinfection). Some devices are portable;[.] others are connected to the plumbing system.

(183)[(179)] "Sterilizer, instrument" means a device for the sterilization of various instruments.

(184)[(180)] "Sterilizer, pressure instrument washer-sterilizer"

means a fixture (pressure vessel) designed to both wash and sterilize instruments during the operating cycle of the fixture.

(185)[(184)] "Sterilizer, pressure (autoclave)" or "autoclave" means a fixture (pressure vessel) designed to use steam under pressure for sterilizing ~~[-Also called an autoclave].~~

(186)[(182)] "Sterilizer, utensil" means a device for the sterilization of utensils as used in hospital services.

(187)[(183)] "Sterilizer vent" means a separate pipe or stack, indirectly connected to the building drainage system at the lower terminal, which receives the vapors from nonpressure sterilizers, or the exhaust vapors from the pressure sterilizers, and conducts the vapors directly to the outer air. Sometimes a sterilizer vent is referred to as ~~called~~ vapor, steam, atmospheric, or exhaust vent.

(188)[(184)] "Sterilizer, water" means a device for sterilizing water and storing sterile water.

(189)[(185)] "Still" means a device used in distilling liquids.

(190)[(186)] "Storm drain" means ~~["]building storm drain["]~~.

(191)[(187)] "Storm sewer" means a sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes.

(192)[(188)] "Subsoil drain" means a drain that ~~which~~ collects subsurface water and conveys it to a place of disposal.

(193)[(189)] "Sump" means a tank or pit, which receives sewage or liquid waste, located below the normal grade of the gravity system and that is ~~which must be~~ emptied by mechanical means.

(194)[(190)] "Sump pump" means a mechanical device, other than an ejector or bucket, for removing sewage or liquid waste from a sump.

(195)[(191)] "Supports" means devices for supporting and securing pipe, fixtures, and equipment.

(196)[(192)] "Swimming pool" means any structure, basin, chamber, or tank containing any artificial body of water for swimming, diving, wading or recreational bathing.

(197)[(193)] "Trap" means a fitting or device that ~~which~~ provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage or waste water through it.

(198)[(194)] "Trap arm" means that portion of a fixture drain between a trap and its vent.

(199)[(195)] "Trap primer" means a device or system of piping to maintain a water seal in a trap, typically installed where infrequent use of the trap would result in evaporation of the trap seal, such as floor drains.

(200)[(196)] "Trap seal" means the vertical distance between the crown weir and the top of the dip of the trap.

(201)[(197)] "Utility room" means a workroom in the patient nursing area, designed and equipped to facilitate preparation, cleaning, and incidental sterilizing of the various supplies, instruments, and utensils ~~[-etc.-]~~ involved in nursing treatment and care, exclusive of medications handled in nurses' stations and bedpan cleaning and sterilizing.

(202)[(198)] "Vacuum" means any pressure less than exerted by the atmosphere.

(203)[(199)] "Vacuum breaker" means "backflow preventer" as defined by this administrative regulation.

(204)[(200)] "Vacuum breaker, nonpressure type (atmospheric)" means a vacuum breaker that ~~which~~ is not designed to be subjected to static line pressure.

(205)[(201)] "Vacuum breaker, pressure type" means a vacuum breaker designed to operate under conditions of static line pressure.

(206)[(202)] "Vent pipe" means any pipe provided to ventilate a house drainage system and to prevent tray siphonage and back pressure.

(207)[(203)] "Vent system" means a pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within the ~~such~~ system to protect trap seals from siphonage and back pressure.

(208)[(204)] "Vertical pipe" means any pipe or fitting that ~~which~~ makes an angle of forty-five (45) degrees or less with the vertical.

(209)[(205)] "Wall hung water closet" means a wall mounted water closet installed in such a way that no part of the water closet

touches the floor.

(210)[(206)] "Waste pipe and special waste" means any pipe that ~~which~~ receives the discharge of any fixture (except water closets or similar fixtures) and discharges to the house drain, soil, or waste stacks. If a ~~When such~~ pipe does not connect directly with a house drain, waste, or soil stack, the pipe ~~it~~ is considered to contain ~~termed a~~ special waste.

(211)[(207)] "Water distributing pipe" means a pipe within the building or on the premises that ~~which~~ conveys water from the water-service pipe or meter to the point of usage.

(212)[(208)] "Water lifts" means "sewage ejector" as defined by this administrative regulation.

(213)[(209)] "Water outlet" means a discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank that ~~which~~ is part of the water supply), to a boiler or heating system, or to any devices or equipment requiring water to operate but that ~~which~~ are not part of the plumbing system.

(214)[(210)] "Water riser pipe" means "riser" as defined by this administrative regulation.

(215)[(211)] "Water service pipe" means the pipe from the water main or other source of potable water supply to the water distributing system of the building served.

(216)[(212)] "Water supply stub" means a vertical pipe less than one (1) story in height supplying one (1) or more fixtures.

(217)[(213)] "Water supply system" means the water service pipe, the water-distributing pipes, and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

(218)[(214)] "Well, bored" means a well constructed by boring a hole in the ground with an auger and installing a casing.

(219)[(215)] "Well, drilled" means a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

(220)[(216)] "Well, driven" means a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

(221)[(217)] "Well, dug" means a well constructed by excavating a large diameter shaft and installing a casing.

(222)[(218)] "Wet vent" means a vent that ~~which~~ receives the discharge of wastes other than from water closets.

(223)[(219)] "Yoke vent" means a pipe connecting upward from a soil or waste stack to a vent stack for the purpose of preventing pressure changes in the stack.

STEVEN A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2016, at 9:00 a.m., EDT, at 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 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 through October 31, 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: Tim Cocanougher, Office of the General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email tim.cocanougher@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Tim Cocanougher

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the definitions for terms needed in the interpretation of other sections of the subsequent administrative regulations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define terms used in implementing the Division of Plumbing's statutory duty to establish a state plumbing code that regulates the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers, and private water supplies, including the size of waste pipes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation to establish the Kentucky State Plumbing Code, which will regulate plumbing, including waste pipes for plumbing fixtures and appurtenances.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation helps simplify the subsequent administrative regulations by adding the terms ABS, ASTM, grade plane, and PVC to the general definitions.

(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 the definition for ABS, ASTM, grade plane, and PVC. This amendment also corrects errors, including references to "office" where "department" is now appropriate.

(b) The necessity of the amendment to this administrative regulation: To incorporate the three terms in the general definitions to aid in the understanding of the subsequent administrative regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment aids in the understanding of the Kentucky State Plumbing Code, required under KRS 318.130.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will aid in the understanding of the subsequent amendments by putting the definitions of ABS, ASTM, grade plane, and PVC in a location that is easy to find.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in designing and the installation of plumbing, as well as plumbing inspectors.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment imposes no new requirements on the affected parties; the amendment just centralizes the three terms in the general definitions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities will encounter no additional costs based on the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Chapter as a whole will be easier to navigate.

(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 not anticipated to result in 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 from 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 this amendment only moves definition of terms to the general definitions.

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 20:060. Quality and weight of materials.

RELATES TO: KRS 318.130, 318.150, 42 U.S.C. 300g-6(d)(2)

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 to regulate[regulating] plumbing, including the quality and weight of material. This administrative regulation establishes the manufacturer's specification number for the quality and weight of material that shall be used in the installation of plumbing systems and establishes minimum specifications for the intended use.

Section 1. Definitions. (1) "ASME" means the American Society of Mechanical Engineers.

(2) "CISPI" means the Cast Iron Soil Pipe Institute.

(3) "Lead" means solders and flux containing more than two-tenths (0.2) percent lead and the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures containing more than a weighted average of 0.25 percent lead as calculated according to the formula established in 42 U.S.C. 300g-6(d)(2) ["ABS" means acrylonitrile-butadiene-styrene.

(2) "ASTM" means American Society for Testing and Materials and copies of specifications identified in this administrative regulation can be obtained by writing the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(3) "CISPI" means the Cast Iron Soil Pipe Institute and copies of specifications identified in this administrative regulation can be obtained by writing the Cast Iron Soil Pipe Institute, 5959 Shallowford Road, Suite 419, Chattanooga, TN 37421.

(4) "Lead" means solders and flux containing more than two-tenths (0.2) percent lead and the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures containing more than a weighted average of one-quarter (0.25) percent lead as calculated according to the formula established in 42 U.S.C. 300g-6(d)(2).

(5) "PVC" means polyvinyl chloride].

Section 2. Quality of Materials. The material used in a drainage or plumbing system or part of a system shall be free of defects.

Section 3. Label, Cast, or Stamped. Each length of pipe, fitting, trap, fixture, or device used in a plumbing or drainage system shall be stamped or indelibly marked with the:

(1) Weight or quality; and

(2) Maker's mark or name (manufacturer's specification number).

Section 4. Vitrified clay pipe, concrete pipe, truss pipe, and extra heavy SDR 35 sewer piping shall be produced, labeled, and used only as established in subsections (1) through (4) of this subsection. (1) Vitrified clay pipe shall be as established in ASTM C-700.

(2) Concrete pipe shall be as established in ASTM C-14.

(3)(a) Except as established in paragraph (b) of this subsection, truss pipe shall be as established in ASTM D-2680.

(b) Solid wall truss pipe shall be as established in ASTM D2751.

(4) Extra heavy SDR 35 sewer piping shall be as established in ASTM D-3033-74 and D-3034-74.

Section 5. Cast-iron Pipe. (Hub and Spigot and No-hub). (1) Extra heavy. Extra heavy cast-iron pipe and fittings shall be produced and labeled as ASTM A74.

(2) Service-weight. Service-weight cast-iron pipe and fittings shall be produced and labeled as ASTM A74 and C1563.

(3) No-hub cast-iron and fittings shall be produced and labeled ASTM 888 or CISPI 301.

(4) No-hub couplings shall be produced and labeled as ASTM C1277, C564, C1563, or CISPI 310.

(5) Coating. Cast-iron pipe and fittings for underground use shall be coated with:

(a) Asphaltum;

(b) Coal tar pitch; or

(c) A coating produced and labeled as ASTM A743.

Section 6. Wrought-iron Pipe. All wrought-iron pipe shall be produced and labeled with the latest ASTM "specifications for welded wrought iron pipe".

Section 7. Mild-steel Pipe. Steel pipe shall be produced and labeled with the latest ASTM "specifications for welded and seamless steel pipe".

Section 8. Brass Pipe; Copper Pipe; and Brass Tubing. Brass pipe, copper pipe, and brass tubing shall be produced and labeled with the latest specifications of ASTM for "brass pipe, copper pipe, and brass tubing, standard sizes".

Section 9. Borosilicate Pipe, Plastic Pipe, Stainless Steel Tubing, Polyethylene Pipe, and Polypropylene Pipe. (1) Borosilicate pipe. Borosilicate pipe shall be produced and labeled with the latest ASTM specifications.

(2) Plastic pipe. All plastic piping used in a drainage, waste, and vent system shall be:

(a) Schedule 40 or 80, Type 1, Grade 1, polyvinyl chloride produced and labeled as ASTM D1784;

(b) Cellular core PVC produced and labeled ASTM F-891;

(c) Schedule 40 or 80 acrylonitrile-butadiene-styrene produced and labeled as ASTM D2661; or

(d) Cellular core ABS produced and labeled as ASTM F-628.

(3) Pipe and fittings shall be produced and labeled in accordance with the provisions of ASTM-D-2665, as amended, for PVC and ASTM-D-2661 for ABS, and both shall bear the National Sanitation Foundation seal of approval.

(4) Copies of National Sanitation Foundation specifications for the manufacture of products identified in this administrative regulation may be obtained by writing the National Sanitation Foundation (NSF), 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, MI 48106.

(5) All pipe and fittings shall bear the ASTM designation together with the NSF seal, the manufacturer's identification, and the size.

(6)(a) Except as established in paragraph (b) of this subsection, the use of plastic pipe and fittings (PVC or ABS) shall be limited to buildings in which the plumbing system does not exceed forty-five (45) feet in height, measured from the grade plane[as defined by the Kentucky Building Code, 815 KAR 7:120, or Kentucky Residential Code, 815 KAR 7:125], and continuing through the vertical distance of the building to a maximum height of forty-five (45) feet.

(b) Plastic pipe and fittings may be installed in a building in which the plumbing system exceeds forty-five (45) feet in height if the installation complies with all of the requirements established in subparagraphs 1. through 3.[8.] of this paragraph.

1. The use of PVC and ABS piping shall be limited to schedule 40 or 80 produced and labeled as ASTM D2665 and D1784 for PVC piping and ASTM D2661 for ABS piping.

2. The installation of the plastic pipe and fittings (PVC or ABS) shall be made in compliance with the manufacturer's recommendations, which shall be made available to the inspector.

3. Firestop systems shall be inspected in accordance with ASTM E2174 by an approved inspection agency[The building shall not have an occupied floor located more than seventy-five (75) feet above the lowest level of fire department vehicle access.

2. Detailed building elevation plans shall be submitted to the department for any building exceeding forty-five (45) feet in height.

3. The use of plastic pipe and fittings (PVC or ABS) shall be limited to a vertical distance of forty-five (45) feet within the plumbing system, measured from the terminus of the plumbing system as it passes through the roof and continuing down the plumbing system to a maximum distance of forty-five (45) feet.

4. The use of plastic pipe and fittings (PVC or ABS) shall be allowed for use in the installation of the plumbing system located below ground underneath a building. Once the underground piping first penetrates the floor or slab, the plastic pipe shall be transitioned to other approved materials listed in 815 KAR 20:090 within six (6) inches of the floor or slab through which it penetrates.

5. The use of polyvinyl chloride and acrylonitrile-butadiene-styrene piping shall be limited to schedule 40 or 80 produced and labeled as ASTM D2665 and D1784 for PVC piping and ASTM D2661 for ABS piping.

6. The installation of the plastic pipe and fittings (PVC or ABS) shall be made in compliance with the manufacturer's recommendations, which shall be made available to the inspector.

7. All plastic (PVC or ABS) vertical drain, waste, and vent stacks shall be protected in a shaft enclosure constructed in accordance with the Kentucky Building Code, 815 KAR 7:120, or Kentucky Residential Code, 815 KAR 7:125.

8. All plastic pipe penetrations in the shaft enclosure shall be protected as required by the Kentucky Building Code, 815 KAR 7:120, or Kentucky Residential Code, 815 KAR 7:125].

(7) Stainless steel tubing.

(a) Stainless steel tubing for hot and cold water piping shall be Grade H produced and labeled either as ASTM A269 or ASTM A312~~[A268/268M]~~.

(b) Stainless steel tubing for the soil, waste, and vent system shall be 316L~~[either Grade G or H]~~ produced and labeled as ASME A112.3.1~~[ASTM A268/268M]~~.

(8)~~[Polyethylene pipe.]~~ Polyethylene pipe used in acid waste systems shall be produced and labeled as ASTM D-1204.

(9)~~[Polypropylene pipe.]~~ Polypropylene pipe used in acid waste systems shall be produced and labeled as ASTM D-4101 or ASTM F-1412.

Section 10. Lead Pipe, Diameter, Weights. (1) Lead soil, waste, and vent pipe shall be produced and labeled as Federal Specifications WW-P-325 and shall not be lighter than the weights established in the following table:

Size Inside Diameter Inches	Commercial Designation "D" or "XL"		Wall Thickness Inches	Weight Pounds	Per Foot Ounces
1 1/2	D	XL	0.138	3	8
2	D	XL	0.142	4	12
3	D	XL	0.125	6	0
4	D	XL	0.125	8	0

(2) Lead bends and lead traps. All lead bends and lead traps shall be of the weight known as extra heavy (XH) and shall have at least one-eighth (1/8) inch wall thickness.

Section 11. Integral Flashing. If a roofing system requires integral flashing, a flashing material, which is part of the manufactured roofing system and required by the roofing manufacturer to guarantee or warranty the roofing system, shall be used.

Section 12. Sheet Lead. Sheet lead for a shower pan shall not weigh less than four (4) pounds per square foot and shall not weigh less than two and one-half (2 1/2) pounds per square foot for vent pipe flashings.

Section 13. Sheet Copper or Brass. Sheet copper or brass shall not be lighter than No. 18 B. & S. gauge, except local and interior ventilating pipe shall not be lighter than No. 26 B. & S. gauge.

Section 14. Threaded Fittings. (1) A plain screw fitting shall be either cast-iron, malleable iron, or brass of standard weight and dimension.

(2) A drainage fitting shall be either cast-iron, malleable iron, or brass, with smooth interior waterway, with threads tapped out of solid metal.

(3) A cast-iron fitting used in a water supply distribution shall be galvanized.

(4) A malleable iron fitting shall be galvanized.

Section 15. Caulking Ferrules. A caulking ferrule shall be of red brass and shall be in accordance with the following table:

Pipe Sizes Inches	Inside Diameter Inches	Length Inches	Minimum Weight Each
2	2 1/4	2 1/2	1 lb. 0 oz.
3	3 1/4	4 1/2	1 lb. 12 oz.
4	4 1/4	4 1/2	2 lb. 8 oz.

Section 16. Soldering Nipples. A soldering nipple shall be recessed red cast brass, iron pipe size. If cast, they shall be full bore and of minimum weight.

Section 17. Floor Flanges for Water Closets and Service Sinks or Similar Fixtures. (1) A floor flange shall either be:

(a) Hard lead;

(b) Brass;

(c) Cast iron;

(d) Galvanized malleable iron;

(e) ABS; or

(f) PVC.

(2) A hard lead or brass flange shall not be less than one-eighth (1/8) inch thick.

(3) Cast iron or galvanized malleable iron shall:

(a) Not be less than one-fourth (1/4) inch thick; and

(b) Have a two (2) inch caulking depth.

Section 18. Use of Lead. (1) Lead shall not be used in the installation or repair of a public or private water system providing potable water for human consumption.

(2) This section shall not apply to:

(a) Pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses in which the water is not anticipated to be used for human consumption; or

(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two (2) inches in diameter or larger.

Section 19. New Materials. (1) Materials other than those established in this administrative regulation shall be prohibited unless the material is specifically approved by the State Plumbing Code Committee and the department~~[of Housing, Buildings and Construction]~~ as being equal to or better than the material specified in the State Plumbing Code.

(2) It shall be the responsibility of any person or company seeking the approval of a material not included in this code to prove that the material is equal to or better than the material that it is intended to replace.

(3) Procedural requirements for approval of new parts and materials are established in 815 KAR 20:020.

STEVEN A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall be held on October 25, 2016, at 9:00 a.m., EDT, at 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 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 through October 31, 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: Tim Cocanougher, Office of the General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email tim.cocanougher@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Tim Cocanougher

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the waste pipe size requirements for various plumbing fixtures and appurtenances for buildings in Kentucky.

(b) The necessity of this administrative regulation: This

administrative regulation is necessary to implement the Division of Plumbing's statutory duty to establish a state plumbing code that regulates the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers, and private water supplies, including the size of waste pipes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation to establish the Kentucky State Plumbing Code, which will regulate plumbing, including waste pipes for plumbing fixtures and appurtenances.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists the Division of Plumbing establish the size of waste pipes needed for various fixtures in 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 allows additional material (PVC or ABS) to be used in the plumbing system for buildings that exceed 45 feet in height.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to expand upon the permissible types of materials used in a plumbing system.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment directly relates to the permissible types of material used in a plumbing system.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide greater flexibility in designing plumbing systems, and bring Kentucky into conformity with surrounding states and the majority of the country.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in designing and the installation of plumbing in buildings that exceed 45 feet in height within the Commonwealth, as well as all owners and operators of buildings in which the plumbing materials described in this regulation 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 take to comply with this administrative regulation or amendment: This amendment allows designers and owners more options when selecting materials for their projects, so no actions will be required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities could anticipate decreased expenses for new installations of plumbing because this amendment increases the types of materials allowed in a plumbing system.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include additional material options for plumbing installations, making the installation of plumbing more consistent with other states.

(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 not anticipated to result in 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 from 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. This administrative regulation applies with equal force to all buildings in which the plumbing system exceeds forty-five (45) feet in height.

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 20:130. House sewers and storm water piping; methods of installation.

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150, 310.200

STATUTORY AUTHORITY: KRS 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the ~~department[office, after approval by the State Plumbing Code Committee,]~~ to promulgate an administrative regulation establishing the Kentucky State Plumbing Code to regulate[regulating] plumbing, including the methods and materials that may be used in Kentucky for the construction of house sewers and storm water piping. This administrative regulation establishes the materials and methods of installation that may be used in the construction of house sewers or storm water piping.

Section 1. Independent System. (1) The drainage and plumbing system of a new building and of a new work installed in an existing building shall be separate and independent of other buildings except as otherwise established in this administrative regulation.

(2) A building shall have an independent connection with either a public or private sewer or sewer system.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

Section 2. Exceptions. (1)(a) If a building stands in the rear of other buildings or on an interior lot and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard, or driveway, the sewer from the front building may be extended to the rear building and it shall be considered as one (1) sewer.

(b) The exception established in this subsection shall not apply to corner lots if a sewer connection is available from the street or alley or to a new or existing building that abuts a street or alley.

(2) A building sewer may serve additional buildings and still be considered as one (1) sewer if the additional buildings are:

(a) Used in conjunction with the primary building;

(b) Contained within the same deed as the primary building; and

(c) Restricted within the deed from being sold separately from the primary building.

Section 3. Connection with Private Sewage Disposal System. If a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

Section 4. Excavations. An excavation made for the installation of a house sewer shall be open trench work, and the trenches shall be kept open until the piping has been inspected, tested, and approved.

Section 5. Depth of Sewer at the Property Line. (1) The sewer at the property line shall be at a sufficient depth to properly serve a plumbing connection installed in the basement of a building.

(2)(a) A house sewer shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot.

(b) A sewer shall have at least an eighteen (18) inch cover.

(c) Sewer piping installed under property subject to vehicular traffic (such as a driveway, parking lot, or similar location) shall have at least a twenty-four (24) inch cover unless constructed of cast iron piping. If less than a twenty-four (24) inch cover is available, sewer piping shall be encased in a minimum of six (6) inches of concrete on each side and the top.

(d) A sewer shall be backfilled by hand and tamped six (6) inches above the piping or filled with six (6) inches grillage above the piping.

(e) Each joint in cast iron and vitrified clay pipe shall be constructed to comply with 815 KAR 20:060, Sections 4 and 5.

Section 6. New House Sewer Connections. A house sewer installed where a private sewerage system has been discarded may connect to the house drain if the existing plumbing system meets the State Plumbing Code.

Section 7. Materials for House Sewers. A house sewer or combined sewer shall be made of:

(1) Extra heavy cast iron pipe;

(2) Service weight cast iron;

(3) Vitrified clay;

(4) Concrete;

(5) Coextruded composite PVC pipe produced and labeled ASTM F-1488;

(6) PVC or ABS plastic pipe Schedules 40 and 80;

(7) Cellular core PVC produced and labeled as ASTM F-891;

(8) Cellular core ABS produced and labeled as ASTM 628 or ASTM F-1488;

(9) Truss pipe;

(10) Extra heavy SDR 35 pipe;

(11) Type PS 46, PVC in sizes four (4) inches through fifteen

(15) inches produced and labeled as ASTM F789;

(12) PVC ribbed pipe produced and labeled as ASTM F794; or

(13) Polyethylene pipe produced and labeled as ASTM F-714.

Section 8. Material for Storm Sewers Inside Buildings. (1) A storm sewer inside of a building extending to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be made of:

(a) Cast iron pipe;

(b) Aluminum; or

(c) Schedule 40 ABS or PVC DWV pipe or PVC pipe produced and labeled as ASTM F-1488.

(2) A storm sewer in a size of ten (10) inches or larger shall be made of:

(a) Cast iron;

(b) Aluminum;

(c) Schedule 40 ABS or PVC DWV pipe;

(d) SDR 35;

(e) Vitrified clay or concrete conforming to appropriate commercial specifications with approved joints; or

(f) Polyethylene pipe produced and labeled as ASTM F-714.

(3) Primary and secondary roof drains shall comply with the requirements established in this subsection.

(a)1. Roof drains shall have strainers extending not less than four (4) inches above the surface of the roof immediately adjacent to the roof drain.

2. Strainers shall have an available area not less than one and one-half (1 1/2) times the area of the conductor or leader to which the drain is connected.

(b) Roof drain strainers for use on sun decks, parking decks, and similar areas that are normally serviced and maintained, may be of the flat surface type, installed level with the deck, with an available inlet area not less than two (2) times the area of the conductor or leader to which the drain is connected.

(c) Secondary (emergency) roof drains or scuppers shall be provided where the roof perimeter construction allows ponding if the primary roof drains become blocked.

(d) Separate systems required.

1. Secondary roof drain systems shall have piping and point of discharge separate from the primary system.

2. Discharge shall be above grade plane in a location that would normally be observed by the building occupants or maintenance personnel.

(e) Primary and secondary drains shall be sized in accordance with Section 11 of this administrative regulation.

Section 9. Change of Direction. A change in direction of a sewer shall be made only with:

(1) Long curves;

(2) Forty-five (45) degree wyes;

(3) Half wyes;

(4) Quarter, sixth, eighth or sixteenth bends; or

(5) Sanitary tees installed on their back or on their sides. If installed, sanitary tees shall be at an angle of not more than forty-five (45) degrees.

Section 10. Size of House Sewers and Horizontal Branches. (1) The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain.

(2) A house sewer receiving a branch shall be sized in the same manner as a house drain.

(3) The house drains shall be installed in accordance with 815 KAR 20:090.

Section 11. Size of Storm Systems. (1) The required size of a storm sewer shall be determined on the basis of the total drained area in horizontal projection in accordance with the table in subsection (4) of this section.

(2) A storm sewer shall not be laid parallel to or within two (2) feet of a bearing wall.

(3) The storm sewer shall be laid at a sufficient depth to protect it from freezing.

(4)

Diameter of pipe - inches	Maximum drained roof area square feet*	
	Slope 1/8 in. fall to 1 ft.	Slope 1/4 in. fall to 1 ft.
3	N/A	1,160
4	1,880	2,650
5	3,340	4,720
6	5,350	7,550
8	11,500	6,300

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

10	20,700	29,200
12	33,300	47,000
15	59,500	84,000

*The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

Section 12. Combined Storm and Sanitary Sewer System. (1)
If a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area, and the total fixture units, adding the product to the drained area and applying the sum from the table for storm water sewers in Section 11 of this administrative regulation.

(2) A combined house drain or house sewer shall not be less than four (4) inches in diameter, and a combined house drain or house sewer shall not be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

(3)

CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM								
Number of Fixture Units on Sanitary System								
Drained roof area in square feet	Up to 6	7 to 18	19 to 36	37 to 60	61 to 96	97 to 144	145 to 216	217 to 324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0

(4)

Number of Fixture Units on Sanitary System								
Drained roof area in square feet	325 to 486	487 to 732	733 to 1098	1,099 to 1644	1,645 to 2466	2,467 to 3702	3,703 to 5556	Over 5556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 - 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 - 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 - 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 - 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 - 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 - 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 - 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 - 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 - 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 - 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 - 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

(5) For a building constructed after August 1, 1996, each plumbing fixture or opening connecting to a combination sanitary and storm sewer system shall either:

- (a) Be installed above the elevation of the cover of the nearest manhole serving the main; or
- (b) Discharge through a sewage ejector to the combined sewer system at an elevation high enough to prevent flooding of the building.

Section 13. House Sewer in Undisturbed or Filled Ground. (1) A house sewer laid in undisturbed ground shall be laid on at least four (4) inches of pea gravel, sand, or other approved grillage as defined in 815 KAR 20:010[~~Section 1(94)~~].

(2) A house sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other equivalent support that shall be approved by the department.

(3) A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

(4) A house sewer constructed of flexible thermoplastic sewer piping shall be installed with at least six (6) inches of gravel on the bottom, top, and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Filled Ground. (1) A storm sewer laid in undisturbed ground shall not require grillage.

(2) A storm sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or other support that shall be approved by the department[office].

(3) A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level (Public). In a public building in which the whole or part of the building drain and plumbing system lies below the level of the main sewer, sewage and waste shall be lifted by a device that complies with Sections 17 and 18 of this administrative regulation and discharged into the building sewer.

Section 16. Drainage Below Sewer Level (Residential). (1) In a home in which the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump appropriate for that installation.

(2) The sump pit shall:

(a) Be gas and air tight; and

(b) Be constructed of:

1. Poured or precast concrete;

2. Approved fiberglass; or

3. Polyethylene material.

(3) The sump pit shall be provided with a two (2) inch vent, which may also act as a waste and vent for a laundry tray.

(4) The pump discharge piping shall discharge into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade plane.

(5) The sump pit shall be provided with a tight-fitting concrete cover.

(6)(a) On the outside of the building, this waste piping shall connect into a four (4) inch by two (2) inch sanitary tee, which shall connect into a four (4) inch P trap and then into the sanitary sewer.

(b) The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade plane and shall be provided with a ventilated cap.

Section 17. Sumps and Receiving Tanks. (1) A subsoil drain shall discharge into an air tight sump or receiving tank located to receive the sewage by gravity.

(2) The sewage shall be lifted and discharged into the house sewer by a pump or ejector.

(3) Sewage sumps shall be a minimum twenty four (24) inches in diameter and no less than twenty four (24) inches in depth.

(4) A system that relies solely on a pump shall be equipped with both an audible and visual alarm to be placed within the occupied space.

(5) The sump shall automatically discharge.

Section 18. Ejectors, Vented. (1) A sewage ejector serving a residential installation shall be vented with a two (2) inch vent.

(2)(a) Except as established in paragraph (b) of this subsection, an ejector serving a commercial or industrial installation shall be vented with a three (3) inch vent.

(b)1. If a three (3) inch vent stack is serving a fixture that empties into the ejector pit and is located within twenty-five (25) feet of the pit, the ejector may be revented with a two (2) inch vent back to the three (3) inch vent stack.

2. The ejector vent shall not be smaller than that recommended by the manufacturer of the pump.

(3) A portion of the building drainage system that is above the cover of the manhole serving the main that can flow by gravity to a sewer shall be installed for gravity flow to the combined sanitary and storm sewer, except for a system designed otherwise by a licensed professional engineer.

Section 19. Ejector Power: Motors, Compressors, and Air Tanks. (1) A motor, air compressor, or air tank shall be located so that it shall be open for inspection and repair at all times.

(2) An air tank shall be proportioned to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating.

(3) The end pressure in the tank shall not be less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Subsoil Drainage. (1) If a subsoil catch basin is installed below the sewer level, an automatic ejector shall be used.

(2) The ejector or a device raising subsoil water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas, Roofs, and Traps. (1) A roof, paved area, court, or courtyard shall be drained into:

(a) A storm water system;

(b) A combined sewerage system; or

(c) A surface drainage area unless prohibited by the local health department or sewer district.

(2) A yard, roof, paved area, court, or courtyard shall not be drained into a sewer intended for sewage only.

(3) Traps.

(a) If a drain is connected to a combined sewerage system, it shall be trapped.

(b) If a roof leader, conductor, or gutter opening is located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required.

(c) A trap shall be set below the frost line or on the inside of the building.

(d) If a drain is not connected to a combined sewer, a trap shall not be required.

Section 22. Size of Rain Water Leader. An inside leader shall not be less size than as established in the following table:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,500	5
5,501 to 9,600	6

Section 23. Inside Conductors or Roof Leaders. (1) If a conductor or roof leader is placed within the walls of a building, or in an interior court or ventilating pipe shaft, it shall be constructed of:

(a) Cast iron pipe;

(b) Galvanized wrought iron;

(c) Galvanized steel;

(d) Copper;

- (e) Schedule 40 ABS/PVC DMV pipe; or
- (f) Reinforced thermosetting resin pipe produced and labeled as ASTM F1113 (red and silver thread).

(2)(a) Except as established in paragraph (b) of this subsection, plastic pipe and fittings (PVC or ABS) shall be limited to buildings in which the conductor does not exceed forty-five (45) feet in height, measured from the grade plane as defined by the Kentucky Building Code, 815 KAR 7:120, or Kentucky Residential Code, 815 KAR 7:125, and continuing through the vertical distance of the building to a maximum height of forty-five (45) feet.

~~(b) Plastic pipe and fittings may be installed in a building in which the conductor exceeds forty-five (45) feet in height if the installation complies with all of the requirements established in this section. [The use of PVC and ABS conductors shall be limited to buildings that do not have an occupied floor located more than seventy-five (75) feet above the lowest level of fire department vehicle access.]~~

~~(b) The PVC and ABS conductors shall be limited to a maximum vertical distance of forty-five (45) feet and the piping located underground underneath the building. The forty-five (45) foot vertical distance shall be measured beginning at the terminus of the roof and continuing through the vertical distance down the conductor to a maximum distance of forty-five (45) feet.~~

(c) The use of PVC[polyvinyl chloride] and ABS[acrylonitrile-butadiene-styrene] piping shall be limited to Schedule 40 or 80 produced and labeled as ASTM D2665 and D1784 for PVC piping and ASTM D2661 for ABS piping.

(d) The installation of the plastic pipe and fittings (PVC or ABS)~~[(ABS or PVC)]~~ shall be made in compliance with the manufacturer's recommendations, which shall be made available to the inspector.

(e) Firestop systems shall be inspected in accordance with ASTM E2174 by an inspection agency approved by the department.

Section 24. Outside Conductors. (1) If an outside sheet metal conductor or downspout is connected to a house drain, it shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade ~~plane~~[line].

(2) If the downspout runs along a public driveway without a sidewalk, it shall be placed in a niche in the wall, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve (12) inches above the grade plane.

Section 25. Defective Conductor Pipes. If an existing sheet metal conductor pipe within the walls of a building becomes defective, the conductor shall be replaced by one that conforms to this administrative regulation.

Section 26. Vent Connections with Conductors Prohibited. (1) A conductor pipe shall not be used as a soil, waste, or vent pipe.

(2) A soil, waste, or vent pipe shall not be used as a conductor.

Section 27. Overflow Pipes. An overflow pipe from a cistern, supply tank, expansion tank, or drip pan shall connect indirectly with a house sewer, house drain, soil pipe, or waste pipe.

Section 28. Subsoil Drains~~[- Below Sewer Level]~~. A subsoil drain below sewer level shall discharge into a sump or receiving tank and shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building it serves.

Section 29. Approvals of New Sewer Connections to Existing Buildings. If the local health department or sanitary sewage system board, plant, district, or treatment plant owner prohibits the discharge of a basement floor drain or other apparatus into the sanitary sewer system, an existing basement floor drain or sump pump apparatus shall comply with the construction requirements of this administrative regulation and be inspected prior to the approval of a connection for a new sewer line.

STEVEN A. MILBY, Commissioner
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 15, 2016

FILED WITH LRC: September 15, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2016, at 9:00 a.m., EDT, at 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 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 through October 31, 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: Tim Cocanougher, Office of the General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email tim.cocanougher@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Tim Cocanougher

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the waste pipe size requirements for various plumbing fixtures and appurtenances for buildings in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the Division of Plumbing's statutory duty to establish a state plumbing code that regulates the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers, and private water supplies, including the size of waste pipes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation to establish the Kentucky State Plumbing Code, which will regulate plumbing, including waste pipes for plumbing fixtures and appurtenances.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists the Division of Plumbing to establish the size of waste pipes needed for various fixtures in 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 allows additional material (PVC or ABS) to be used in the plumbing system for buildings that exceed 45 feet in height.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to expand upon the permissible types of materials used in a plumbing system.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment directly relates to the permissible types of material used in a plumbing system.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide greater flexibility in designing plumbing systems, and bring Kentucky into conformity with surrounding states and the majority of the country.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in designing and the installation of plumbing in buildings that exceed 45 feet in height within the Commonwealth, as well as all owners and

operators of buildings in which the plumbing materials described in this regulation 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 take to comply with this administrative regulation or amendment: This amendment allows designers and owners more options when selecting materials for their projects, so no actions will be required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities could anticipate decreased expenses for new installations of plumbing because this amendment increases the types of materials allowed in a plumbing system.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include additional material options for plumbing installations, making the installation of plumbing more consistent with other states.

(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 not anticipated to result in 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 from 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. This administrative regulation applies with equal force to all buildings subject to the Kentucky State Plumbing Code.

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

CABINET FOR HEALTH AND FAMILY SERVICES Office of Inspector General Division of Audits and Investigations (Amendment)

902 KAR 55:035. Schedule V substances.

RELATES TO: KRS 217.005 - 217.215, 218A.010-218A.030, 218A.120, 218A.130, 21 C.F.R. 1308.15, 21 U.S.C. 301 - 399f, 21 U.S.C. 812

STATUTORY AUTHORITY: KRS 218A.020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to add, delete, or reschedule substances enumerated in KRS Chapter 218A. KRS 218.020(3) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances controlled under federal law. This administrative regulation designates Schedule V controlled substances. This administrative regulation differs from the federal regulation because it designates gabapentin as a Schedule V controlled substance. The Cabinet for Health and Family Services recognizes that gabapentin has significant abuse potential, and its inclusion on Kentucky's Schedule V list will help reduce the risk to public health.

Section 1. Schedule V Controlled Substances. The Cabinet for Health and Family Services hereby designates as Schedule V controlled substances, in addition to those specified by KRS 218A.130, the following: (1) Narcotic drugs containing nonnarcotic active medicinal ingredients. A compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(a) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(b) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(c) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(d) Not more than two and five-tenths (2.5) milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit;

(e) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams; and

(f) Not more than five-tenths (0.5) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit;

(2) Stimulants. A material, compound, mixture, or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone; and

(3) Depressants. A material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts:

(a) Ezogabine -carbamic acid ethyl ester;

(b) Lacosamide;[and]

(c) Pregabalin;

(d) Brivaracetam; and

(e) Gabapentin.

Section 2. Dispensing Without Prescription. A controlled substance listed in Schedule V which is not a prescription drug under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 to 399f, may be dispensed by a pharmacist without a prescription to a purchaser at retail, if:

(1) The medicinal preparation contains in addition to the controlled substances, some drug or drugs conferring upon it medicinal qualities other than those possessed by the controlled substances alone;

(2) Not more than 240cc (eight (8) ounces) nor more than forty-eight (48) dosage units of any controlled substance containing opium, is dispensed at retail to the same purchaser in any given forty-eight (48) hour period;

(3) The labeling and packaging is in accordance with the requirements of KRS 217.005 to 217.215, 21 U.S.C. 301 to 399f, and the United States Pharmacopeia;

(4) The preparation is dispensed or sold in good faith as a medicine, and not for the purpose of evading the provisions of KRS Chapter 218A;

(5) The preparation is not displayed in areas open to the public;

(6) The dispensing is made only by a pharmacist, and not by a nonpharmacist employee even if under the supervision of a pharmacist. Although, after the pharmacist has fulfilled his professional and legal responsibilities set forth in this section, the actual cash, credit transaction, or delivery, may be completed by a nonpharmacist;

(7) The purchaser is at least eighteen (18) years of age;

(8) The pharmacist requires every purchaser of a controlled substance under this section, not known to him, to furnish suitable identification, including proof of age if appropriate; and

(9) The dispensing of exempt controlled substances under this administrative regulation is recorded in a bound book, maintained by the pharmacist, that shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser. The book shall be maintained in accordance with the recordkeeping requirements of KRS 218A.200.

Section 3. Compliance Date. The addition of gabapentin to Kentucky's list of Schedule V controlled substances shall be effective on July 1, 2017.

ROBERT S. SILVERTHORN, JR., Inspector General

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: September 12, 2016

FILED WITH LRC: September 15, 2016 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 24, 2016, at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by October 17, 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 October 31, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Stephanie Brammer-Barnes ((502) 564-2888, stephanie.brammer@ky.gov) and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates Schedule V controlled substances.

(b) The necessity of this administrative regulation: This administrative regulation is needed to comply with KRS 218A.020.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.020 which allows the Cabinet for Health and Family Services to add substances to or delete or reschedule all substances enumerated in the schedules set forth in KRS Chapter 218A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by designating Schedule V controlled substances.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds gabapentin and brivaracetam to Kentucky's list of Schedule V controlled substances.

(b) The necessity of the amendment to this administrative regulation: Gabapentin is not scheduled as a controlled substance. However, this amendment is needed because gabapentin shares characteristics of medications associated with misuse and addiction. In addition, the Drug Enforcement Administration recently placed brivaracetam into Schedule V of the Controlled Substances Act. Therefore, this amendment adds brivaracetam to Kentucky's list of Schedule V controlled substances.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes which allow the Cabinet for Health and Family Services to add substances to or delete or reschedule all substances enumerated in the schedules set forth in KRS Chapter 218A.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by ensuring the Cabinet is carrying out its responsibility to establish and amend the schedule of controlled substances.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects dispensers of controlled substances.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities identified in question three will be required to lawfully dispense gabapentin.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment may only nominally and temporarily increase costs as the entities identified in question three need only to develop appropriate safeguards and protocols, as with all other Schedule V drugs, for dispensation of gabapentin.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment should decrease opportunities for abuse as it will create a disincentive for unauthorized use of gabapentin.

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

(a) Initially: No costs are necessary to implement this amendment.

(b) On a continuing basis: No costs are necessary to implement this amendment.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation is from 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 fees or additional 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.

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects dispensers of controlled substances.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.020, KRS 218A.120, KRS 218A.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 will not generate additional revenue for state or local government during the first year.

(b) How much revenue will this administrative regulation generate? This amendment will not generate additional revenue for state or local government during subsequent years.

(c) How much will it cost to administer this program for the first year? No additional costs are necessary to administer this program during the first year.

(d) How much will it cost to administer this program for subsequent years? No additional costs are necessary to administer this program for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 21 C.F.R. 1308.15

2. State compliance standards. KRS 218A.020, 218A.120, 218A.130

3. Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1308.15 lists controlled substances that have been classified by the DEA as Schedule V drugs.

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 adds gabapentin to Kentucky's Schedule V controlled substances list. Gabapentin is not listed on the federal listing of Schedule V controlled substances.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment recognizes that gabapentin shares characteristics of medications associated with misuse and addiction.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Income Support Child Support Enforcement (Amendment)

921 KAR 1:410. Child support collection and enforcement.

RELATES TO: KRS 13B.010(2), 15.055, 67A.620, 95.620(1), 95.878, 131.570, 161.700(1), 186.570(2), 205.594, 205.595, 205.7685, 205.710-205.802, 237.110(4), 403.211-403.215, 405.060(2), (3), 405.405-405.991, 407.5101-407.5902, 427.125, 31 C.F.R. 285.1, 285.3, 45 C.F.R. 302.32-302.36, 302.60-302.80, 303.3, 303.6, 303.31, 303.32, 303.35, 303.70, 303.72, 303.100-303.102, 303.104, 15 U.S.C. 1673, 42 U.S.C. 652, 653, 653A, 654, 659, 664, 666(a)(1)-(4), (6)-(12), (14)-(19), (b), (c)

STATUTORY AUTHORITY: KRS 15.055(2), 186.570(2), 194A.050(1), 205.712(2)[(e)], 205.712(8)-(18)[(16)], 205.745(9), 205.7685(3), 205.795, 405.411(2), 405.520, 42 U.S.C. 652, 653, 654, 656, 659, 666(a), (b), (c), 669a

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 42 U.S.C. 666 requires states to have laws that prescribe procedures to improve effectiveness of child support enforcement. KRS 205.712(2)(o) requires the Cabinet for Health and Family Services to collect and enforce child support obligations and authorizes the cabinet to promulgate administrative regulations to implement its duties. This administrative regulation establishes procedures for collection and enforcement of child support.

Section 1. Definition. "Lump sum payment of any kind" means a lump sum payment of earnings as defined in KRS 427.005.

Section 2. Collection. (1) Income withholding shall be used for the collection of a support obligation or health insurance coverage in an order being enforced by the Child Support Enforcement (CSE) program.

(2) The cabinet shall issue the CS-89, Income Withholding for Support and CS-72, National Medical Support Notice to an employer or other income source:

(a) Within fifteen (15) calendar days of a request for income withholding; or

(b) Within two (2) working days after entry of an obligor into the State Directory of New Hires.

(3) The employer or other income source shall:

(a) Implement income withholding no later than the first pay period that occurs after fourteen (14) working days following the date of the CS-89; and

(b) Transfer the CS-72 to the employer's health plan administrator within twenty (20) business days after receipt of the notice.

(4) The employer or other income source, in accordance with KRS 405.465(4) and (6)(a), may deduct the sum of one (1) dollar for each payment made pursuant to the order.

(5) The total amount to be withheld shall not exceed the maximum amount allowed under 15 U.S.C. 1673(b).

(6) In the case of an initial withholding, the cabinet shall send the obligor a copy of the CS-89 in order to notify the obligor that the income withholding:

(a) May be contested by requesting an administrative hearing pursuant to 921 KAR 1:430, in accordance with KRS 405.467(4); and

(b) Shall apply to the current and any subsequent employer.

(7) The health plan administrator shall notify the obligor and the cabinet of the health insurance coverage within forty (40) working days of receipt of the CS-72.

(8) If an obligor terminates employment, the employer or other income source shall notify the cabinet of the obligor's last known address and name of the new employer, if known, in accordance with KRS 405.465(5).

(9) An obligor shall inform the cabinet of any changes in:

- (a) A current employer or source of income;
- (b) Access to health insurance; and
- (c) Residential or mailing address.

(10) If an obligor transfers or assigns income or income-producing property after receipt of notification of a child support obligation, the cabinet shall take action pursuant to KRS 405.060.

(11) If an arrearage only amount is subject to withholding, the arrearage payment and frequency of payment shall be equal to the payment and frequency last designated by court or administrative order.

(12) The employer or other income source shall forward:

- (a) The support obligation payment to the state disbursement unit in the child support agency within seven (7) working days from the date an amount is withheld; or
- (b) The medical insurance premium to the health insurance carrier or notify the cabinet prior to payment if more than one (1) option is available under a plan within twenty (20) business days.

(13) The employer or other income source shall include on the transmittal to the cabinet the obligor's:

- (a) Name;
- (b) Social Security number; and
- (c) Cabinet-assigned identification number.

(14) The employer or other source of income shall not be required to change payroll frequency but shall withhold:

- (a) At least once monthly; and
- (b) May combine withheld amounts from more than one (1) obligor's income in a single payment to the cabinet, if the amount attributable to each obligor is identified by:
 1. Name;
 2. Social Security number; and
 3. Cabinet-assigned identification number.

(15)(a) An employer with twenty (20) or more employees shall provide written notification of a lump sum payment of any kind of \$150 or more to be made to an employee who is currently under an income withholding order, in accordance with KRS 405.465.

1. The written notice to the cabinet shall include the following:
 - a. Name of the employee;
 - b. Social Security number of the employee;
 - c. Amount of the lump sum payment; and
 - d. Intended payment date.
2. The notice may include multiple employees on one (1) written notification if the information in accordance with [this] subparagraph 1 of this paragraph is provided for each employee.

(b) Upon receipt of notification of a lump sum payment, Child Support Enforcement shall determine if the employee owes an arrearage on a support obligation enforced by the cabinet.

(c) If the employee owes no arrearage, Child Support Enforcement or its designee shall notify the employer to release the lump sum payment to the employee.

(d) If the employee owes an arrearage, pursuant to paragraph (b) of this subsection, Child Support Enforcement or its designee shall initiate:

1. A court order to the employer in accordance with KRS 405.465; or
2. An administrative order in accordance with KRS 405.470.

(e) If Child Support Enforcement or its designee does not contact the employer, the employer shall:

1. Hold the lump sum for thirty (30) calendar days, in accordance with KRS 405.465(6)(a), from the projected date of its release; and
2. Release the lump sum payment to the employee after the 30th calendar day, unless the employer has received from Child Support Enforcement or its designee a court order or an administrative order to withhold any portion of the lump sum payment.

(16) If an obligor receives unemployment compensation benefits, the cabinet shall:

- (a) Through an agreement with the Education Cabinet, Office of Employment and Training, submit a CS-76, Unemployment Insurance Notice of Withholding, to the Department of Unemployment Insurance within the Education Cabinet to collect a child support payment from an obligor receiving unemployment

compensation; and

- (b) Notify an obligor with a CS-73, Unemployment Insurance Letter, along with a copy of the CS-76, Unemployment Insurance Notice of Withholding that:
 1. Current child support obligation or delinquency is owed;
 2. The cabinet has completed a CS-76 to order withholding of:
 - a. Fifty (50) percent of the unemployment benefit; or
 - b. The amount of the assigned support obligation, whichever is less; and
 3. The obligor may contest the withholding by requesting an administrative hearing as specified in 921 KAR 1:430.

Section 3. Support Collection by Methods Other than Collection through Income Withholding. (1) Federal income tax refund offset and federal administrative offset.

(a) A public assistance case shall qualify for offset if there is:

1. A court-ordered or administratively-established support obligation;
2. An assignment of support to the cabinet;
3. An arrearage of at least \$150; and
4. Cabinet verification of the accuracy of the obligor's name and Social Security number.

(b) A nonpublic assistance case, for which the cabinet is providing services, involving past-due child support, a specific dollar amount of medical support, or spousal support shall qualify for offset if the:

1. Cabinet is enforcing a court-ordered or administratively-established support obligation;
2. Cabinet verifies accuracy of the obligor's name and Social Security number;
3. Nonpublic assistance arrearage owed is equal to or greater than \$500, exclusive of fees, court costs, or other non-child support debt; and
4. Cabinet has the following:
 - a. A copy of the current support order;
 - b. A copy of the payment record; and
 - c. The custodial parent's last known address.

(c)1. If a case is submitted for federal tax refund offset, the case may be subject to federal administrative offset of nonexempt federal payments pursuant to 42 U.S.C. 664 and 31 C.F.R. 285.1 and 285.3.

2. Nonexempt federal payments shall be denied to individuals owing a child support arrearage as defined in paragraphs (a) and (b) of this subsection.

(d) An Advance Notice of Intent to Collect Past Due Support, Form CS-122, shall be sent to the obligor of the intent to intercept the tax refund and the administrative offset to be applied to the obligor's account. The notice shall inform noncustodial parents:

1. Of their right to contest the fact that past due support is owed or the amount of past due support by requesting an administrative hearing;
2. Of the procedures and timeframe for contacting CSE to request an administrative hearing;
3. That the hearing shall be conducted by the submitting state unless the noncustodial parent requests the hearing be conducted by the state with the order upon which the referral for offset is based; and
4. That, in the case of a joint return, the Secretary of the U.S. Treasury shall notify the noncustodial parent's spouse at the time of offset regarding the steps to take to protect the share of the refund which may be payable to that spouse.

(2) State income tax refund offset.

(a) A public assistance case and nonpublic assistance case shall qualify for offset if there is:

1. A court-ordered or administratively-established support obligation;
2. An assignment of support to the cabinet or the Child Support Enforcement program is providing services involving past due child support, a specific dollar amount of medical support, or spousal support;
3. An arrearage of at least \$150; and
4. Cabinet verification of the accuracy of the obligor's name and Social Security number.

(b) In accordance with KRS 131.570, an advance written notice shall be sent to the obligor that he may contest the accuracy of a past due amount by requesting an administrative hearing as specified in 921 KAR 1:430.

(3) Tort claim settlements and state administrative offset. The cabinet shall:

(a) Identify a child support case for state administrative offset, including tort claim settlements, if a child support case meets the criteria specified in subsection (2)(a) or (b) of this section; and

(b) Notify the Finance and Administration Cabinet to offset administrative payments, including tort claim settlements, in accordance with KRS 205.712(17), for a case identified in paragraph (a) of this subsection.

(4) Financial Institution Data Match (FIDM). The cabinet shall:

(a) Use the following criteria to identify a case for seizure of assets:

1.a. Assignment of support is made to the cabinet; or

b. Child Support Enforcement program is providing support services; and

2. The obligor owes past-due support in an amount equal to or greater than one (1) month's support obligation;

(b) Issue a CS-68, Order to Withhold and Deliver, and CS-69, Answer to Withhold and Deliver, to a financial institution holding the obligor's account or accounts;

(c) Issue a CS-68 and CS-121, Noncustodial Parent's Answer to Withhold and Deliver, to the obligor within two (2) working days:

1. After both of the forms specified in paragraph (b) of this subsection are issued to the financial institution; and

2. To notify the obligor that the funds in the account with the financial institution may be retained by requesting an administrative hearing to contest the Order to Withhold and Deliver in accordance with 921 KAR 1:430;

(d) Notify an obligor that to retain the funds in the account with the financial institution, an obligor shall take one (1) of the following actions within twenty (20) calendar days from the date of receipt of a CS-68:

1. Pay the total arrearage;

2. Request ~~an~~and administrative hearing to contest the CS-68; or

3. Post a bond satisfactory to the cabinet; and

(e) ~~To release or amend an Order to Withhold and Deliver~~After an administrative hearing, if a case does not qualify for the withhold and deliver process, send a CS-70, Release/Amendment of Order to Withhold and Deliver to:

1. The obligor; and

2. The financial institution.

(5) If a seizure of assets request is identified, as specified in subsection (4)(a) of this section, and is initiated from outside the commonwealth as a result of a FIDM, pursuant to 42 U.S.C. 666(a)(17), the cabinet shall comply with KRS 205.712, 407.5305, and 407.5507 to issue:

(a) A CS-68 and a CS-69 to a financial institution holding the obligor's account or accounts;

(b) A CS-68 and a CS-121, Noncustodial Parent's Answer to Withhold and Deliver, to the obligor within two (2) working days after both of the forms specified in paragraph (a) of this subsection are issued to the financial institution; and

(c) A CS-70 to the financial institution if the initiating state's request is withdrawn.

Section 4. Enforcement Actions. (1) Liens.

(a) The cabinet shall file a lien on an obligor's interest in personal or real property, in accordance with KRS 205.745, if:

1. The obligor owes an arrearage equal to or greater than one

(1) month's obligation;

2. The child support has been assigned to the cabinet;

3. The property has been identified and located; and

4. The value of the property exceeds the costs related to filing the lien.

(b) To file a lien, the cabinet shall:

1. Issue a CS-85, Notice of Lien, for property within or outside Kentucky in accordance with KRS 205.745 or 205.7785; and

2. Provide a CS-119, Noncustodial Parent's Notice of Lien,

along with a copy of the CS-85 to the obligor notifying him that:

a. The obligor may contest the lien as specified in 921 KAR 1:430;

b. A transfer of property in order to avoid payment shall be considered an act of fraud, in accordance with KRS 405.060(2); and

c. If the obligor makes full payment of the arrearage, including interest, penalties, and fees, a CS-120, Release of Lien, shall be provided to the obligor.

(c) To release a lien, the cabinet shall provide a CS-120, Release of Lien, to the obligor.

(2) License and certificate denial, suspension, or revocation.

(a) If an obligor owes an arrearage equal to or greater than six (6) months of an assigned support obligation or fails to comply with a subpoena or warrant relating to paternity or child support proceedings, as established in KRS 205.712(9):

1. The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.

2. The denial or suspension shall remain in effect until:

a. The obligor makes full payment of the arrears;

b. Payments on the past due child support are made in accordance with a court order, an administrative order, or Payment Agreement, CS-78;

c. The obligor complies with the subpoena or a warrant relating to paternity or child support proceedings has been removed;

d. The obligor provides supporting documentation of extenuating circumstances that is accepted by the cabinet; or

e. The appeal of the denial or suspension is upheld and the license is reinstated.

3. The cabinet shall send to the obligor a CS-44, Notice of Intent to Request Denial or Suspension, which includes:

a. A section for an Answer to Notice of Intent providing the obligor with notice of the obligor's right to request an administrative hearing contesting the action as specified in 921 KAR 1:430; and

b. Notification that the CS-63, Notice to Licensing/Certification Board or Agency shall be rescinded if an action specified in paragraph (a) 2 of this subsection has been taken.

4. The cabinet shall send to the issuing agency or board of licensure or certification a CS-63, if an action in subparagraph 2 of this paragraph has not been taken.

5. The cabinet shall send to the issuing agency or board of licensure or certification a CS-63, within twenty (20) calendar days of the date of administrative hearing decision, if an administrative hearing results in a finding that the case qualifies for:

a. A license or certificate denial;

b. Suspension; or

c. Revocation.

6. The cabinet shall notify the issuing board or agency that the obligor is no longer subject to denial, suspension, or revocation, if the obligor, in accordance with KRS 205.712(11):

a. Has eliminated the child support arrearage;

b. Is making payments on the child support arrearage in accordance with a court or administrative order; or

c. Complies with a subpoena or warrant relating to paternity or child support proceedings.

(b) If an obligor owes an arrearage equal to or greater than one (1) year's obligation, the cabinet shall take action against a license to carry a concealed deadly weapon as specified in KRS 237.110(4).

(3) Vehicle booting.

(a) If an obligor owes an arrearage equal to or greater than six (6) months obligation of an assigned support obligation and fails to comply with a subpoena or warrant relating to a child support proceeding, the cabinet may enforce a lien on a vehicle registered to the obligor by immobilization with a vehicle boot as established in KRS 205.745(9).

(b) The cabinet shall:

1. Verify with the Department of Vehicle Regulation that the vehicle identification number for the vehicle to be booted is register in the obligor's name;

2. Verify the vehicle to be booted is solely owned by the obligor, co-owned by the obligor and current spouse, or owned by a business in which the obligor is the sole proprietor;

3. Send a notice of intent to the obligor, unless there is reason to believe that the obligor will leave town or hide the vehicle;

4. File a lien in the county where the vehicle is kept; and

5. Set a target date for booting the vehicle, if the obligor does not contact the cabinet within ten (10) days of notice to negotiate a settlement.

(c) The cabinet shall send a cancellation notice to the obligor and to the appropriate local law enforcement personnel to terminate the booting of the vehicle.

(4) Newspaper publication of a list of delinquent obligors. If an obligor owes an arrearage equal to or greater than six (6) months of an assigned support obligation or fails to comply with a subpoena or warrant relating to paternity or child support proceedings, as established in KRS 405.411, a cabinet designee under 205.712(6) may:

(a) Compile and furnish a list to a newspaper of general circulation in that county for publication; and

(b) Include the name, last known address, and the past due amount owed by the obligor.

(5) Passport denial, revocation, or limitation. If the obligor owes an arrearage of \$2,500 or more, in accordance with 42 U.S.C. 652(k) and 654(31), the cabinet shall:

(a)1. Provide the Advance Notice of Intent to Collect Past Due Support, CS-122, to the obligor of the determination to be referred for passport denial, revocation, or limitation; and

2. Include in the notice the consequences of the referral and the right to contest the action by requesting a hearing in accordance with KRS 205.712(8);

(b) Provide the U.S. Secretary of Health and Human Services the names of individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport; and

(c) Notify the Secretary of the U.S. Department of Health and Human Services that the cabinet requests the release of the passport of an obligor that had been denied if any of the following criteria are met:

1. There was an erroneous submittal of a Social Security number;

2. There is a case of mistaken identity and the cabinet has verified this information;

3. The obligor is required to pay the past due support in full;

4. The obligor provides documentation on company letterhead verifying travel for employment or business purposes and makes alternate payment arrangements acceptable to the cabinet; or

5. There are extenuating circumstances in which the reason for travel is a family emergency and supporting documentation is provided to and accepted by the cabinet.

(6) Delinquent list.

(a) The cabinet shall provide to the Office of the Attorney General a list of names of delinquent obligors for publication on the Internet, as established in KRS 15.055 and 205.712(16).

(b) The cabinet shall send the obligor meeting the criteria in 40 KAR 1:080 a CS-175, Notice of Intent to Place Noncustodial Parent's Name on Delinquent Listing notifying him of his right to contest by requesting a hearing.

~~[(7) Consumer Reporting Agency (CRA). Prior to requesting information from a CRA for enforcement purposes and if the obligor has not provided written consent for CSE to request information from a CRA, the cabinet shall notify the obligor:~~

~~(a) By sending a CS-93, Notice of Intent to Request Information from Credit Reporting Agency; and~~

~~(b) In accordance with KRS 205.7685(2).]~~

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

(a) "CS-44 Notice of Intent to Request Denial or Suspension", 9/10;

(b) "CS-63 Notice to Licensing/Certification Board or Agency", 9/10;

(c) "CS-68 Order to Withhold and Deliver", 9/10;

(d) "CS-69 Answer to Withhold and Deliver", 9/10;

(e) "CS-70 Release/Amendment of Order to Withhold and Deliver", 9/16[9/10];

(f) "CS-72 National Medical Support Notice", 3/15;

(g) "CS-73 Unemployment Insurance Letter", 9/10;

(h) "CS-76 Unemployment Insurance Notice of Withholding", 9/10;

(i) "CS-78 Payment Agreement", 9/10;

(j) "CS-85 Notice of Lien", 10/12;

(k) "CS-89 Income Withholding for Support", 3/15;

~~(l) "CS-93 Notice of Intent to Request Information from Credit Reporting Agency", 3/15;~~

~~(m) "CS-119 Noncustodial Parent's Notice of Lien", 9/10;~~

~~(n) "CS-120 Release of Lien", 9/16[9/10];~~

~~(o) "CS-121 Noncustodial Parent's Answer to Withhold and Deliver", 9/10;~~

~~(p) "CS-122 Advance Notice of Intent to Collect Past-Due Support", 10/12; and~~

~~(q) "CS-175 Notice of Intent to Place Noncustodial Parent's Name on Delinquent Listing", 4/09.~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Income Support, Child Support Enforcement, 730 Schenkel Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

STEVEN P. VENNO, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: August 23, 2016

FILED WITH LRC: August 24, 2016 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 24, 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 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 October 31, 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 40602, phone 502-564-7905, fax 502-564-7573, email Tricia.Orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Mary W. Sparrow (mary.sparrow@ky.gov, (502) 564-2285) and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the processes available for enforcing child support obligations: income withholding, medical support, lump sum withholding, federal and state tax intercept, unemployment insurance intercept, financial institution data matches, liens, license and certificate denial, suspension, or revocation, vehicle booting, denial revocation, or limitation of an obligor's passport and a collaborative effort between the Office of the Attorney General and CSE to publish a list of delinquent obligors.

(b) The necessity of this administrative regulation: This administrative regulation is necessary as it provides the procedures for all of the enforcement actions that can be taken by the child support program. 45 C.F.R. 301.1, 302.30, 302.31, 302.32-302.36, 302.50, 302.65, 302.80, 303.3-303.15, 308.30-303.31, 303.69, 303.70, 42 U.S.C. 651-654, 663 and 666.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: The Cabinet has responsibility under KRS 15.055(2), 194A.050(1), 205.712(2)(o), 205.712(16), 205.745(9), 205.7685(3), 205.795, 405.411(2), 405.520, and by virtue of applying for federal funds under 42 U.S.C. 654, 659, 666 to establish procedures to collect and enforce child support obligations for recipients of IV-A, IV-E, Title XIX, and individuals who apply for IV-D services. This administrative regulation sets forth such procedures and processes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing procedures utilized by the Cabinet to enforce child support obligations.

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

(a) How the amendment will change this existing administrative regulation: The amendment eliminates the requirement to notify an obligor prior to a consumer credit report being generated. This change is consistent with amendments made to the Fair Credit Reporting Act, signed on December 4, 2015, changes made to KRS 205.7685, filed as Senate Bill 238 in the 2016 session and signed by the Governor on April 9, 2016.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to be consistent with federal and state laws.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide guidance for the Child Support Enforcement (CSE) program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the administration of the statutes through expediting the determination of the appropriate level of child support payments and the enforcement of the order, award or judgment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The updates in this regulation will affect participants in the Child Support Enforcement Program.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This change will eliminate unnecessary delays in receiving child support payments as staff will no longer have to send the advanced notice (CS-93) and wait 10 days to run a credit report. Credit reports often provide an address and employment information for an obligor.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Participants in the Child Support Enforcement Program will benefit from the change, as child support staff will be able to locate an obligor and take the next appropriate enforcement action on that case.

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

(a) Initially: No additional funds will be necessary to implement the amendment to this administrative regulation.

(b) On a continuing basis: No additional funds will be necessary to implement the amendment to this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds from The Child Support Enforcement State Program under Title IV-D of the Social Security Act 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:

Neither an increase in fees nor funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation neither establishes nor increases any fees.

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Participants in the Child Support Enforcement Program will be affected by this amendment.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.705, 205.710-205.800, 205.992, 213.046(4), 403.211, 405.430(5), 405.520, 405.467, 610.170, 45 C.F.R. 301.1, 302.30, 302.31, 302.32-302.35, 302.65, 302.80, 303.2, 303.3-303.15, 303.30-303.31, 303.69, 303.70, 42 U.S.C. 651-654, 663, 666.

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 additional funding.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate additional funding.

(c) How much will it cost to administer this program for the first year? No additional funds will be necessary to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional funds will be necessary to implement this administrative regulation in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Repealer)

103 KAR 28:041. Repeal of 103 KAR 28:040.

RELATES TO: KRS 139.050, 139.100

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 139.050 and 139.100, which were the authorizing statutes for 103 KAR 28:040, Redemption of premium or trading stamps, were repealed by 2008 Ky. Acts ch. 95, sec. 20, effective August 1, 2008. Therefore, this administrative regulation repeals 103 KAR 28:040.

Section 1. 103 KAR 28:040, Redemption of premium or trading stamps, is hereby repealed.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: August 22, 2016

FILED WITH LRC: August 22, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2016, at 10:00 a.m. in Room 386, Capitol Annex Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 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: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Station 9, 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: Repeals 103 KAR 28:040.

(b) The necessity of this administrative regulation: The authorizing statutes for 103 KAR 28:040 were repealed by 2008 Ky. Acts ch. 95, sec. 20, effective August 1, 2008. Per KRS 13A.310, this administrative regulation repeals 103 KAR 28:040.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13A requires that all regulations made inactive or ineffective in statute be repealed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will insure that the Department of Revenue is in compliance with KRS 13A.

(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: None.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No change.

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

(9) TIERING: Is tiering applied? Tiering is not applied since no regulated entities will be affected by the repeal of this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, primarily the Department of Revenue, 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 Chapter 13A

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 and revenues for government agencies.

(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:

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Repealer)

103 KAR 41:021. Repeal of 103 KAR 41:020.

RELATES TO: KRS 131.130, 138.130, 138.207

STATUTORY AUTHORITY: KRS 131.130, 138.130, 138.207

NECESSITY, FUNCTION, AND CONFORMITY: KRS 138.207, which was the authorizing statute for 103 KAR 41:020, Tax free cigarettes, was repealed by 2005 Ky. Acts ch. 168, sec. 157, effective June 1, 2005. Therefore, this administrative regulation repeals 103 KAR 41:020.

Section 1. 103 KAR 41:020, Tax-free cigarettes, is hereby repealed.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: August 22, 2016

FILED WITH LRC: August 22, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2016, at 10:00 a.m. in Room 386, Capitol Annex Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 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: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Station 9, 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: Repeals 103 KAR 41:020 per the provisions of HB 272/2005GA and KRS 13A.

(b) The necessity of this administrative regulation: KRS 13A requires a regulation that will no longer be updated or effective to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation filing is required per the provisions of KRS 13A to repeal regulations that will no longer be in effect.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will insure that the Department of Revenue is in compliance with KRS 13A.

(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: None.

(4) Provide an analysis of how the entities identified in question

(3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current budgetary funding and personnel within the Department of Revenue.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No change.

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

(9) TIERING: Is tiering applied? Tiering was not applied for this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, primarily the Department of Revenue, 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 Chapter 13A

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 and revenues for government agencies.

(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:

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Repealer)

103 KAR 44:131. Repeal of 103 KAR 44:130.

RELATES TO: KRS 131.130, 138.4602, 138.4603

STATUTORY AUTHORITY: KRS 131.130, 138.4602, 138.4603

NECESSITY, FUNCTION, AND CONFORMITY: KRS 138.4602, which was the authorizing statute for 103 KAR 44:130, New motor vehicle trade-in allowance, was repealed by 2013 Ky. Acts ch. 119, sec. 10, effective June 25, 2013. Therefore, this administrative regulation repeals 103 KAR 44:130.

Section 1. 103 KAR 44:130, New motor vehicle trade-in allowance, is hereby repealed.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: August 22, 2016

FILED WITH LRC: August 22, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2016, at 10:00 a.m. in Room 386, Capitol Annex Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 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: Lisa Swiger, Staff Assistant, Department of Revenue, Finance and Administration Cabinet, 501 High Street, Station 9, 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: Repeals 103 KAR 44:130 due to the authorizing statute, KRS 138.4602 sunseting and being repealed by 2013 Ky. Acts ch. 119, sec. 10, effective June 25, 2013.

(b) The necessity of this administrative regulation: This regulation is necessary to remove an effective regulation that is out of date and no longer relevant because the statutory authority that created the regulation sunsetted and was repealed in 2013.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13A requires that all regulations made inactive or ineffective in statute be repealed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will insure that the Department of Revenue is in compliance with KRS 13A.

(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 will repeal it.

(b) The necessity of the amendment to this administrative regulation: To comply with KRS 13A.

(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: By complying to KRS 13A and removing a regulation no longer authorized by statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: N/A

(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: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: N/A

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

(9) TIERING: Is tiering applied? Tiering was not applied for this repealer regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, primarily the Department of Revenue, 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 Chapter 13A

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 and revenues for government agencies.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Board of Pharmacy
(Repealer)**

201 KAR 2:351. Repeal of 201 KAR 2:350.

RELATES TO: KRS 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations. 2016 Ky. Acts ch. 103 transferred the authority to regulate home medical equipment providers from the Board of Pharmacy to the Board of Durable Medical Equipment Providers. Therefore, 201 KAR 2:350, which was promulgated by the board to regulate home medical equipment providers, is obsolete. This administrative regulation repeals 201 KAR 2:350.

Section 1. 201 KAR 2:350, Home medical equipment service providers, is hereby repealed.

SCOTT GREENWELL, R.Ph., President

APPROVED BY AGENCY: September 7, 2016

FILED WITH LRC: September 8, 2016 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 31, 2016, at 9 a.m. at the Board's office, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by five workdays prior to this 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 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 through October 31, 2016. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Steve Hart, Executive Director, Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Steve.Hart@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Steve Hart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 201 KAR 2:350.

(b) The necessity of this administrative regulation: This regulation is necessary because 201 KAR 2:350 was rendered obsolete by HB 562.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 315.191(1)(i) authorizes the board to promulgate administrative regulations and it is necessary to file a regulation to repeal a regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation will repeal an obsolete regulation.

(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: This regulation will affect 718 home medical equipment service providers previously licensed by the Board of Pharmacy, who will now be regulated by Occupations and Professions at the Finance and Administration Cabinet.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Home medical equipment providers are not required to take any action 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 are no costs for home medical equipment service providers to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No benefits will accrue other than home medical equipment providers will be regulated by another state licensure board.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No source of funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required because of 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 fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied since this regulation applies to similarly situated entities in an equal manner.

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 Pharmacy will no longer collect fees for home medical equipment providers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. HB 562.

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. N/A

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for Professional Engineers
and Land Surveyors
(Repealer)

201 KAR 18:051. Repeal of 201 KAR 18:050.

RELATES TO: KRS 322.020, 322.040(1)(a)3.a., 322.080(2)
 STATUTORY AUTHORITY: KRS 322.080(2), 322.290(4)
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.040(1)(a)3.a. requires a passing score on the Principles and Practice of Engineering Examination (PPEE). KRS 322.080(2) requires the board to prescribe the scope of the examination. Because the PPEE is administered by discipline, it is necessary for the board to establish the disciplines recognized in Kentucky for the examination. This administrative regulation repeals 201 KAR 18:050 because KRS 322.010(19) now identifies the test referenced in KRS 322.040(1)(a)3.a. as being the examination developed by the National Council of Examiners for Engineering and Surveying, the same provision found in 201 KAR 18:050, thereby making that administrative regulation redundant.

Section 1. 201 KAR 18:050, Disciplines of professional engineering for testing, is hereby repealed.

B. DAVID COX, Executive Director

APPROVED BY AGENCY: September 14, 2016

FILED WITH LRC: September 14, 2016 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016 at 2:30 p.m., local time, at 160 Democrat Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing of their intent to attend no later than five workdays prior to the date of the hearing. If no written notification of an individual's intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. If the public hearing is held, 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 which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. 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 thru October 31, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jonathan Buckley, General Counsel, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, phone (502) 573-2680, fax (502) 573-6687, email JonathanD.Buckley@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jonathan Buckley

(1) Provide a brief summary of:

(a) What this administrative regulation does: The existing regulation, 201 KAR 18: 050, established the disciplines of professional engineering for the testing required by KRS 322.040(1)(a)3a in order to obtain licensure as a PE in Kentucky; this regulation repeals 201 KAR 18:050.

(b) The necessity of this administrative regulation: The existing regulation, 201 KAR 18:050, has been superseded by the provisions of KRS 322.010(19), which statute establishes that the examination required by KRS 322.040(1)(a)3a is that provided by the National Council of Examiners for Engineering and Surveying (NCEES) as the national examination for this purpose, and which examination is given by discipline; therefore, this regulation is redundant and should be deleted.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 322.290(4) mandates that the board shall promulgate administrative regulations, consistent with the Constitution and laws of the state and reasonably necessary for the proper performance of its duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation repeals a regulation that is redundant of an existing statutory enactment, since the disciplines available for examination for the purposes of compliance with the requirements of KRS 322.040(1)(a)3a, are established by KRS 322.010(19); there now exists no need for this regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: N/A; this is not an amendment to an existing administrative regulation.

(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: This proposed regulation will not affect businesses, organizations, or state and local governments. It will affect only those individuals seeking initial licensure as a professional engineer.

(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) A detailed explanation of 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 for initial licensure as a professional engineer will take the examination identified in KRS 322.010(19). No additional actions will be required of either the applicants or the board.

(b) An estimate of the costs imposed on entities identified in question (3) in complying with this administrative regulation or amendment: There is no additional cost associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for initial licensure as a professional engineer will understand clearly which examination is required of them in order for them to comply with KRS 322.040(1)(a)3a.

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

(a) Initially: \$0

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Restricted Agency Funds. The board receives no general or federal 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 funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased as a result of this regulation.

(9) TIERING: Is tiering applied? Tiering was not used because this regulation should not disproportionately affect any particular group of people.

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 State Board of Licensure for Professional Engineers and Land Surveyors

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 322.290.

4. 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 are no revenue or expenditure effects for any government agency.

(a) How much revenue will this administrative regulation generate for the state or local government agency (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 agency (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? \$0

(d) How much will it cost to administer this program for subsequent years? \$0

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: There is no additional cost or revenue generated by this amendment.

GENERAL GOVERNMENT CABINET
Kentucky Board of Durable Medical Equipment Suppliers
(New Administrative Regulation)

201 KAR 47:010. Home medical equipment and supplier licenses, requirements, and fees.

RELATES TO: KRS 17.500, Chapter 209, 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420, 439.3401

STATUTORY AUTHORITY: KRS 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.404(4) and 309.406(1)(a) authorize the board to promulgate administrative regulations governing home medical equipment and service providers. This administrative regulation establishes the minimum requirements for the licensing of a home medical equipment and services provider.

Section 1. License Required. Unless exempted by KRS 309.412(2), a person engaged in providing home medical equipment and services in the commonwealth shall hold a license.

Section 2. Initial License. (1) An applicant for licensure that does not currently hold or that has not previously held a license in the commonwealth shall submit:

(a) An Application for Home Medical Equipment License or Renewal;

(b) A license fee of \$350; and

(c) Evidence of the ability to comply with KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47. To demonstrate the ability to comply with those provisions, the applicant shall:

1. At the time of application, submit proof of accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services that accredits suppliers of durable medical equipment; or

2. Within sixty (60) days of application, submit to an inspection by the board to ensure the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47. The board shall not consider a license application, a license shall not be issued, and the applicant shall not engage in the business of providing home medical equipment or services until the board is provided a final report from the inspector demonstrating the applicant's ability to comply with the provisions

of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47.

(2)(a) An applicant issued a license based on proof of accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services shall maintain accreditation during the license period.

1. Each licensee shall advise the board in writing of any change in accreditation, including if the accreditation is revoked, suspended, not renewed, or expires.

2. If the accreditation is revoked, suspended, not renewed, or expires, the licensee shall request and submit to an inspection by the board to ensure the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47.

(b) An applicant that does not maintain an accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services and is issued a license based upon an inspection by the board to ensure the applicant's ability to comply with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47 shall submit to an annual inspection by the board.

(c) If the notification required by paragraph (a) of this subsection is not submitted within thirty (30) days of the date on which the licensee's accreditation is revoked, suspended, not renewed, or otherwise expires, the license shall be deemed suspended.

Section 3. License Renewals. A licensee seeking to renew a license shall submit:

(1) An Application for Home Medical Equipment License or Renewal;

(2) The evidence required by Section 2(1)(c) of this administrative regulation; and

(3) A license renewal fee of \$350.

Section 4. Reciprocal Licenses. An applicant seeking licensure pursuant to KRS 309.420 on the basis of reciprocity shall submit:

(1) An Application for Home Medical Equipment License or Renewal;

(2) A certified copy of the applicant's license issued in another state; and

(3) A copy of the applicant's discipline history certified by the licensing authority that issued the license referenced in subsection (2) of this section.

Section 5. (1) Annual Continuing Education Requirement. Persons engaged in the provision of home medical equipment and services shall complete at least six (6) hours of annual continuing education related to providing home medical equipment and services, which may be provided in-house by the licensee.

(2) The annual educational calendar shall include programs in:

(a) Infection control and blood borne pathogens;

(b) OSHA and safety issues to include fire safety, disaster preparedness, and office security;

(c) HIPAA, privacy and security; and

(d) Any new home medical equipment or services the licensee plans to provide.

Section 6. Safety Requirements. Each licensee shall:

(1) Refrain from modifying home medical equipment in a way that might reasonably cause harm to its user;

(2) Maintain electrical components on licensed premises in a manner to prevent fire or shock hazard;

(3) Provide adequate lighting for the licensed premises;

(4) Provide adequate ventilation for the licensed premises;

(5) If essential to maintain life or if the lack of service might reasonably cause harm to the user, provide services twenty-four (24) hours daily if contracted for by supplier and user;

(6) Ensure that all home medical equipment is free of defects and operates within the manufacturer's specifications;

(7) Document the chain of custody and possession of home medical equipment;

(8) Establish, maintain, and adhere to a protocol for retrieving home medical equipment if a recall is initiated;

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

(9) Ensure that home medical equipment bears the appropriate labels, including:

- (a) Warning labels and tags; and
- (b) A label that contains the licensee's name, address, and telephone number;

(10) Maintain in a secure location all home medical equipment stored on the licensed premises;

(11) Establish, maintain, and adhere to procedures for accurately and precisely tracking records of all home medical equipment shipped or received that includes the home medical equipment purchased or the services rendered in each transaction, the date of the transaction, the quantity of the transaction, and an itemized description of the home medical equipment and services rendered; and

(12) Establish, maintain, and adhere to procedures that set forth a detailed description of how the operation will comply with applicable federal, state, or local laws or administrative regulations.

Section 7. Sanitation Requirements. A home medical equipment supplier shall:

(1) Instruct users of the home medical equipment on proper cleaning techniques as specified by the manufacturer;

(2) Repair and clean all components of home medical equipment in a confined and properly ventilated area;

(3) Maintain and store home medical equipment to ensure proper lighting, ventilation, temperature, humidity control, sanitation, space, and security; and

(4) Establish, maintain, and adhere to a protocol for cleaning and disinfecting home medical equipment that addresses both aerobic and anaerobic pathogens. The protocol shall include:

(a) Maintain segregated areas on the licensed premises and in delivery vehicles for clean, dirty, and contaminated home medical equipment; and

(b) Cleaning and disinfecting home medical equipment according to manufacturer specifications.

Section 8. Record Retention and Inspection. (1) Licensees shall be required to maintain the following records for a period of at least three (3) years:

(a) Invoices and receipts for all home medical equipment and services provided;

(b) A complete and accurate list that includes the following information for the licensee's employees:

- 1. Names;
- 2. Addresses;
- 3. Telephone numbers;
- 4. Criminal history, if any; and
- 5. Dates of employment;

(c) Records of continuing education completed for each person or employee engaged in the provision of home medical equipment and services, including the names of the persons attending the continuing education, the date of attendance, the title of the course, the entity offering the course, and a certificate of completion or similar document;

(d) Documentation of home medical equipment and services that includes:

- 1. The types of home medical equipment;
- 2. The manufacturer;
- 3. The model number;
- 4. The serial number;
- 5. Date of repair;
- 6. Specific repair made; and
- 7. The name of the person performing the repair;

(e) Documentation of any complaints received and how the complaint was resolved;

(f) Documentation of a function and safety check of home medical equipment that was performed prior to delivery of the home medical equipment and that the user of the home medical equipment is provided instruction on its proper use, safety, and maintenance; and

(g) A material safety data sheet (MSDS) documenting the solutions, products, and procedures used in cleaning and disinfecting home medical equipment.

(2) A licensee shall provide the records required by subsection (1) of this section to the board for inspection within three (3) business days of a request by the board. The board shall specify the location to which the records shall be delivered and if the board shall require electronic or hard copies of the records.

Section 9. Other fees. Pursuant to KRS 309.406(1)(f), the board shall charge the following fees for services:

Service	Fee
Duplicate license	\$15
Discipline history	\$15
Paper copies of documents	\$.10 per page if for a noncommercial purpose; or \$.25 per page if for a commercial purpose
Disks	\$2.00 per disk if for a noncommercial purpose; or \$10.00 per disk if for a commercial purpose
Mailing lists	\$15.00 per list if for a noncommercial purpose; or \$75.00 per list if for a commercial purpose

Section 10. Office of Occupations and Professions. Pursuant to KRS 309.404(9), the board vests in the staff of the Office of Occupations and Professions the authority to grant or deny licenses, accept payments, employ inspectors, receive complaints, take disciplinary action against home medical equipment and service providers, and receive appeals.

Section 11. Incorporation by Reference. (1) "Application for Home Medical Equipment License or Renewal", 2016, is incorporated by reference.

(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, 8:00 a.m. to 4:30 p.m., and is available at <http://kdbmes.ky.gov/>.

JEFF KNIGHT, Chair

APPROVED BY AGENCY: August 19, 2016

FILED WITH LRC: August 25, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016, at 9:00 AM, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing no later than five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 if received at or before 11:59 p.m. on October 31, 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: Carson Kerr, Executive Advisor, Public Protection Cabinet, Capital Plaza Tower, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969, email Carson.Kerr@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This

administrative regulation prescribes the means, requirements, and fees for acquiring, renewing, and maintaining a home medical equipment and services license in the Commonwealth.

(b) The necessity of this administrative regulation: This regulation is being promulgated to permit the Board to issue and renew licenses for these providers in the interest of public safety. This administrative regulation as promulgated by the Board will subject those market participants to continued licensing, inspection, and afford reinstatement of licenses, and administrative appeals to those who may need such process. It also sets forth the safety, sanitation, and document retention requirements for licensees. This regulation will equip the Kentucky Durable Medical Equipment Suppliers Board with the tools to adequately regulate those market participants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 309.406 the Board may prescribe the means, requirements, and fees for acquiring, renewing, and maintaining a home medical equipment and services license. This administrative regulation complies with KRS 309.406 by establishing the minimum requirements for the licensing of a home medical equipment and services provider. It also complies with KRS 309.414 by setting forth the record retention requirements for licensees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the means, requirements, and fees for acquiring, renewing, and maintaining a home medical equipment and services license in 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: 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: According to the Board of Pharmacy there are approximately 725 persons engaged in the business of providing home medical equipment and services. They include individuals, businesses, and presumably some organizations. A demographic summary of these persons has not been afforded by the Board of Pharmacy, but this information will be aggregated upon initial licensing by the Kentucky Durable Medical Equipment Suppliers 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: Applicants and existing licensees will be required to comply with the newly promulgated regulations regarding application and renewal for licensure. To maintain a license, licensees will be required to comply with the safety, sanitation, and records retention requirements established by the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation requires a \$350 license fee with every application for a two-year home medical equipment and services license. It is anticipated that most licensees will already comply with similar requirements required to obtain accreditation from national accreditation agencies approved by the Centers for Medicare & Medicaid Services.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Those persons may continue to provide home medical equipment and services.

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

(a) Initially: It will cost approximately \$65,000 in the first year to implement this administrative regulation.

(b) On a continuing basis: It will cost approximately \$65,000 annually on a continuing basis to implement this administrative regulation

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fees collected from licensing.

(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 establishes certain fees for applicants and licensees, consistent with applicable provisions of KRS Chapter 309. The Board does not anticipate the need for additional funding beyond those fees established in this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a licensing fee so that the Board may review license applications, conduct appropriate inspections, and provide administrative hearing when necessary.

(9) TIERING: Is tiering applied? Tiering was not applied because the licensing requirement applies equally to all applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Office of Occupations and Professions, the Kentucky Board of Durable Medical Equipment Suppliers, and the Kentucky Board of Pharmacy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420.

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 board is newly established. Previously the Durable Medical Equipment Suppliers were regulated by the Kentucky Board of Pharmacy. The Kentucky Board of Pharmacy was unable to provide any expenditure data as their accounting system did not differentiate expenditures for inspecting and regulating home medical equipment and service providers from Pharmacies. The Kentucky Durable Medical Equipment Board estimates that expenditures to implement this administrative regulation will be approximately \$65,000 per year. The Kentucky Durable Medical Equipment Board projects its licensing fee will generate revenue of approximately \$250,000 for each two-year licensing period. That revenue will be used to conduct potential administrative hearings, retain inspectors, and for the Board to engage in its oversight role.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate approximately \$250,000 over a two year period.

(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? In subsequent years, the Board anticipates this administrative regulation will generate approximately \$250,000 for each biennium.

(c) How much will it cost to administer this program for the first year? Initially, it will cost approximately \$65,000 to administer this program in the first year. The Board anticipates that it may incur additional costs to conduct administrative hearings and appeals. However, there is currently no basis to project the rate or expense at which those costs will accrue as no historical information has been provided by the Kentucky Board of Pharmacy.

(d) How much will it cost to administer this program for subsequent years? It will cost approximately \$65,000 annually to administer this program 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 (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation: Not applicable.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Durable Medical Equipment Suppliers
(New Administrative Regulation)**

201 KAR 47:020. Inspections, discipline, reinstatement, and administrative appeals.

RELATES TO: KRS 17.500, Chapter 209, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420, 439.3401

STATUTORY AUTHORITY: KRS 309.406, 309.412, 309.414, 309.416, 309.418, 309.420

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.404(4) and 309.406(1)(a) authorize the board to promulgate administrative regulations governing home medical equipment and services providers. KRS 309.418 authorizes the board to discipline licensees and expunge minor violations. This administrative regulation authorizes the board, its designee, or its inspector to inspect and investigate all persons engaged in providing home medical equipment or services, establishes the process for seeking an expungement of a minor violation, and establishes the process for appeals.

Section 1. Inspections. (1) The board and its inspectors may inspect and investigate all persons engaged in providing home medical equipment or services, as well as their premises and records:

- (a) In conjunction with an application;
 - (b) If the board has grounds to believe that a person's actions are endangering the public;
 - (c) If there is reason to believe a person has violated any provision of KRS Chapter 309.400 through 309.422 or 201 KAR Chapter 47;
 - (d) To investigate a complaint; or
 - (e) To verify that action has been taken to correct a violation.
- (2) If the board conducts an inspection pursuant to subsection (1) of this section, the licensee or applicant shall pay the reasonable costs of the inspection, not to exceed \$350, which shall be:

- (a) The inspector's hourly rate approved by the board; and
- (b) If the inspector is required to travel more than 100 miles from the inspector's regular place of business to conduct an inspection, a reimbursement for the inspector's reasonable costs of accommodations for each day the inspection continues, consistent with the requirements of 200 KAR 2:006.

(3) The board may conduct an unannounced inspection of a licensee's premises and records to ensure compliance with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47. The board shall not charge for an unannounced inspection.

(4) The board may investigate a licensee's or applicant's criminal history or credit history and may obtain those reports as part of the licensure process, an inspection, or during an investigation.

(5)(a) Unless a deficiency threatens the public safety, the licensee or applicant shall be advised in writing of any deficiencies and shall have thirty (30) days to correct the deficiency.

(b) If the inspector determines that a deficiency threatens the public safety, the inspector shall require the licensee or applicant to remediate the deficiency before again providing home medical equipment or services.

Section 2. Reinstatement. (1) A person whose license has been revoked may petition the board for reinstatement of the license. The petition shall include:

- (a) The person's name;

- (b) The person's license number;
 - (c) A statement of why the license was revoked and if the person's license was revoked because the person was convicted of or entered an Alford plea or plea of nolo contendere to:
 1. A sex crime as defined in KRS 17.500;
 2. A criminal offense against a victim who is a minor as defined in KRS 17.500;
 3. A felony offense under KRS Chapter 209; or
 4. An offense that would classify the person as a violent offender under KRS 439.3401;
 - (d) An explanation of how the person has been rehabilitated and is again able to engage in the practice of providing home medical equipment and services with applicable skill, competency, and safety to the public; and
 - (e) A processing fee of twenty-five (25) dollars.
- (2) A reinstated license shall expire two (2) years following the date it was first issued.

Section 3. Permanent Record. The board shall maintain a permanent record of:

- (1) A licensee's violations;
- (2) The date of the violation;
- (3) The disciplinary action taken; and
- (4) The date on which the disciplinary action was completed.

Section 4. Expungement. (1) Except as established in subsection (3)(b) of this section, a licensee may request that the board expunge a minor violation.

(2) Minor violations shall include:

- (a) The failure to meet an inspector at a scheduled inspection; or
- (b) A first-time failure to update information provided on an application for licensure.

(3) To request an expungement, a licensee shall provide:

- (a) A written request stating with specificity the violation to be expunged;
- (b) If not listed as a minor violation in subsection (2) of this section, an explanation of why the violation should be deemed minor based upon the considerations established in KRS 309.418(7)(d); and
- (c) A twenty-five (25) dollar processing fee.

Section 5. Appeals. (1) An applicant or licensee may request an administrative hearing before the board within twenty (20) days of the denial, suspension, or revocation of a license.

(2) The appeal shall include:

- (a) The name of the licensee;
 - (b) A copy of the notice of the denial, suspension, or revocation; and
 - (c) A brief statement of the reasons for the appeal.
- (3) Appeals shall be governed by KRS Chapter 13B.

JEFF KNIGHT, Chair

APPROVED BY AGENCY: August 19, 2016

FILED WITH LRC: August 25, 2016 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2016, at 9:00 AM, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing no later than five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 if received at or before 11:59 p.m. on October 31, 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: Carson Kerr, Executive Advisor, Public Protection Cabinet, Capital Plaza Tower, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969, email Carson.Kerr@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carson Kerr

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the means of inspection, discipline, revocation, reinstatement, and administrative appeals for the issuance of home medical equipment and services providers licenses in the Commonwealth.

(b) The necessity of this administrative regulation: All home medical equipment and services providers licenses in the Commonwealth of Kentucky will expire on September 30, 2016. The Kentucky Board of Durable Medical Equipment Suppliers issues and renew licenses for these providers in the interest of public safety. This administrative regulation will subject those market participants to inspection and discipline, and afford a process for reinstatement of licenses, expungement of minor violations, and administrative appeals. This administrative regulation will equip the Board with the tools to enforce the Home Medical Equipment and Services Provider Licensure Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to KRS 309.418, the Board may prescribe the means of inspection, discipline, reinstatement of, and administrative appeals surrounding the issuance, suspension and revocation of home medical equipment licenses in the Commonwealth. This administrative regulation complies with KRS 309.406 by requiring licensees to pay the reasonable costs of inspections. It complies with KRS 309.418 by setting forth the process for reinstatement of a license and the means of expunging minor violations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulations permits the board to conduct inspections of market participants, including applicant and licensees, sets forth the criteria for reinstatement of licenses and expungement of minor violations, and the appeals process.

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

(a) How the amendment will change this existing administrative regulation: 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: According to the Board of Pharmacy there are approximately 725 persons engaged in the business of providing home medical equipment and services. They include individuals, businesses, and presumably some organizations. A demographic summary of these persons has not been afforded by the Board of Pharmacy. However, this information will be aggregated by the Office of Occupations and Profession upon initial licensing conducted by the Kentucky Durable Medical Equipment Suppliers 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: Market participants, applicants, and existing licensees will be required to comply with this administrative regulation by submitting to the required inspections or following the appeals, expungement, or reinstatement processes.

(b) In complying with this administrative regulation or

amendment, how much will it cost each of the entities identified in question (3): This administrative regulation requires applicants and licensees to pay the inspector's approved hourly rate to complete an inspection, not to exceed \$350. If the inspector is required to travel in excess of 100 miles from the inspector's regular place of business to conduct the inspection, the applicant will be required to reimburse the Board for the reasonable costs of the inspector's accommodations for each day the inspection continues, consistent with the requirements of 200 KAR 2:006.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This regulation clearly states for licensees the bases for inspections and the appeals process. This regulation will ensure that licensees may appeal certain actions by the board and expunge minor violations. This accountability required by this regulation will secure for licensees the confidence of the public.

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

(a) Initially: Initially: It will cost approximately \$65,000 annually to implement this administrative regulation.

(b) On a continuing basis: It will cost approximately \$65,000 annually on a continuing basis to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fees collected from licensing, fees collected for the services of the inspectors, and fees from penalties collected for noncompliance. The General Assembly set the maximum fee for a two-year license application in KRS 309.414. In doing so it also provided a rate at which the Board may at its discretion increase that fee.

(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 establishes certain fees for applicants and licensees, consistent with applicable provisions of KRS Chapter 309. At this time, the Board does not anticipate the need for additional funding beyond those fees established in this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes fees for the reasonable cost to complete inspections when needed.

(9) TIERING: Is tiering applied? Tiering was not applied because the licensing requirement applies equally to all applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Occupations and Professions, The Kentucky Board of Durable Medical Equipment Suppliers, and the Kentucky Board of Pharmacy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.406, 309.412, 309.414, 309.416, 309.418, 309.420.

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 Kentucky Durable Medical Equipment Board projects its licensing fee will generate revenue of approximately \$250,000 for each two-year licensing period. That revenue will be used to conduct potential administrative hearings, retain inspectors, and for the Board to engage in its oversight role. will be used to cover the costs of administrative hearings.

(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 Kentucky Durable Medical Equipment Board projects its licensing fee will generate revenue of approximately \$250,000 for each two-year licensing period. That revenue will be used to conduct potential administrative hearings, retain inspectors, and for the Board to engage in its oversight role. will be used to cover the costs of administrative hearings.

(c) How much will it cost to administer this program for the first year? Initially, it will cost approximately \$65,000 to administer this program in the first year. The Board anticipates that it may incur additional costs to conduct administrative hearings and appeals. However, there is currently no basis to project the rate or expense at which those costs will accrue as no historical information has been provided by the Kentucky Board of Pharmacy.

(d) How much will it cost to administer this program for subsequent years? Approximately \$65,000 annually to administer this program 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 (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation: Not applicable.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of September 13, 2016

Members: Senators Julie Raque-Adams, Alice Forgy Kerr, Ernie Harris; and Representatives Linda Belcher, Mary Lou Marzian and Tommy Turner.

LRC Staff: Sarah Amburgey, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Klaber, and Donna Little.

Guests: Becky Gilpatrick, Kentucky Higher Education Assistance Authority; Lindsay Hughes Thurston, Office of the Secretary of State; Beau Barnes, Teachers' Retirement System; Gary Morris, Steven Nave, Regina Ritchey, Department of Revenue; Scott Majors, Board of Physical Therapy; Nicole Sergent Biddle, Larry Disney, Real Estate Appraisers Board; Mary Badami, Nicole Sergent Biddle, Board of Licensure for Marriage and Family Therapy; Kim Coy DeCoste, Matt James, Board of Licensed Diabetes Educators; Dan Figert, Gabe Jenkins, Jeff Ross, Department of Fish and Wildlife Resources; Todd Allen, Kevin Brown, Department of Education; Kevin Brown, Chad Collins, Kentucky High School Athletic Association; Richard Linio, Morehead State University; Stephen Humphress, Melissa McQueen, Department of Alcoholic Beverage Control; Marni Gibson, Brian Raley, Department of Financial Depository Institutions; Holly Ross, Tammy Scruggs, Jessica Sharpe, Gary Stephens, Department of Financial Institutions; Sherry Culp, Kristi Gentry, Phyllis Sosa, Department for Aging and Independent Living; Mary Sparrow, Child Support Enforcement; Dr. Dale Bertram, Mike Rankin, Interactive Continuing Education Training.

The Administrative Regulation Review Subcommittee met on Tuesday, September 13, 2016, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Educational Excellence Scholarship Program

11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) program. Becky Gilpatrick, director of student aid, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 3, 4, 7, 9, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

OFFICE OF THE SECRETARY OF STATE: Occupational License Fees

30 KAR 7:010. Standard form for occupational license fee return. Lindsay Hughes Thurston, assistant secretary of state, represented the office.

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System: General Rules

102 KAR 1:165. Surviving children's benefits. Beau Barnes, deputy executive secretary and general counsel, represented the system.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 12 to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:290. Disability retirement application, review, and examinations.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and the STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 6 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:320. Qualified domestic relations orders.

In response to questions by Co-Chair Harris, Mr. Barnes stated that a Qualified Domestic Relations Order (QDRO) was used to determine the disposition of retirement assets in situations of divorce. The system did not receive notice of any concerns related to the fee for processing the QDRO. Because processing the QDRO was an extensive process, the fee was fair.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend Sections 2, 3, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend material incorporated by reference to add edition dates and make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: Office of Income Taxation: Income Tax; General Administration

103 KAR 15:180 & E. Kentucky new markets development program tax credit. Gary Morris, policy advisor, and Regina Ritchey, section supervisor, represented the department.

GENERAL GOVERNMENT CABINET: Board of Physical Therapy: Board

201 KAR 22:045. Continued competency requirements and procedures. Scott Majors, executive director, represented the board.

In response to a question by Co-Chair Harris, Mr. Majors stated that proof of compliance with continued competency requirements was required biennially in odd-numbered years. Before this amendment, a credential holder was able to request an extension for submitting the proof of compliance without a deadline for filing the request. The lack of a deadline sometimes resulted in the board having to take retroactive action pertaining to extension requests; therefore, the board submitted this amendment to establish a deadline to provide adequate time for the credential holder to submit the justification for an extension and adequate time for the board to process the request.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 3 to revise the edition date of the Exemption or Extension for Completion of Continued Competency Form; and (3) to update the form: (a) for consistency with the administrative regulation; and (b) to clarify the two (2) different deadlines for hardship and nonhardship extension application requests. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure. Nicole Biddle, assistant attorney general, and Larry Disney, executive director, represented the board.

In response to questions by Representative Belcher, Mr. Disney stated that certified and licensed real estate appraisers were required to have at least a four (4) year, postsecondary degree, financed without board assistance. After the four (4) year, postsecondary degree, applicants were required to obtain 200 to 300 hours of real estate-specific coursework, also financed without

board assistance. There were federal requirements for training and experience, and applicants were required to pass an examination. The examination fee was \$200, and applicants needed the twelve (12) dollar manual. There was also a forty (40) dollar federal registration fee. Kentucky maintained approximately 1,500 credentialed or licensed real estate appraisers and had not experienced shortages. The changes to these requirements may help access because required supervision could come from outside of Kentucky.

In response to a question by Co-Chair Harris, Mr. Disney stated that the credentialing or licensure examination was developed by a nonprofit organization established by Congress. The examination was then subject to oversight by the FDIC.

A motion was made and seconded to approve the following amendments: to amend Section 2 to: (1) comply with the drafting requirements of KRS Chapter 13A; (2) clarify that the supervising appraiser shall have been a state certified real property appraiser for at least three (3) years; and (3) clarify that a first-time applicant shall attend the board-approved course in supervision-training practices prior to being issued an associate license. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Marriage and Family Therapists: Board

201 KAR 32:030. Fees. Mary Badami, chair, and Nicole Biddle, assistant attorney general, represented the board. Dr. Dale Bertram, educational coordinator, and Mike Rankin, marriage and family therapist, represented Interactive Continuing Education Training and appeared in support of this administrative regulation.

In response to a question by Representative Belcher, Dr. Bertram stated that this administrative regulation did not affect pastoral counselors.

In response to a question by Co-Chair Harris, Ms. Badami stated that there had been concern from stakeholders regarding the fee structure. The previous fee structure was inequitable in some situations; therefore, after examining the fee structures of other states, the board developed this new fee structure that was intended to be more equitable to all groups. Some fees had increased, but most were in effect reduced.

A motion was made and seconded to approve the following amendments: (1) to add a citation to the RELATES TO paragraph; (2) to amend Section 7 to clarify that domestic violence training shall be completed within three (3) years of licensure as required by 201 KAR 32:060; (3) to amend Section 8 to simplify the fee structure for continuing education workshops with a fee of: (a) fifty (50) dollars per day for six (6) workshops or less offered a single time; (b) \$125 per day for seven (7) or more workshops offered a single time; and (c) \$250 for a single workshop offered unlimited times in a calendar year; (4) to amend Sections 3, 4, 5, 7, 8, and 9 to comply with the drafting requirements of KRS Chapter 13A; (5) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to update the response to question (9) to reflect the new lengths of the workshops; and (6) to update the Continuing Education Program Provider Approval Application to include the updated fee structure. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Diabetes Educators: Board

201 KAR 45:110. Supervision and work experience. Kim DeCoste, chair, and Matt James, assistant attorney general, represented the board.

In response to questions by Senator Kerr, Ms. DeCoste stated that the board did not intend to weaken requirements. Kentucky had access problems, especially in rural areas that tended to have high rates of diabetes. The agency amendment strengthened requirements by requiring supervision during diabetes education, rather than just meeting with the supervisor. Diabetes education in Kentucky was improving, and Kentucky had many dedicated diabetes educators.

In response to questions by Co-Chair Harris, Ms. DeCoste stated that the board did not require an examination for licensure. There was an examination developed by a national certification board; however, it was not appropriate for an entry-level diabetes

educator. Kentucky was the first state to develop a diabetes educator licensure program, and the national examination was expensive. With appropriate supervision, Kentucky was able to license high-quality diabetes educators. Licensed diabetes educators already had a healthcare background, such as a nurse or dietician, but a licensed diabetes educator was able to reach beyond the boundaries of those licensure programs into more in-depth matters related to diabetes.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to establish that: (a) prior to the apprentice applying for licensure, the supervisor shall observe the apprentice providing diabetes education to a patient while the supervisor is physically present in the same room on at least two (2) separate occasions, for a combined total of at least four (4) hours, two (2) hours of which shall have occurred within the last twelve (12) months preceding licensure application; and (b) the apprentice shall be responsible for obtaining any permissions, releases, or waivers required by law in order for the supervisor to observe the apprentice providing diabetes education to a patient; and (2) to amend the Supervised Work Experience Report, incorporated by reference in Section 4, to clarify that the assessment referenced is for entry-level diabetes educators. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 1:015. Boat and motor restrictions. Dan Figert, assistant wildlife director; Gabe Jenkins, big game coordinator; and Jeff Ross, program manager, represented the department.

301 KAR 1:201. Taking of fish by traditional fishing methods.

In response to questions by Representative Belcher, Mr. Ross stated that fishing requirements were determined based on species, the local ecosystem, and angler behaviors. Because of the delicate balances involved, the department established specific requirements for each local ecosystem in order to appropriately manage fish populations. The department limited overly frequent amendment of fishing requirements to avoid angler confusion.

A motion was made and seconded to approve the following amendments: to amend Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Game

301 KAR 2:132. Elk quota hunts, elk depredation permits, landowner cooperator permits, and voucher cooperator permits.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics. Kevin Brown, general counsel, Board of Education, and Chad Collins, general counsel, Kentucky High School Athletic Association, represented the department.

In response to questions by Co-Chair Harris, Mr. Collins stated that there had not been a major problem with middle school athletics; however, middle school administrations requested consistency regarding education-based athletics. Middle school athletic venues were an extension of the classroom and should have standards. The required dead period between June 25 and July 9 was an effort to reduce pressure for constant athletic involvement, especially in the current sports-specialization atmosphere. The dead period, which was consistent with the dead period for high school athletics, gave student athletes, administrators, and families down time to vacation or rest from the pressure of athletic involvement.

In response to a question by Representative Belcher, Mr. Collins stated that during the dead period, school athletic facilities were closed and schools were not allowed to require mandatory athletic practice or activities. Informal practices were not prohibited; however, students could not be penalized for failure to participate

during the dead period.

A motion was made and seconded to approve the following amendments: (1) to establish definitions; (2) to amend Section 4(2)(c) to establish that a "bona fide accrediting agency" for CPR training programs shall be approved by the KHSAA based upon industry standards; (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A and to make technical corrections; and (4) to amend material incorporated by reference to make conforming changes and technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Learning Results Services

703 KAR 4:041. Repeal of 703 KAR 4:040.

Office of Instruction

704 KAR 3:342. Repeal of 704 KAR 3:340.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:381. Repeal of 804 KAR 4:380. Stephen Humphress, general counsel, and Melissa McQueen, staff attorney, represented the department.

804 KAR 4:390. License renewals.

A motion was made and seconded to approve the following amendment: to amend Section 7 to correct the licensure term for statewide and out-of-state licenses to January 1 through December 31 of the same year rather than the following year. Without objection, and with agreement of the agency, the amendment was approved.

804 KAR 4:400 & E. ABC basic application and renewal form incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to correct edition dates for the revised forms; and (2) to amend the Basic Application form to: (a) correct a statutory reference; (b) require that the local ABC administrator's name be printed below his or her signature; and (c) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:410 & E. Special applications and registration forms incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) comply with the drafting requirements of KRS Chapter 13A; and (b) delete outdated links to the product registration forms; (2) to amend Section 3 to include references to two (2) new forms; (3) to amend Section 4 to correct edition dates for the revised forms; (4) to amend the Special Temporary License Application to require that the local ABC administrator's name be printed below his or her signature; (5) to amend the Supplemental License Application to: (a) correct the amount of the NQ3 Retail Drink Supplemental Bar License fee from \$320 to \$310; and (b) require that the local ABC administrator's name be printed below his or her signature; and (6) to amend the ABC Retailer Sampling Notification form to correct a statutory reference. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Division of Depository Institutions: Administration

808 KAR 1:081. Repeal of 808 KAR 1:080 and 808 KAR 1:100. Marni Gibson, director, Division of Depository Institutions; Brian Raley, acting deputy commissioner; Tammy Scruggs, director, Division of Nondepository Institutions; and Jessica Sharpe, general counsel, represented the department.

808 KAR 1:160. Fees for services rendered to banks and trust companies.

In response to questions by Co-Chair Harris, Mr. Raley stated

that there were some stakeholder concerns regarding the fees. The division had used an internal fee schedule since the 1980s. The authorizing statute required the fee to be adequate to recoup the division's processing costs. The fees were comparable to other states.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 1 to make a technical correction; and (3) to amend Section 2 to clarify language. Without objection, and with agreement of the agency, the amendments were approved.

Division of Nondepository Institutions: Finance Charges

808 KAR 4:021. Repeal of 808 KAR 4:020.

Division of Depository Institutions: Multibank Companies

808 KAR 11:011. Repeal of 808 KAR 11:010.

Division of Non-Depository Institutions: Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:021. Licensing and registration.

In response to questions by Co-Chair Harris, Mr. Raley stated that the FBI background checks required by this administrative regulation and 808 KAR 12:055 had been required since 2009 to safeguard the industry. Mortgage loan originators were required by statute to submit annual FBI background checks. Mortgage loan processors were only required to submit an FBI background check at their hiring, not annually. Banks and credit unions were chartered separately from nondepository institutions. Nondepository institutions, including each branch if applicable, were required to be licensed. Stakeholders had not expressed concern regarding the FBI background checks.

808 KAR 12:055. Uniform standards for mortgage loan processor applicant employee background checks.

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 Section 3 to add a cross reference to subsection (4) of the administrative regulation that outlines what is not a conviction for consistency with House Bill 40 from the 2016 Regular Session; and (3) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Aging and Independent Living: Division of Operations and Support: Aging Services

910 KAR 1:210. Kentucky long-term care ombudsman program. Sherry Culp, long-term care ombudsman; Kristi Gentry, executive assistant; and Phyllis Sosa, staff assistant, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 8, 9, 11, 13, and 15 to correct citations and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Income Support: Child Support Enforcement: Family Support

921 KAR 1:420. Child support distribution. Mary Sparrow, policy analyst, represented the department.

The following administrative regulations were deferred to the October 11, 2016, meeting of the Subcommittee:

OFFICE OF THE ATTORNEY GENERAL: Office of Consumer Protection: Office

40 KAR 2:145. Funeral planning declaration form.

VOLUME 43, NUMBER 4 – OCTOBER 1, 2016

**TRANSPORTATION CABINET: Division of Driver Licensing:
Administration**

601 KAR 2:030 & E. Ignition interlock.

MOREHEAD STATE UNIVERSITY: Board of Regents: Board

755 KAR 1:080. Capital construction procedures.

**LABOR CABINET: Department of Workforce Standards:
Division of Safety and Health Compliance: Division of
Occupational Safety and Health Education and Training:
Occupational Safety and Health**

803 KAR 2:412. Fall protection.

**The Subcommittee adjourned at 2:10 p.m. until October 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.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT
Meeting of July 19, 2016

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Environment for its meeting of July 19, 2016, having been referred to the Committee on July 6, 2016, pursuant to KRS 13A.290(6):

301 KAR 2:095
301 KAR 2:122
301 KAR 2:226
401 KAR 53:010

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 19, 2016 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT
Meeting of August 4, 2016

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Environment for its meeting of August 4, 2016, having been referred to the Committee on August 3, 2016, pursuant to KRS 13A.290(6):

301 KAR 2:176
301 KAR 2:221 & E
301 KAR 2:222 & E
301 KAR 2:225 & E
301 KAR 5:040
401 KAR 31:040 & E

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 4, 2016 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS
Meeting of September 9, 2016

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Licensing and Occupations for its meeting of 9/9/16, having been referred to the Committee on 9/7/16, pursuant to KRS 13A.290(6):

810 KAR 1:009

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the 9/9/16 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE
Meeting of September 21, 2016

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Health and Welfare for its meeting of September 21, 2016, having been referred to the Committee on September 7, 2016, pursuant to KRS 13A.290(6):

201 KAR 23:055

922 KAR 5:081

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 21, 2016 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

D - 2

The Locator Index lists all administrative regulations published in VOLUME 43 of the *Administrative Register of Kentucky* from July 2016 through June 2017. 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 that may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 42 are those administrative regulations that were originally published in VOLUME 42 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the 2016 *Kentucky Administrative Regulations Service* was published.

KRS Index

D - 7

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 43 of the *Administrative Register of Kentucky*.

Technical Amendment Index

D - 12

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered since being published in the 2016 *Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 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

D - 14

The Subject Index is a general index of administrative regulations published in VOLUME 43 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	42 Ky.R. Page No.	Effective Date	Regulation Number	42 Ky.R. Page No.	Effective Date
VOLUME 42					
The administrative regulations listed under VOLUME 42 are those administrative regulations that were originally published in Volume 42 (last year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when the <i>2016 Kentucky Administrative Regulations Service</i> was published.					
SYMBOL KEY:			201 KAR 13:040		
* Statement of Consideration not filed by deadline			Amended	2621	
** Withdrawn before being printed in Register			AmComments	2906	See 43 Ky.R.
**** Emergency expired after 180 days			201 KAR 13:050		
‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))			Amended	2624	See 43 Ky.R.
(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.			201 KAR 14:015		
			Amended	2920	See 43 Ky.R.
			201 KAR 14:030		
			Amended	2922	See 43 Ky.R.
			201 KAR 14:045		
			Amended	2923	See 43 Ky.R.
			201 KAR 14:090		
			Amended	2924	See 43 Ky.R.
			201 KAR 14:110		
			Amended	2926	See 43 Ky.R.
			201 KAR 14:125		
			Amended	2927	
			Withdrawn		7-12-16
			201 KAR 14:150		
			Amended	2929	See 43 Ky.R.
			201 KAR 14:180		
			Amended	2930	See 43 Ky.R.
			201 KAR 18:020		
			Amended	2810	8-5-2016
			201 KAR 20:240		
			Amended	2626	
			As Amended	2887	6-15-2016
			201 KAR 20:520	2684	See 43 Ky.R.
			201 KAR 23:055	2845	See 43 Ky.R.
			201 KAR 23:070		
			Amended	2251	
			AmComments	2591	
			As Amended	2888	6-15-2016
ORDINARY ADMINISTRATIVE REGULATIONS:			201 KAR 23:075		
9 KAR 1:040			Amended	2812	See 43 Ky.R.
Amended	2911	See 43 Ky.R.	201 KAR 29:015		
11 KAR 4:080			Amended	2628	See 43 Ky.R.
Amended	2611	7-1-2016	201 KAR 32:030		
11 KAR 5:145			Amended	2817	See 43 Ky.R.
Amended	2612	7-1-2016	201 KAR 44:021(r)	2685	7-1-2016
103 KAR 3:050			201 KAR 45:110		
Amended	2614		Amended	855	See 43 Ky.R.
As Amended	2881	7-1-2016	201 KAR 46:020		
200 KAR 30:010			Amended	2932	See 43 Ky.R.
Amended	2913	See 43 Ky.R.	201 KAR 46:070		
200 KAR 30:020			Amended	2933	See 43 Ky.R.
Amended	2914	See 43 Ky.R.	301 KAR 2:095		
200 KAR 30:030			Amended	2819	7-19-2016
Amended	2916	See 43 Ky.R.	301 KAR 2:122		
200 KAR 30:040			Amended	2820	See 43 Ky.R.
Amended	2918	See 43 Ky.R.	301 KAR 2:176		
200 KAR 30:051	2997		Amended	2935	See 43 Ky.R.
200 KAR 30:070			301 KAR 2:221		
Amended	2919		Amended	2937	See 43 Ky.R.
Withdrawn		7-29-2016	301 KAR 2:222		
201 KAR 9:016			Amended	2940	See 43 Ky.R.
Amended	2796	7-20-2016	301 KAR 2:225		
201 KAR 9:025			Amended	2944	8/4/2016
Amended	2798	See 43 Ky.R.	301 KAR 2:226		
201 KAR 9:081			Amended	2822	See 43 Ky.R.
Amended	2800	See 43 Ky.R.	301 KAR 5:040		
201 KAR 9:240			Amended	2947	See 43 Ky.R.
Amended	2804	See 43 Ky.R.	401 KAR 31:040		
201 KAR 9:250			Amended	2949	See 43 Ky.R.
Amended	2807	See 43 Ky.R.			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	42 Ky.R. Page No.	Effective Date	Regulation Number	42 Ky.R. Page No.	Effective Date
401 KAR 51:010			815 KAR 6:090		
Amended	2824	See 43 Ky.R.	Amended	2272	
401 KAR 53:010			AmComments	2600	
Amended	2830	See 43 Ky.R.	As Amended	2895	7-1-2016
501 KAR 6:020			815 KAR 7:120		
Amended	2630	8-5-2016	Amended	2650	6-22-2016
AmComments	2908	See 43 Ky.R.	815 KAR 7:125		
501 KAR 6:170			Amended	2653	6-22-2016
Amended	2632		815 KAR 8:095	2687	
As Amended	2890	7-1-2016	As Amended	2897	6-22-2016
600 KAR 1:031(r)	2846	8-2-2016	815 KAR 20:084	2688	
600 KAR 2:011(r)	2847	8-2-2016	As Amended	2898	6-22-2016
601 KAR 1:032(r)	2849	8-2-2016	815 KAR 20:191		
601 KAR 2:030			Amended	2655	
Amended	2833		As Amended	2899	6-22-2016
601 KAR 9:056(r)	2850	8-2-2016	815 KAR 20:195		
601 KAR 15:030(r)	2851	8-2-2016	Amended	2661	
704 KAR 3:471	2998	9-2-2016	As Amended	2904	6-22-2016
780 KAR 4:031	2999	9-2-2016	902 KAR 4:120		
780 KAR 7:060			Amended	2982	See 43 Ky.R.
Amended	2951	See 43 Ky.R.	902 KAR 100:030		
780 KAR 7:071	3000	9-2-2016	Amended	2985	See 43 Ky.R.
803 KAR 2:300			902 KAR 100:080		
Amended	2953	9-2-2016	Amended	2990	See 43 Ky.R.
803 KAR 2:307			902 KAR 100:085		
Amended	2955	See 43 Ky.R.	Amended	2993	See 43 Ky.R.
803 KAR 2:308			921 KAR 3:035		
Amended	2957	9-2-2016	Amended	2841	See 43 Ky.R.
803 KAR 2:317			922 KAR 1:320		
Amended	2958	9-2-2016	Amended	2663	See 43 Ky.R.
803 KAR 2:318			922 KAR 2:020		
Amended	2960	9-2-2016	Amended	2668	See 43 Ky.R.
803 KAR 2:320			922 KAR 2:160		
Amended	2962	9-2-2016	Amended	2673	See 43 Ky.R.
803 KAR 2:400			922 KAR 2:260	2690	See 43 Ky.R.
Amended	2968	See 43 Ky.R.			
803 KAR 2:403					
Amended	2970	9-2-2016			
803 KAR 2:404					
Amended	2972	9-2-2016			
803 KAR 2:421					
Amended	2974	9-2-2016			
803 KAR 2:425					
Amended	2976	9-2-2016			
803 KAR 2:500					
Amended	2978	9-2-2016			
803 KAR 25:010					
Amended	2634	See 43 Ky.R.			
803 KAR 25:014	2686				
803 KAR 25:089					
Amended	2980				
804 KAR 4:400					
Amended	2839				
Withdrawn	**	7-13-2016			
804 KAR 9:040					
Amended	2648	9-2-2016			
808 KAR 9:050	2852	See 43 Ky.R.			
815 KAR 6:010					
Amended	2265				
AmComments	2596				
As Amended	2891	7-1-2016			
815 KAR 6:040					
Amended	2269				
As Amended	2894	7-1-2016			
815 KAR 6:080					
Amended	2270				
As Amended	2895	7-1-2016			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
VOLUME 43					
SYMBOL KEY:			40 KAR 2:250		
* Statement of Consideration not filed by deadline			Recodified as 40 KAR 2:155		6-30-2016
** Withdrawn before being printed in Register			101 KAR 2:210		
**** Emergency expired after 180 days			Amended	599	
(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.			102 KAR 1:165		
			Amended	258	
			AsAmended	528	
			102 KAR 1:290		
			Amended	260	
			AsAmended	530	
EMERGENCY ADMINISTRATIVE REGULATIONS:			102 KAR 1:320		
(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.)			Amended	262	
			AsAmended	530	
			103 KAR 8:160	360	
			AmComments	563	
101 KAR 2:210E	517	9-15-2016	103 KAR 15:180		
103 KAR 15:180E	168	7-13-2016	Amended	266	
201 KAR 47:010E	519	8-25-2016	103 KAR 28:041(r)	636	
201 KAR 47:020E	522	8-25-2016	103 KAR 41:021(r)	637	
804 KAR 4:400E	171	7-15-2016	103 KAR 44:131(r)	638	
804 KAR 4:410E	172	7-15-2016	200 KAR 5:355	477	
804 KAR 11:010E	174	7-15-2016	200 KAR 30:010		See 42 Ky.R.
902 KAR 2:020E	5	6-15-2016	AsAmended	393	
907 KAR 7:010E	176	6-30-2016	200 KAR 30:020		See 42 Ky.R.
	Withdrawn	9-15-2016	AsAmended	394	
907 KAR 7:015E	187	6-30-2016	200 KAR 30:030		See 42 Ky.R.
	Withdrawn	9-15-2016	AsAmended	395	
-----			200 KAR 30:040		See 42 Ky.R.
			AsAmended	395	
ORDINARY ADMINISTRATIVE REGULATIONS:			201 KAR 1:015		
			Amended	600	
2 KAR 2:010			201 KAR 1:065		
Amended	69		Amended	601	
2 KAR 2:020			201 KAR 1:100		
Amended	70		Amended	603	
AsAmended	390		201 KAR 2:045		
2 KAR 2:040			Amended	606	
Amended	72		201 KAR 2:050		
AsAmended	390		Amended	607	
2 KAR 2:050	145		201 KAR 2:076		
AsAmended	391		Amended	609	
2 KAR 2:060	146		201 KAR 2:351(r)	639	
AsAmended	391		201 KAR 9:025		See 42 Ky.R.
2 KAR 2:070	148		AsAmended	12	7-20-2016
9 KAR 1:040		See 42 Ky.R.	201 KAR 9:081		See 42 Ky.R.
AsAmended	392		AsAmended	12	7-20-2016
11 KAR 15:090			201 KAR 9:240		See 42 Ky.R.
Amended	73		AsAmended	15	7-20-2016
AsAmended	525		201 KAR 9:250		See 42 Ky.R.
12 KAR 1:116			AsAmended	192	8-17-2016
Amended	428		201 KAR 13:040		See 42 Ky.R.
12 KAR 1:140			AsAmended	17	7-20-2016
Amended	429		201 KAR 13:050		See 42 Ky.R.
12 KAR 1:155			AsAmended	19	7-20-2016
Amended	431		201 KAR 14:015		See 42 Ky.R.
16 KAR 1:030			AsAmended	194	9-2-2016
Amended	585		201 KAR 14:030		See 42 Ky.R.
16 KAR 6:010			AsAmended	195	9-2-2016
Amended	588		201 KAR 14:045		See 42 Ky.R.
16 KAR 7:010			AsAmended	195	9-2-2016
Amended	592		201 KAR 14:090		See 42 Ky.R.
30 KAR 7:010			AsAmended	195	9-2-2016
Amended	250		201 KAR 14:110		See 42 Ky.R.
40 KAR 2:145	358		AsAmended	196	9-2-2016
40 KAR 2:150			201 KAR 14:125		See 42 Ky.R.
Amended	251		Amended	269	
AmComments	556		AmComments	566	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
201 KAR 14:150		See 42 Ky.R.	301 KAR 2:122		See 42 Ky.R.
AsAmended	197	9-2-2016	AsAmended	20	7-19-2016
201 KAR 14:180		See 42 Ky.R.	301 KAR 2:132		
AsAmended	198	9-2-2016	Amended	322	
201 KAR 18:051(r)	640		301 KAR 2:176		See 42 Ky.R.
201 KAR 20:411			AsAmended	200	8-4-2016
Amended	433		301 KAR 2:221		See 42 Ky.R.
201 KAR 20:520		See 42 Ky.R.	AsAmended	202	8-4-2016
AsAmended	19	7-20-2016	301 KAR 2:222		See 42 Ky.R.
201 KAR 22:045			AsAmended	203	8-4-2016
Amended	270		301 KAR 2:225		See 42 Ky.R.
AsAmended	533		AsAmended	21	8-4-2016
201 KAR 23:055		See 42 Ky.R.	301 KAR 2:251		
AmComments	234		Amended	440	
AsAmended	395	9-21-2016	301 KAR 5:040		See 42 Ky.R.
201 KAR 23:075		See 42 Ky.R.	AsAmended	206	8-4-2016
AmComments	235		401 KAR 31:040		See 42 Ky.R.
Withdrawn		7-29-2016	AsAmended	207	8-4-2016
201 KAR 27:005			401 KAR 51:010		See 42 Ky.R.
Amended	273		AmComments	242	
201 KAR 27:007			AsAmended	396	
Amended	275		401 KAR 53:010		See 42 Ky.R.
201 KAR 27:008			AsAmended	22	7-19-2016
Amended	276		501 KAR 6:020		See 42 Ky.R.
201 KAR 27:011			AsAmended	24	8-5-2016
Amended	280		Amended	444	
201 KAR 27:012			501 KAR 6:110		
Amended	291		Amended	99	
201 KAR 27:016			AsAmended	402	
Amended	294		501 KAR 6:160		
201 KAR 27:017			Amended	101	
Amended	304		503 KAR 5:090		
201 KAR 27:020			Amended	446	
Amended	309		600 KAR 5:011(r)	479	
201 KAR 27:021	364		600 KAR 6:061(r)	480	
201 KAR 27:036(r)	366		Withdrawn	**	9-22-2016
201 KAR 27:040			601 KAR 1:231(r)	481	
Amended	311		601 KAR 2:011(r)	482	
201 KAR 27:105	367		601 KAR 9:111(r)	483	
201 KAR 29:015		See 42 Ky.R.	601 KAR 40:011(r)	484	
AsAmended	198	8-17-2016	602 KAR 15:011(r)	486	
201 KAR 30:030			602 KAR 20:091(r)	487	
Amended	312		603 KAR 1:031(r)	488	
AsAmended	535		603 KAR 4:046(r)	489	
201 KAR 32:030		See 42 Ky.R.	603 KAR 5:311(r)	490	
AmComments	240		603 KAR 7:071(r)	491	
AsAmended	536		603 KAR 8:011(r)	492	
201 KAR 43:110	149		603 KAR 9:021(r)	493	
201 KAR 45:110		See 42 Ky.R.	605 KAR 1:011(r)	494	
AsAmended	537		702 KAR 3:171(r)	495	
201 KAR 46:020		See 42 Ky.R.	702 KAR 7:065		
AsAmended	199	8-17-2016	Amended	102	
201 KAR 46:070		See 42 Ky.R.	AmComments	418	
AsAmended	200	8-17-2016	AsAmended	542	
201 KAR 47:010	641		703 KAR 4:041(r)	150	
201 KAR 47:020	644		704 KAR 3:342(r)	152	
202 KAR 7:501			705 KAR 4:231		
Amended	78		Amended	449	
Withdrawn	**	9-15-2016	739 KAR 2:040		
202 KAR 7:520			Amended	327	
Amended	94		739 KAR 2:140	153	
Withdrawn	**	9-15-2016	AsAmended	403	
301 KAR 1:015			755 KAR 1:080	369	
Amended	315		780 KAR 4:012(r)	496	
301 KAR 1:201			780 KAR 7:060		See 42 Ky.R.
Amended	317		AsAmended	208	9-2-2016
AsAmended	538		787 KAR 1:070		
301 KAR 2:049			Amended	612	
Amended	436		789 KAR 1:010		
			Amended	613	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
803 KAR 2:180			902 KAR 20:058		
Amended	330		Amended	129	
803 KAR 2:307		See 42 Ky.R.	AmComments	575	
AsAmended	209	9-2-2016	902 KAR 55:035		
803 KAR 2:400		See 42 Ky.R.	Amended	629	
AsAmended	210	9-2-2016	902 KAR 100:030		See 42 Ky.R.
803 KAR 2:412			AsAmended	212	8-17-2016
Amended	106		902 KAR 100:080		See 42 Ky.R.
803 KAR 25:010		See 42 Ky.R.	AsAmended	216	8-17-2016
AmComments	28		902 KAR 100:085		See 42 Ky.R.
AsAmended	404		AsAmended	217	8-17-2016
804 KAR 1:071(r)	498		907 KAR 7:010		
804 KAR 3:081(r)	499		Amended	339	
804 KAR 4:041(r)	500		Withdrawn	**	9-15-2016
804 KAR 4:381(r)	370		907 KAR 7:015		
804 KAR 4:390			Amended	351	
Amended	332		Withdrawn	**	9-15-2016
AsAmended	545		910 KAR 1:210		
804 KAR 4:400			Amended	136	
Amended	334		AmComments	421	
AsAmended	546		AsAmended	550	
804 KAR 4:410			921 KAR 1:380		
Amended	336		Amended	473	
AsAmended	547		921 KAR 1:410		
804 KAR 5:031(r)	501		Amended	631	
804 KAR 7:051(r)	502		921 KAR 1:420		
804 KAR 8:041(r)	503		Amended	354	
804 KAR 9:021(r)	504		921 KAR 3:035		See 42 Ky.R.
804 KAR 11:010			AmComments	42	
Amended	338		AsAmended	218	8-17-2016
804 KAR 11:021(r)	505		921 KAR 4:119(r)	157	
808 KAR 1:081(r)	371		922 KAR 1:151(r)	377	
808 KAR 1:160	372		922 KAR 1:320		See 42 Ky.R.
AsAmended	547		AmComments	45	8-17-2016
808 KAR 4:021(r)	375		922 KAR 1:500		
808 KAR 9:050		See 42 Ky.R.	Amended	142	
AsAmended	25	8-5-2016	AmComments	582	
808 KAR 11:011(r)	376		922 KAR 2:020		See 42 Ky.R.
808 KAR 12:021			AmComments	50	
Amended	110		AsAmended	221	8-17-2016
808 KAR 12:055	155		922 KAR 2:160		See 42 Ky.R.
AsAmended	548		AmComments	55	
810 KAR 1:009			AsAmended	225	8-17-2016
Amended	114	9-9-2016	922 KAR 2:260		See 42 Ky.R.
811 KAR 2:190			AmComments	65	8-17-2016
Amended	118		922 KAR 5:081(r)	159	9-21-2016
815 KAR 7:120			-----		
Amended	452		SYMBOL KEY:		
Withdrawn	**	8-24-2016	* Statement of Consideration not filed by deadline		
815 KAR 20:010			** Withdrawn, not in effect within 1 year of publication		
Amended	615		*** Withdrawn before being printed in Register		
815 KAR 20:020			(r) Repealer regulation: KRS 13A.310-on the effective date of an		
Amended	455		administrative regulation that repeals another, the regulations		
815 KAR 20:060			compiler shall delete the repealed administrative regulation and the		
Amended	621		repealing administrative regulation.		
815 KAR 20:080					
Amended	460				
815 KAR 20:090					
Amended	461				
815 KAR 20:120					
Amended	466				
815 KAR 20:130					
Amended	624				
902 KAR 2:020					
Amended	122				
AmComments	568				
902 KAR 4:120		See 42 Ky.R.			
AsAmended	210	8-17-2016			

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
6.611	2 KAR 2:040	136.340	103 KAR 15:180
	2 KAR 2:050	136.350	103 KAR 15:180
	2 KAR 2:060	136.370	103 KAR 15:180
	2 KAR 2:070	136.390	103 KAR 15:180
6.666	2 KAR 2:010	136.392	739 KAR 2:040
	2 KAR 2:040	138.130	103 KAR 41:021
6.681	2 KAR 2:070	138.207	103 KAR 41:021
6.686	2 KAR 2:050	138.455-138.470	601 KAR 1:231
	2 KAR 2:070	138.510	811 KAR 2:190
6.787	2 KAR 2:020	138.4602	103 KAR 44:131
6.793	2 KAR 2:020	138.4603	103 KAR 44:131
6.807	2 KAR 2:010	139.050	103 KAR 28:041
	2 KAR 2:040	139.100	103 KAR 28:041
6.821	2 KAR 2:010	141.020	103 KAR 15:180
	2 KAR 2:040	141.040	103 KAR 15:180
6.824	2 KAR 2:010	141.0401	103 KAR 15:180
6.827	2 KAR 2:010	141.050	103 KAR 15:180
	2 KAR 2:040	141.432	103 KAR 15:180
6.829	2 KAR 2:010	141.433	103 KAR 15:180
	2 KAR 2:040	141.434	103 KAR 15:180
6.691	2 KAR 2:060	150.010	301 KAR 1:201
11A	600 KAR 6:061		301 KAR 2:049
12.355	201 KAR 22:045		301 KAR 2:132
13B	922 KAR 5:081	150.090	301 KAR 1:015
	922 KAR 1:320	150.092	301 KAR 2:049
	922 KAR 1:500	150.170	301 KAR 1:201
	922 KAR 2:020		301 KAR 2:049
	922 KAR 2:260		301 KAR 2:132
13B.010	921 KAR 1:410		301 KAR 2:251
	921 KAR 1:420	150.175	301 KAR 1:201
13B.170	921 KAR 1:420	150.180	301 KAR 2:132
15.055	921 KAR 1:410		301 KAR 2:251
15.440	503 KAR 5:090	150.190	301 KAR 2:132
15.450	503 KAR 5:090	150.340	301 KAR 1:201
17.500	201 KAR 47:010	150.370	301 KAR 2:049
	201 KAR 47:020		301 KAR 2:251
18A.030	101 KAR 2:210	150.399	301 KAR 2:049
18A.225	101 KAR 2:210		301 KAR 2:251
18A.2254	101 KAR 2:210	150.415	301 KAR 2:251
23A.010	922 KAR 1:320	150.416	301 KAR 2:251
	922 KAR 2:020	150.620	301 KAR 1:201
	922 KAR 2:260	150.625	301 KAR 1:015
45.237-45.241	922 KAR 2:020	150.990	301 KAR 1:015
45.360	603 KAR 1:031		301 KAR 1:201
45A.030	200 KAR 5:355		301 KAR 2:049
45A.077	200 KAR 5:355		301 KAR 2:251
45A.085	200 KAR 5:355	150.995	301 KAR 2:049
45A.090	200 KAR 5:355		301 KAR 2:251
45A.180	200 KAR 5:355	151B.450-151B.475	789 KAR 1:010
45A.183	200 KAR 5:355	154.45-096	601 KAR 1:231
45A.800-45A.835	600 KAR 6:061	154A.130	11 KAR 15:090
61.315	739 KAR 2:040	156.01	11 KAR 15:090
61.805-61.850	702 KAR 7:065	156.029	705 KAR 4:231
67.750	30 KAR 7:010	156.031	702 KAR 3:171
67.767	30 KAR 7:010	156.070	704 KAR 3:342
67A.620	921 KAR 1:410	156.074	702 KAR 3:171
95.620	921 KAR 1:410	156.101	16 KAR 7:010
95.878	921 KAR 1:410	156.160	704 KAR 3:342
95A	739 KAR 2:040	156.802	705 KAR 4:231
	739 KAR 2:140		780 KAR 4:012
96A	603 KAR 7:071	156.850	780 KAR 4:012
131.130	103 KAR 41:021	156.852	780 KAR 4:012
	103 KAR 44:131	157.070	702 KAR 7:065
131.131	103 KAR 15:180	158.007	11 KAR 15:090
131.570	921 KAR 1:410	158.030	703 KAR 4:041
132.010	815 KAR 7:120	158.031	703 KAR 4:041
	815 KAR 20:010	158.115	600 KAR 5:011
132.020	103 KAR 8:160	158.6451	703 KAR 4:041
132.200	103 KAR 8:160	160.380	702 KAR 7:065
136.320	103 KAR 15:180	160.445	702 KAR 7:065
136.330	103 KAR 15:180	161.020	16 KAR 6:010

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
161.028	16 KAR 1:030		501 KAR 6:160
	16 KAR 6:010		501 KAR 6:999
	16 KAR 7:010	197	501 KAR 6:020
161.030	16 KAR 6:010		501 KAR 6:110
	16 KAR 7:010		501 KAR 6:160
161.048	16 KAR 7:010		501 KAR 6:999
161.120	16 KAR 1:030	198B.010	815 KAR 7:120
161.220	102 KAR 1:320	198B.040	815 KAR 7:120
161.520	102 KAR 1:165	198B.050	815 KAR 7:120
161.661	102 KAR 1:290	198B.060	815 KAR 7:120
161.700	102 KAR 1:320	198B.080	815 KAR 7:120
	921 KAR 1:410	198B.110	815 KAR 7:120
161.716	102 KAR 1:320	198B.260	815 KAR 7:120
164.002	11 KAR 15:090	198B.990	815 KAR 7:120
164.772	804 KAR 4:400	199	922 KAR 1:151
164.2847	922 KAR 1:500	199.555	922 KAR 1:320
164.7871	11 KAR 15:090	199.557	922 KAR 1:320
164.7874	11 KAR 15:090	199.892	922 KAR 2:160
164.7877	11 KAR 15:090	199.894	922 KAR 2:160
164.7879	11 KAR 15:090	199.896	922 KAR 2:160
164.7881	11 KAR 15:090	199.898	922 KAR 2:160
164.7885	11 KAR 15:090	199.899	922 KAR 2:160
164.7889	11 KAR 15:090	199.8982	922 KAR 2:160
164A.560	755 KAR 1:080	199.8994	922 KAR 2:160
164A.565	755 KAR 1:080	205.520	907 KAR 7:010
164A.575	755 KAR 1:080	205.594	921 KAR 1:410
164A.580	755 KAR 1:080	205.595	921 KAR 1:410
164A.585	755 KAR 1:080	205.5605	907 KAR 7:010
164A.590	755 KAR 1:080	205.5606	907 KAR 7:010
164A.595	755 KAR 1:080	205.5607	907 KAR 7:010
164A.600	755 KAR 1:080	205.635	907 KAR 7:010
168.100	702 KAR 3:171	205.705	921 KAR 1:380
174.080	603 KAR 7:071	205.710-205.800	921 KAR 1:380
174.400-174.425	601 KAR 1:231		921 KAR 1:410
174.450	601 KAR 40:011	205.720	921 KAR 1:420
176	603 KAR 8:011	205.750	921 KAR 1:420
176.050	603 KAR 7:071	205.755	921 KAR 1:420
176.070	603 KAR 1:031	205.795	921 KAR 1:420
176.130	603 KAR 1:031	205.992	921 KAR 1:380
176.140	603 KAR 1:031	205.7685	921 KAR 1:410
176.240	603 KAR 7:071	209	201 KAR 47:010
177.220-177.240	603 KAR 5:311		201 KAR 47:020
183.090	602 KAR 20:091	209.020	922 KAR 1:320
	603 KAR 9:021	209.200	922 KAR 5:081
183.200-183.213	602 KAR 15:011	209A.020	922 KAR 1:320
186	601 KAR 2:011	211.180	902 KAR 2:020
	601 KAR 9:111	213.046	921 KAR 1:380
186.053	601 KAR 9:111	214.010	902 KAR 2:020
186.276	601 KAR 9:111	214.036	922 KAR 2:160
186.281	601 KAR 1:231	214.645	902 KAR 2:020
	601 KAR 9:111	216B.010	902 KAR 20:058
186.570	921 KAR 1:410	216B.015	902 KAR 20:058
186.650	601 KAR 9:111	216B.020	202 KAR 7:501
186A.145	601 KAR 9:111	216B.040	902 KAR 20:058
186A.160	601 KAR 9:111	216B.042	902 KAR 20:058
189.010	603 KAR 4:046	216B.045-216B.055	902 KAR 20:058
189.221	603 KAR 5:311	216B.075	902 KAR 20:058
189.222	603 KAR 5:311	216B.105-216B.131	902 KAR 20:058
189.231	603 KAR 5:311	216B.176	902 KAR 20:058
189.337	603 KAR 4:046	216B.177	902 KAR 20:058
189.338	603 KAR 5:311	216B.400	201 KAR 20:411
190.058	605 KAR 1:011	216B.990	902 KAR 20:058
194A	922 KAR 1:151	217.005-217.215	902 KAR 55:035
194A.005	922 KAR 1:320	217.055	201 KAR 2:076
	922 KAR 2:260	217.065	201 KAR 2:076
194A.030	921 KAR 4:119	218A.010	16 KAR 1:030
	922 KAR 1:320		201 KAR 2:076
	922 KAR 2:260	218A.010-218A.030	902 KAR 55:035
194A.060	922 KAR 2:020	218A.120	902 KAR 55:035
	922 KAR 2:160	218A.130	902 KAR 55:035
196	501 KAR 6:020	218A.205	201 KAR 2:050
	501 KAR 6:110	224.1-010	103 KAR 8:160

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
227.300	815 KAR 7:120		201 KAR 27:011
227.550	815 KAR 7:120		201 KAR 27:012
229.011	201 KAR 27:005		201 KAR 27:016
	201 KAR 27:007		201 KAR 27:017
229.021	201 KAR 27:005		201 KAR 27:021
	201 KAR 27:007		201 KAR 27:036
	201 KAR 27:008		201 KAR 27:040
	201 KAR 27:011		201 KAR 27:105
	201 KAR 27:012	229.180	201 KAR 27:005
	201 KAR 27:016		201 KAR 27:016
	201 KAR 27:017		201 KAR 27:017
	201 KAR 27:036		201 KAR 27:020
	201 KAR 27:040		201 KAR 27:021
	201 KAR 27:105		201 KAR 27:036
229.031	201 KAR 27:005		201 KAR 27:105
	201 KAR 27:011	229.190	201 KAR 27:007
	201 KAR 27:012		201 KAR 27:105
	201 KAR 27:016	229.200	201 KAR 27:007
	201 KAR 27:020		201 KAR 27:021
	201 KAR 27:105		201 KAR 27:105
229.041	201 KAR 27:007	229.991	201 KAR 27:007
	201 KAR 27:020		201 KAR 27:021
229.051	201 KAR 27:005		201 KAR 27:105
	201 KAR 27:007	230.215	810 KAR 1:009
	201 KAR 27:008		811 KAR 2:190
229.061	201 KAR 27:007	230.225	811 KAR 2:190
229.071	201 KAR 27:005	230.443	811 KAR 2:190
	201 KAR 27:008	230.445	811 KAR 2:190
	201 KAR 27:011	235.010	301 KAR 1:015
	201 KAR 27:012	235.990	301 KAR 1:015
	201 KAR 27:016	237.110	921 KAR 1:410
	201 KAR 27:017	241.060	804 KAR 1:071
	201 KAR 27:020		804 KAR 3:081
	201 KAR 27:021		804 KAR 4:041
	201 KAR 27:036		804 KAR 4:400
	201 KAR 27:105		804 KAR 4:410
229.081	201 KAR 27:005		804 KAR 5:031
	201 KAR 27:008		804 KAR 7:051
	201 KAR 27:011		804 KAR 8:041
	201 KAR 27:012		804 KAR 9:021
	201 KAR 27:016		804 KAR 11:021
	201 KAR 27:017	243.090	804 KAR 4:390
	201 KAR 27:021		804 KAR 4:400
	201 KAR 27:036	243.155	804 KAR 4:381
	201 KAR 27:040	243.380	804 KAR 4:400
229.091	201 KAR 27:005	243.390	804 KAR 4:400
	201 KAR 27:008	244.500	804 KAR 11:010
	201 KAR 27:011	244.590	804 KAR 11:010
	201 KAR 27:012	250.021	12 KAR 1:116
	201 KAR 27:016		12 KAR 1:140
	201 KAR 27:017		12 KAR 1:155
	201 KAR 27:021	250.031	12 KAR 1:116
	201 KAR 27:036		12 KAR 1:140
	201 KAR 27:040		12 KAR 1:155
	201 KAR 27:105	250.041	12 KAR 1:116
229.101	201 KAR 27:011		12 KAR 1:140
	201 KAR 27:016		12 KAR 1:155
	201 KAR 27:017	250.051	12 KAR 1:116
229.111	201 KAR 27:005		12 KAR 1:140
	201 KAR 27:016		12 KAR 1:155
	201 KAR 27:021	250.061	12 KAR 1:116
229.131	201 KAR 27:005		12 KAR 1:140
	201 KAR 27:011		12 KAR 1:155
	201 KAR 27:016	250.071	12 KAR 1:116
	201 KAR 27:017		12 KAR 1:140
229.155	201 KAR 27:005		12 KAR 1:155
	201 KAR 27:007	250.081	12 KAR 1:116
	201 KAR 27:011		12 KAR 1:140
	201 KAR 27:105		12 KAR 1:155
229.171	201 KAR 27:005	250.091	12 KAR 1:116
	201 KAR 27:007		12 KAR 1:140
	201 KAR 27:008		12 KAR 1:155

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
250.101	12 KAR 1:116		202 KAR 7:520
	12 KAR 1:140	314	902 KAR 20:058
	12 KAR 1:155	314.011	201 KAR 20:411
250.111	12 KAR 1:116		922 KAR 2:160
	12 KAR 1:140	314.103	201 KAR 20:411
	12 KAR 1:155	314.142	201 KAR 20:411
281	601 KAR 1:231	314.470	201 KAR 20:411
	601 KAR 2:011	315.010	201 KAR 2:045
281.626	601 KAR 1:231	315.020	201 KAR 2:045
281.655	601 KAR 1:231		201 KAR 2:076
281.656	601 KAR 1:231	315.035	201 KAR 2:050
281.720	601 KAR 9:111		201 KAR 2:076
281.900	601 KAR 1:231	315.036	201 KAR 2:050
281.905	601 KAR 1:231	315.050	201 KAR 2:050
286.3-010	808 KAR 1:160	315.060	201 KAR 2:050
286.3-020	808 KAR 1:160	315.110	201 KAR 2:050
286.3-050	808 KAR 1:160	315.120	201 KAR 2:050
286.3-065	808 KAR 1:081	315.191	201 KAR 2:045
286.3-095	808 KAR 1:160		201 KAR 2:076
286.3-100	808 KAR 1:081		201 KAR 2:351
286.3-135	808 KAR 1:160	315.402	201 KAR 2:050
286.3-140	808 KAR 1:160	315.518	201 KAR 2:050
286.3-145	808 KAR 1:160	315.520	201 KAR 2:050
286.3-146	808 KAR 1:160	315.0351	201 KAR 2:050
286.3-170	808 KAR 1:160		201 KAR 2:076
286.3-172	808 KAR 1:160	317.440	201 KAR 14:125
286.3-174	808 KAR 1:160	317.450	201 KAR 14:125
286.3-180	808 KAR 1:160	318	815 KAR 20:010
286.3-185	808 KAR 1:160		815 KAR 20:080
286.3-450	808 KAR 1:160	318.010	815 KAR 20:020
286.3-480	808 KAR 1:160		815 KAR 20:090
286.3-530	808 KAR 1:160		815 KAR 20:120
286.3-820	808 KAR 1:160		815 KAR 20:130
286.3-900	808 KAR 11:011	318.015	815 KAR 20:020
286.3-920	808 KAR 1:160		815 KAR 20:090
286.8-010	808 KAR 12:021		815 KAR 20:130
	808 KAR 12:055	318.130	815 KAR 20:020
286.8-020	808 KAR 12:021		815 KAR 20:060
286.8-030	808 KAR 12:021		815 KAR 20:090
286.8-036	808 KAR 12:021		815 KAR 20:120
286.8-060	808 KAR 12:021		815 KAR 20:130
286.8-070	808 KAR 12:021	318.150	815 KAR 20:020
286.8-080	808 KAR 12:021		815 KAR 20:060
286.8-090	808 KAR 12:021		815 KAR 20:090
286.8-255	808 KAR 12:055		815 KAR 20:120
286.8-260	808 KAR 12:021		815 KAR 20:130
286.8-290	808 KAR 12:021	318.165	815 KAR 20:120
304.3-270	103 KAR 15:180	318.200	815 KAR 20:020
309.404	201 KAR 47:010		815 KAR 20:090
309.406	201 KAR 47:010		815 KAR 20:120
	201 KAR 47:020		815 KAR 20:130
309.412	201 KAR 47:010	319C.030	201 KAR 43:110
	201 KAR 47:020	322.020	201 KAR:18:051
309.414	201 KAR 47:010	322.040	201 KAR:18:051
	201 KAR 47:020	322.080	201 KAR:18:051
309.416	201 KAR 47:010	324A.010	201 KAR 30:030
	201 KAR 47:020	324A.030	201 KAR 30:030
309.418	201 KAR 47:010	324A.035	201 KAR 30:030
	201 KAR 47:020	324A.040	201 KAR 30:030
309.420	201 KAR 47:010	324A.052	201 KAR 30:030
	201 KAR 47:020	325.230	201 KAR 1:015
311	201 KAR 27:008		201 KAR 1:065
	902 KAR 20:058		201 KAR 1:100
311A.010	202 KAR 7:520	327.010	201 KAR 22:045
311A.030	202 KAR 7:501	327.070	201 KAR 22:045
	202 KAR 7:520	333.130	902 KAR 2:020
311A.035	202 KAR 7:520	337.275	922 KAR 2:160
311A.050	202 KAR 7:520	338.015	803 KAR 2:180
311A.055	202 KAR 7:520		803 KAR 2:412
311A.060	202 KAR 7:520	338.121	803 KAR 2:180
311A.155	202 KAR 7:520	338.031	803 KAR 2:412
311A.190	202 KAR 7:501	338.051	803 KAR 2:412

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
338.061	803 KAR 2:180	620.020	922 KAR 1:320
	803 KAR 2:412		922 KAR 1:500
341.370	787 KAR 1:070		922 KAR 2:160
341.530	787 KAR 1:070	620.140	922 KAR 1:500
342.125	803 KAR 25:010	620.180	922 KAR 1:320
342.260	803 KAR 25:010	620.230	922 KAR 1:320
342.265	803 KAR 25:010	2 C.F.R.	202 KAR 7:520
342.270	803 KAR 25:010		803 KAR 2:412
342.300	803 KAR 25:010	7 C.F.R.	921 KAR 3:035
342.310	803 KAR 25:010		922 KAR 2:160
342.315	803 KAR 25:010	10 C.F.R.	921 KAR 4:119
342.710	803 KAR 25:010	20 C.F.R.	922 KAR 2:160
342.715	803 KAR 25:010	21 C.F.R.	902 KAR 55:035
342.732	803 KAR 25:010	23 C.F.R.	600 KAR 6:061
342.760	803 KAR 25:010		603 KAR 4:046
342.0011	803 KAR 25:010	29 C.F.R.	601 KAR 1:231
360.210-360.265	808 KAR 4:021		803 KAR 2:180
367.93101	40 KAR 2:145	31 C.F.R.	921 KAR 1:410
367.93103	40 KAR 2:150	42 C.F.R.	907 KAR 7:010
367.93105	40 KAR 2:145		907 KAR 7:015
	40 KAR 2:150	45 C.F.R.	902 KAR 20:058
367.93107	40 KAR 2:145		921 KAR 1:380
367.93109	40 KAR 2:145		921 KAR 1:410
367.93111	40 KAR 2:145		921 KAR 1:420
367.93113	40 KAR 2:145		922 KAR 1:320
367.93115	40 KAR 2:145		922 KAR 2:020
367.93117	40 KAR 2:145		922 KAR 2:160
	40 KAR 2:150		922 KAR 2:260
367.93121	40 KAR 2:145	42 U.S.C.	815 KAR 20:060
367.97501	40 KAR 2:145	45 C.F.R.	922 KAR 1:500
	40 KAR 2:150	49 C.F.R.	600 KAR 6:061
367.97504	40 KAR 2:150		601 KAR 1:231
367.97507	40 KAR 2:150		601 KAR 2:011
367.97511	40 KAR 2:150	7 U.S.C.	921 KAR 3:035
367.97514	40 KAR 2:145		922 KAR 2:160
	40 KAR 2:150	15 U.S.C.	201 KAR 27:008
367.97517	40 KAR 2:150		201 KAR 27:011
367.97521	40 KAR 2:150		201 KAR 27:017
367.97524	40 KAR 2:145		921 KAR 1:410
	40 KAR 2:150	20 U.S.C.	702 KAR 7:065
367.97527	40 KAR 2:145		705 KAR 4:231
	40 KAR 2:150		780 KAR 4:012
403.190	102 KAR 1:320		922 KAR 1:500
403.211	921 KAR 1:380	21 U.S.C.	902 KAR 55:035
403.311-403.215	921 KAR 1:410	23 U.S.C.	600 KAR 6:061
403.707	201 KAR 20:411		603 KAR 4:046
405.060	921 KAR 1:410	25 U.S.C.	922 KAR 2:160
405.405-405.991	921 KAR 1:410	26 U.S.C.	102 KAR 1:320
405.430	921 KAR 1:380		103 KAR 15:180
405.467	921 KAR 1:380	29 U.S.C.	921 KAR 4:119
405.520	921 KAR 1:380		922 KAR 2:160
	921 KAR 1:420	38 U.S.C.	922 KAR 2:160
406.021	921 KAR 1:380	42 U.S.C.	921 KAR 4:119
406.025	921 KAR 1:380		902 KAR 20:058
407.5101	921 KAR 1:420		907 KAR 7:015
407.5101-407.5902	921 KAR 1:410		921 KAR 1:380
407.5101-407.5903	921 KAR 1:380		921 KAR 1:410
421.500-421.575	201 KAR 20:411		921 KAR 1:420
427.125	921 KAR 1:410		921 KAR 3:035
439	501 KAR 6:020		922 KAR 1:320
	501 KAR 6:110		922 KAR 1:500
	501 KAR 6:160		922 KAR 2:020
	501 KAR 6:999		922 KAR 2:160
439.3401	201 KAR 47:010		922 KAR 2:260
	201 KAR 47:020	Pub.L. 109-58	921 KAR 4:119
600.020	922 KAR 1:320	1986 Ky. Acts ch 401	603 KAR 8:011
	922 KAR 2:160	1998 Ky. Acts ch.615	600 KAR 5:011
605.090	922 KAR 1:320	2014 Ky. Acts ch.117	922 KAR 2:160
605.120	922 KAR 2:160	2016 Ky. Acts ch. 91	739 KAR 2:140
610.110	922 KAR 1:500	2016 Ky. Acts ch. 149	922 KAR 2:160
610.170	921 KAR 1:380	EO 2016-270	201 KAR 27:005
620	922 KAR 1:151		201 KAR 27:105

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered since being published in the *2016 Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 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/KAR/frmtpage.htm>.

‡ - Pursuant to KRS 13A.320(1)(e), this symbol indicates a technical change was made to this administrative regulation during the promulgation process.

Regulation Number	Amendment Date		
30 KAR 1:040	8-2-2016	103 KAR 43:310	6-28-2016
40 KAR 2:150	6-30-2016	103 KAR 43:330	6-28-2016
103 KAR 25:050	6-22-2016	103 KAR 44:060	6-28-2016
103 KAR 25:060	6-22-2016	103 KAR 44:070	6-28-2016
103 KAR 25:131	6-22-2016	301 KAR 2:030	8-29-2016
103 KAR 26:050	6-22-2016	401 KAR 4:010	7-8-2016
103 KAR 26:070	6-22-2016	401 KAR 4:060	7-8-2016
103 KAR 26:080	6-22-2016	401 KAR 4:100	7-8-2016
103 KAR 26:090	6-22-2016	401 KAR 4:140	7-8-2016
103 KAR 26:100	6-22-2016	401 KAR 4:220	7-8-2016
103 KAR 27:120	6-22-2016	401 KAR 5:002	7-8-2016
103 KAR 27:140	6-22-2016	401 KAR 5:005	7-8-2016
103 KAR 27:150	6-22-2016	401 KAR 5:006	7-8-2016
103 KAR 27:180	6-22-2016	401 KAR 5:060	7-8-2016
103 KAR 27:220	6-22-2016	401 KAR 5:320	7-8-2016
103 KAR 28:010	6-22-2016	401 KAR 6:310	7-8-2016
103 KAR 28:020	6-22-2016	401 KAR 6:320	7-8-2016
103 KAR 28:030	6-22-2016	401 KAR 6:350	7-8-2016
103 KAR 28:040	6-22-2016	401 KAR 8:020	7-8-2016
103 KAR 28:051	6-22-2016	401 KAR 8:040	7-8-2016
103 KAR 28:060	6-22-2016	401 KAR 8:100	7-8-2016
103 KAR 28:090	6-22-2016	401 KAR 9:010	7-8-2016
103 KAR 28:130	6-22-2016	401 KAR 10:026	7-8-2016
103 KAR 28:150	6-22-2016	401 KAR 10:030	7-8-2016
103 KAR 30:091	6-22-2016	401 KAR 10:031	7-8-2016
103 KAR 30:120	6-22-2016	401 KAR 11:050	7-8-2016
103 KAR 30:140	6-22-2016	401 KAR 31:070	7-8-2016
103 KAR 30:160	6-22-2016	401 KAR 32:010	7-8-2016
103 KAR 30:170	6-22-2016	401 KAR 32:040	7-8-2016
103 KAR 30:180	6-22-2016	401 KAR 33:010	7-8-2016
103 KAR 30:190	6-22-2016	401 KAR 34:060	7-8-2016
103 KAR 30:235	6-22-2016	401 KAR 34:080	7-8-2016
103 KAR 30:250	6-22-2016	401 KAR 38:040	7-8-2016
103 KAR 30:260	6-22-2016	401 KAR 38:050	7-8-2016
103 KAR 30:270	6-22-2016	401 KAR 38:080	7-8-2016
103 KAR 30:280	6-22-2016	401 KAR 42:020	7-8-2016
103 KAR 30:290	6-22-2016	401 KAR 42:030	7-8-2016
103 KAR 31:011	6-22-2016	401 KAR 42:040	7-8-2016
103 KAR 31:050	6-22-2016	401 KAR 42:060	7-8-2016
103 KAR 31:080	6-22-2016	401 KAR 42:070	7-8-2016
103 KAR 31:090	6-22-2016	401 KAR 42:080	7-8-2016
103 KAR 31:190	6-22-2016	401 KAR 42:250	7-8-2016
103 KAR 40:010	6-28-2016	401 KAR 42:290	7-8-2016
103 KAR 40:035	6-28-2016	401 KAR 42:300	7-8-2016
103 KAR 40:050	6-28-2016	401 KAR 42:316	7-8-2016
103 KAR 40:090	6-28-2016	401 KAR 42:320	7-8-2016
103 KAR 40:100	6-28-2016	401 KAR 42:330	7-8-2016
103 KAR 41:030	6-28-2016	401 KAR 42:340	7-8-2016
103 KAR 41:040	6-28-2016	401 KAR 44:030	7-8-2016
103 KAR 41:050	6-28-2016	401 KAR 45:030	7-8-2016
103 KAR 41:060	6-28-2016	401 KAR 45:040	7-8-2016
103 KAR 41:090	6-28-2016	401 KAR 45:070	7-8-2016
103 KAR 41:100	6-28-2016	401 KAR 45:080	7-8-2016
103 KAR 41:110	6-28-2016	401 KAR 45:090	7-8-2016
103 KAR 41:120	6-28-2016	401 KAR 45:100	7-8-2016
103 KAR 41:130	6-28-2016	401 KAR 45:135	7-8-2016
103 KAR 41:160	6-28-2016	401 KAR 47:090	7-8-2016
103 KAR 43:010	6-28-2016	401 KAR 47:095	7-8-2016
103 KAR 43:050	6-28-2016	401 KAR 47:110	7-8-2016
103 KAR 43:100	6-28-2016	401 KAR 47:205	7-8-2016
103 KAR 43:110	6-28-2016	401 KAR 48:205	7-8-2016
103 KAR 43:140	6-28-2016	401 KAR 48:206	7-8-2016
		401 KAR 48:207	7-8-2016

TECHNICAL AMENDMENT INDEX

401 KAR 48:208	7-8-2016	805 KAR 1:180	7-6-2016
401 KAR 48:310	7-8-2016	805 KAR 1:190	7-6-2016
401 KAR 49:011	7-8-2016	805 KAR 9:010	7-6-2016
401 KAR 49:080	7-8-2016	805 KAR 9:020	7-6-2016
401 KAR 49:090	7-8-2016	805 KAR 9:030	7-6-2016
401 KAR 49:100	7-8-2016	805 KAR 9:040	7-6-2016
401 KAR 49:210	7-8-2016	805 KAR 9:060	7-6-2016
401 KAR 50:015	7-8-2016	805 KAR 9:080	7-6-2016
401 KAR 50:045	7-8-2016	805 KAR 9:100	7-6-2016
401 KAR 50:065	7-8-2016	805 KAR 4:010	7-6-2016
401 KAR 50:066	7-8-2016	805 KAR 4:040	7-6-2016
401 KAR 51:001	7-8-2016	805 KAR 4:085	7-6-2016
401 KAR 51:150	7-8-2016	805 KAR 4:093	7-6-2016
401 KAR 51:160	7-8-2016	805 KAR 4:100	7-6-2016
401 KAR 51:170	7-8-2016	805 KAR 4:110	7-6-2016
401 KAR 51:180	7-8-2016	805 KAR 5:070	7-6-2016
401 KAR 51:190	7-8-2016	805 KAR 7:030	7-6-2016
401 KAR 51:195	7-8-2016	805 KAR 7:080	7-6-2016
401 KAR 52:020	7-8-2016	805 KAR 8:060	7-6-2016
401 KAR 52:030	7-8-2016	805 KAR 11:010	7-6-2016
401 KAR 52:040	7-8-2016	805 KAR 11:020	7-6-2016
401 KAR 52:050	7-8-2016	902 KAR 2:020	8-4-2016
401 KAR 52:060	7-8-2016		
401 KAR 52:070	7-8-2016		
401 KAR 52:100	7-8-2016		
401 KAR 58:005	7-8-2016		
401 KAR 58:025	7-8-2016		
401 KAR 59:021	7-8-2016		
401 KAR 59:023	7-8-2016		
401 KAR 59:174	7-8-2016		
401 KAR 59:760	7-8-2016		
401 KAR 61:036	7-8-2016		
401 KAR 61:090	7-8-2016		
401 KAR 63:031	7-8-2016		
401 KAR 68:010	7-8-2016		
401 KAR 68:020	7-8-2016		
401 KAR 68:048	7-8-2016		
401 KAR 68:065	7-8-2016		
401 KAR 68:090	7-8-2016		
401 KAR 68:100	7-8-2016		
401 KAR 68:150	7-8-2016		
401 KAR 68:200	7-8-2016		
401 KAR 100:030	7-8-2016		
401 KAR 101:010	7-8-2016		
401 KAR 101:020	7-8-2016		
401 KAR 101:030	7-8-2016		
401 KAR 101:040	7-8-2016		
401 KAR 102:010	7-8-2016		
405 KAR 5:032	7-6-2016		
405 KAR 5:070	7-6-2016		
405 KAR 5:078	7-6-2016		
405 KAR 5:082	7-6-2016		
405 KAR 7:080	7-6-2016		
405 KAR 7:095	7-6-2016		
405 KAR 8:001	7-6-2016		
405 KAR 8:010	7-6-2016		
405 KAR 8:030	7-6-2016		
405 KAR 8:040	7-6-2016		
405 KAR 10:015	7-6-2016		
405 KAR 10:025	7-6-2016		
405 KAR 10:030	7-6-2016		
405 KAR 10:070	7-6-2016		
405 KAR 10:080	7-6-2016		
405 KAR 16:001	7-6-2016		
405 KAR 16:200	7-6-2016		
405 KAR 18:001	7-6-2016		
405 KAR 18:200	7-6-2016		
501 KAR 6:060	8-18-2016		
805 KAR 1:070	7-6-2016		
805 KAR 1:100	7-6-2016		
805 KAR 1:110	7-6-2016		
805 KAR 1:140	7-6-2016		
805 KAR 1:160	7-6-2016		
805 KAR 1:170	7-6-2016		

SUBJECT INDEX

AGING AND INDEPENDENT LIVING, DEPARTMENT OF

Aging Services

Kentucky Long-term Care Ombudsman Program; 910 KAR 1:210

AGRICULTURAL EXPERIMENT STATION

Permits, reports, and fees for persons using own tags; 12 KAR 1:140

Sampling, analyzing, testing, and tolerances; 12 KAR 1:116

Schedule of charges for samples submitted for testing; 12 KAR 1:155

ALCOHOLIC BEVERAGE CONTROL, DEPARTMENT OF

ABC basic application and renewal form incorporated by reference; 804 KAR 4:400

Equipment and supplies; 804 KAR 11:010

License renewals; 804 KAR 4:390

Repeal of 804 KAR 1:070, 804 KAR 1:090, and 804 KAR 1:120, 804 KAR 1:071

Repeal of 804 KAR 3:080; 804 KAR 3:081

Repeal of 804 KAR 4:040, 804 KAR 4:050, 804 KAR 4:150, 804 KAR 4:310, 804 KAR 4:340, and 804 KAR 4:385; 804 KAR 4:041

Repeal of 804 KAR 4:380; 804 KAR 4:381

Repeal of 804 KAR 5:030 and 804 KAR 5:050; 804 KAR 5:031

Repeal of 804 KAR 7:050; 804 KAR 7:051

Repeal of 804 KAR 8:040 and 804 KAR 8:060; 804 KAR 8:041

Repeal of 804 KAR 9:020 and 804 KAR 9:030; 804 KAR 9:021

Repeal of 804 KAR 11:020; 804 KAR 11:021

Special applications and registration forms incorporated by reference; 804 KAR 4:410

ATTORNEY GENERAL, OFFICE OF

Consumer Protection, Office of

Cremation forms and inspections; 40 KAR 2:150

CHILD CARE, DIVISION OF

Day Care

Child Care Assistance Program; 922 KAR 2:160

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

Child care service appeals; 922 KAR 2:260

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Emergency Medical Services, Board of

Ambulance and medical first response agencies; 202 KAR 7:501

Allocation of block grant funding assistance for emergency medical services; 201 KAR 7:520

Kentucky Fire Commission

Survivor benefits for death of a firefighter; 739 KAR 2:040

Volunteer fire department reporting requirements; 739 KAR 2:140

COMMUNITY BASED SERVICES, DEPARTMENT OF

Child Care (*See Child Care, Division of*) 922 KAR Chapter 2

Family Support (*See Family Support, Division of*) KAR Title 921

Income Support, Department of

Child Support Enforcement

Child support distribution; 921 KAR 1:420

Protection and Permanency (*See Protection and Permanency, Department of*) KAR Title 922

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Education, Kentucky Board of

Education (*See Education, Department of*) KAR Titles 702, 703, 704, 787

EDUCATION, DEPARTMENT OF

Education, Kentucky Board of

General program standards for secondary career and technical education programs; 705 KAR 4:231

Repeal of 702 KAR 3:170; 702 KAR 3:171

Repeal of 780 KAR 4:010; 780 KAR 4:012

Education Professional Standards Board

Examination prerequisites for teacher certification; 16 KAR 6:010

Kentucky Teacher Internship Program; 16 KAR 7:010

Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial; 16 KAR 1:030

Instruction, Office of

Repeal of 704 KAR 3:340; 704 KAR 3:342

Learning Results Services

Repeal of 703 KAR 4:040; 703 KAR 4:041

School Terms, Attendance and Operation

Designation of agent to manage middle and high school interscholastic athletics; 702 KAR 7:065

Workforce Investment, Department of

General eligibility criteria for assistive technology loans; 789 KAR 1:010

Reasonable time for protesting claim; 787 KAR 1:070

ETHICS

See Legislative Ethics Commission

FAMILY SUPPORT, DIVISION OF

Energy Assistance Program/Weatherization

Repeal of 921 KAR 4:118; 921 KAR 4:119

Supplemental Nutrition Assistance Program

Certification process; 921 KAR 3:035

FINANCE AND ADMINISTRATION CABINET

Kentucky Teachers' Retirement System

Disability retirement application, review and examinations; 102 KAR 1:290

Surviving children's benefits; 102 KAR 1:165

Qualified domestic relations orders; 102 KAR 1:320

Revenue, Department of (*See Revenue, Department of*) KAR Title 103

Secretary, Office of the

Public-private partnership delivery method; 200 KAR 5:355

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Accountancy, Kentucky State Board of

Continuing professional education requirements; 201 KAR 1:100

Individual license renewal and fee; 201 KAR 1:065

Per diem compensation; 201 KAR 1:015

Barbering, Board of

Teacher requirements; 201 KAR 14:125

Division of Depository Institutions

Fees for services rendered to banks and trust companies; 808 KAR 1:160

Repeal of 808 KAR 1:080 and 808 KAR 1:100; 808 KAR 1:081

Repeal of 808 KAR 11:010; 808 KAR 11:011

Division of Nondepository Institutions

Repeal of 808 KAR 4:020; 808 KAR 4:021

Licensure for Professional Engineers and Land Surveyors, Kentucky State Board of

Repeal of 201 KAR 18:050; 201 KAR 18:051

Mortgage Loan Companies and Mortgage Loan Brokers

Licensing and registration; 808 KAR 12:021

Uniform standards for mortgage loan processor applicant employee background checks; 808 KAR 12:055

GENERAL GOVERNMENT CABINET

Applied Behavior Analysis Licensing Board

Per Diem; 201 KAR 43:110

Barbering, Board of

Notification and inspection of new shop locations; 201 KAR 14:045

Teacher requirements, 201 KAR 14:125

Durable Medical Equipment, Board of

Home medical equipment and supplier licenses, requirements, and fees; 201 KAR 47:010

SUBJECT INDEX

Inspections, discipline, reinstatement, and administrative appeals; 201 KAR 47:020

Nursing, Board of

Sexual assault nurse examiner program standards and credential requirements; 201 KAR 20:411

Pharmacy, Board of

Compounding; 201 KAR 2:076

Licenses and permits; fees; 201 KAR 2:050

Repeal of 201 KAR 2:350; 201 KAR 2:351

Technicians; 201 KAR 2:045

Physical Therapy, Board of

Continued competency requirements and procedures, 201 KAR 22:045

HEALTH AND FAMILY SERVICES, CABINET FOR

Aging and Independent Living (*See Aging and Independent Living, Department of*) KAR Title 910

Community Based Services (*See Community Based Services, Department of*) KAR Titles 921 and 922

Income Support, Department for

Child Support Enforcement

Child support collection and enforcement; 921 KAR 1:410

Child Support Enforcement Program application and intergovernmental process; 921 KAR 1:380

Inspector General (*See Inspector General, Office of*) KAR Title 902

Medicaid Services (*See Medicaid Services*) KAR Title 907

Public Health (*See Public Health, Department for*) KAR Title 902

HIGHER EDUCATION ASSISTANCE AUTHORITY

Kentucky Educational Excellence Scholarship Program

KEES program; 11 KAR 15:090

HORSE RACING COMMISSION

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

Development Fund; 811 KAR 2:190

Thoroughbred Racing

Jockeys and apprentices; 810 KAR 1:009

HOUSING, BUILDINGS AND CONSTRUCTION, DEPARTMENT OF

Building Code Enforcement, Division of

Kentucky Building Code; 815 KAR 7:120

Plumbing, Division of

Definitions for 815 KAR Chapter 20; 815 KAR 20:010

House sewers and storm water [piping; methods of installation; 815 KAR 20:130

Parts or materials list; 815 KAR 20:020

Quality and weight of materials; 815 KAR 20:060

Soil, waste, and vent systems; 815 KAR 20:090

Waste pipe size; 815 KAR 20:080

Water supply and distribution; 815 KAR 20:120

INSPECTOR GENERAL, OFFICE OF

Healthcare, Division of

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

Schedule V substances; 902 KAR 55:035

JUSTICE AND PUBLIC SAFETY CABINET

Corrections, Department of

Correctional Industries; 501 KAR 6:160

Corrections policies and procedures; 501 KAR 6:020

Roederer Correctional Complex; 501 KAR 6:110

Criminal Justice Training, Department of

Participation: requirements; application; withdrawal; 503 KAR 5:090

LABOR CABINET

Workers' Claims, Department of

Procedure for adjustments of claims; 803 KAR 25:010

Workplace Standards, Department of

Occupational Safety and Health Compliance

Occupational Safety and Health Education Training

Fall protection; 803 KAR 2:412

Recordkeeping, reporting, statistics; 803 KAR 2:180

LEGISLATIVE ETHICS COMMISSION

Adjudicatory hearings; 2 KAR 2:060

Advisory opinions; 2 KAR 2:070

Preliminary inquiries; 2 KAR 2:050

Required forms; 2 KAR 2:010

Statement of financial disclosure; 2 KAR 2:020

Updated registration short forms for employers and legislative agents; 2 KAR 2:040

MEDICAID SERVICES

Division of Community Alternatives

Home and community based waiver services version 2; 907 KAR 7:010

Reimbursement for home and community based waiver services version 2; 907 KAR 7:015

Repeal of 922 KAR 1:150, 1:170, 1:210, and 1:230; 922 KAR 1:151

MOREHEAD STATE UNIVERSITY

Board of Regents

Capital construction procedures; 755 KAR 1:080

PERSONNEL CABINET

Office of the Secretary

Plan year handbook for the public employee health insurance program; 101 KAR 2:210

PROTECTION AND PERMANENCY, DIVISION OF

Child Welfare

Educational and training vouchers; 922 KAR 1:500

Service appeals; 922 KAR 1:320

Adult Services

Repeal of 922 KAR 5:080; 922 KAR 5:081

PUBLIC HEALTH, DEPARTMENT OF

Epidemiology and Health Planning, Division of

Reportable disease surveillance; 902 KAR 2:020

PUBLIC PROTECTION CABINET

Alcoholic Beverage Control, Department of (*See Alcoholic Beverage Control, Department of*) KAR Chapter 804

Boxing and Wrestling Commission.

Definitions; 201 KAR 27:005

Disciplinary action; 201 KAR 27:105

Drug testing for boxing, kickboxing, mixed martial arts, and elimination event shows; 201 KAR 27:021

General requirements for all mixed martial arts matches, shows, or exhibitions; 201 KAR 27:016

General requirements for boxing and kickboxing shows; 201 KAR 27:011

General requirements for wrestling shows; 201 KAR 27:012

License requirements and fees; 201 KAR 27:008

Managers; 201 KAR 27:040

Powers and duties of inspector; 201 KAR 27:007

Repeal of 201 KAR 27:035, 27:045, 27:050, 27:055, 27:060, 27:065, 27:070, 27:090, 27:100; 201 KAR 27:036

Requirements for elimination events; 201 KAR 27:017

Tickets; 201 KAR 27:020

Financial Institutions (*See Financial Institutions, Department of*) KAR Title 808

Real Estate Appraisers Board

Types of appraisers required in federally related transactions; certification and licensure; 201 KAR 30:030 (*See Housing, Buildings and Construction*) KAR Title 815

REVENUE, DEPARTMENT OF

Income Taxation, Office of

Kentucky new markets development program tax credit; 103 KAR 15:180

Valuation of municipal solid waste landfill facilities; 103 KAR 8:160

Sales and Use Tax; Miscellaneous Retail Transactions

Repeal of 103 KAR 28:040; 103 KAR 28:041

SUBJECT INDEX

Selective Excise Tax; Cigarettes

Repeal of 103 KAR 41:020; 103 KAR 41:021

Selective Excise Tax; Motor Vehicle Usage

Repeal of 103 KAR 44:130; 103 KAR 44:131

Valuation of municipal solid waste landfill facilities; 103 KAR 8:160

SECRETARY OF STATE, OFFICE OF

Consumer Protection, Office of

Cremation forms and inspections; 40 KAR 2:150

Funeral planning declaration form; 40 KAR 2:145

Occupational License Fees

Standard form for occupational license fee return, 30 KAR 7:010

TOURISM, ARTS AND HERITAGE CABINET

Fish and Wildlife Resources, Department of

Boat and motor restrictions; 301 KAR 1:015

Elk quota hunts, elk depredation permits, landowner cooperator permits, and voucher cooperator permits; 301 KAR 2:132

Hunting and trapping seasons and limits for furbearers; 301 KAR 2:251

Small game and furbearer hunting and trapping on public areas; 301 KAR 2:049

Taking of fish by traditional methods; 301 KAR 1:201

TRANSPORTATION CABINET

Department of Aviation

Repeal of 602 KAR 15:010; 602 KAR 15:011

Repeal of 602 KAR 20:090; 602 KAR 20:091

Department of Highways

Repeal of 600 KAR 5:010; 600 KAR 5:011

Repeal of 600 KAR 6:020, 600 KAR 6:030, 600 KAR 6:060; 600 KAR 6:061

Repeal of 603 KAR 1:030; 603 KAR 1:031

Repeal of 603 KAR 4:045; 603 KAR 4:046

Repeal of 603 KAR 5:020, 603 KAR 5:030, 603 KAR 5:080, 603 KAR 5:090, 603 KAR 5:240, 603 KAR 5:301; 603 KAR 5:311

Repeal of 603 KAR 8:010; 603 KAR 8:011

Repeal of 603 KAR 9:020; 603 KAR 9:021

Department of Transportation Delivery

Repeal of 603 KAR 7:010, 603 KAR 7:040, 603 KAR 7:050, 603 KAR 7:060, 603 KAR 7:070; 603 KAR 7:071

Department of Vehicle Regulation

Repeal of 601 KAR 1:025, 601 KAR 1:029, 601 KAR 1:060, 601 KAR 1:075, 601 KAR 1:095, 601 KAR 1:101, 601 KAR 1:110, 601 KAR 1:145, 601 KAR 1:190, and 601 KAR 1:230; 601 KAR 1:231

Repeal of 601 KAR 2:010; 601 KAR 2:011

Repeal of 601 KAR 9:010, 601 KAR 9:020, 601 KAR 9:060, 601 KAR 9:065, 601 KAR 9:095, and 601 KAR 9:105; 601 KAR 9:111

Repeal of 601 KAR 40:010; 601 KAR 40:011

Repeal of 605 KAR 1:010; 605 KAR 1:011