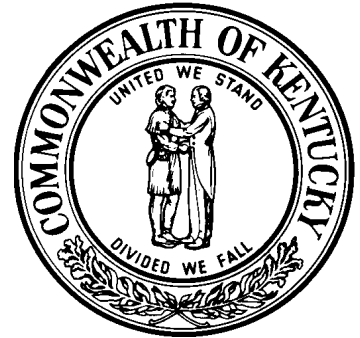


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 43, NUMBER 11
MONDAY, MAY 1, 2017

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, April 14, 2017.

ARRS – MAY 9, 2017 TENTATIVE AGENDA	1919
REGULATION REVIEW PROCEDURE	1921

EMERGENCIES

Department for Workforce Investment	1922
CHFS: Department for Medicaid Services	1924

AS AMENDED

Board of Physical Therapy	1940
Board of Orthotics, Prosthetics, and Pedorthics	1942
Board of Licensed Diabetes Educators	1943
Department of Corrections	1946
School Facilities Construction Commission	1949
Department of Workplace Standards	1950
Department of Alcoholic Beverage Control	1954
CHFS: Department for Public Health	1955
CHFS: Department for Medicaid Services	1958
CHFS: Department for Community Based Services	1981

AMENDED AFTER COMMENTS

Board of Medical Imaging and Radiation Therapy	1987
CHFS: Department for Public Health	1989
CHFS: Department for Medicaid Services	1997

PROPOSED AMENDMENTS

Education Professional Standards Board	2005
Office of Consumer Protection	2013
Board of Physical Therapy	2022
Board of Licensed Professional Art Therapists	2023
Board of Orthotics, Prosthetics, and Pedorthics	2031
Department of Fish and Wildlife Resources	2032
EEC: Division of Water	2040
Department of Vehicle Regulation	2056
Department for Libraries and Archives	2060
Department of Workforce Investment	2065
Department of Housing, Buildings and Construction	2067
CHFS: Department for Aging and Independent Living	2070

NEW ADMINISTRATIVE REGULATIONS

Board of Medical Imaging and Radiation Therapy	2077
Division of Water	2078

Department of Insurance	2079
CHFS: Department for Public Health	2082
Cabinet for Health and Family Services	2086
CHFS: Department for Medicaid Services	2088

ARRS Report	2100
OTHER COMMITTEE REPORTS	NONE

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates	K - 2
KRS Index	K - 14
Technical Amendments	K - 28
Subject Index	K - 31

MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet May 9, 2017, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages 1919-1920 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)

© 2017 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 Jeff Hoover
House Speaker

Senate and House Members

Senator David P. Givens
President Pro Tempore

Representative David W. Osborne
Speaker Pro Tempore

Senator Damon Thayer
Majority Floor Leader

Representative Jonathan Shell
Majority Floor Leader

Senator Ray Jones
Minority Floor Leader

Representative Rocky Adkins
Minority Floor Leader

Senator Daniel Seum
Majority Caucus Chair

Representative David R. Meade
Majority Caucus Chair

Senator Dorsey Ridley
Minority Caucus Chair

Representative Dennis Keene
Minority Caucus Chair

Senator Jimmy Higdon
Majority Whip

Representative Kevin Bratcher
Majority Whip

Senator Julian Carroll
Minority Whip

Representative Wilson Stone
Minority Whip

David Byerman, Director
Joe Cox, Printing and Publications Officer

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

Senator Ernie Harris, Co-Chair
Representative Ken Upchurch, Co-Chair
Senator Julie Raque Adams
Senator Perry B. Clark
Senator Alice Kerr
Representative Mary Lou Marzian
Representative Jason Petrie
Representative Tommy Turner

Staff

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

VOLUME 43, NUMBER 11 – MAY 1, 2017

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, MAY 9, 2017, at 1:00 p.m., Room 149 Capitol Annex**

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board**

Assessment

16 KAR 6:020. Assessment requirements for occupation-based career and technical education teachers. (Deferred from April)

**GENERAL GOVERNMENT CABINET
Board of Pharmacy**

Board

201 KAR 2:074. Pharmacy services in hospitals or other organized health care facilities.

Board of Nursing

Board

201 KAR 20:056. Advanced practice registered nurse license and certification requirements.

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

Board of Psychology

Board

201 KAR 26:125. Health service provider designation.

201 KAR 26:130. Grievance.

201 KAR 26:140. Procedures for disciplinary hearings.

201 KAR 26:145. Code of conduct.

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.

201 KAR 26:160. Fee schedule.

201 KAR 26:165. Inactive status.

201 KAR 26:171. Requirements for supervision.

201 KAR 26:175. Continuing education.

201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

201 KAR 26:190. Requirements for supervised professional experience.

201 KAR 26:200. Education requirements for licensure as a psychologist.

201 KAR 26:210. Educational requirements for licensure as a licensed psychological associate.

201 KAR 26:215. Nonresident status.

201 KAR 26:225. Renewal and reinstatement.

201 KAR 26:250. Employment of a psychological associate.

201 KAR 26:280. Licensed psychological associate: application procedures and temporary license.

201 KAR 26:290. Licensed psychological practitioner: application procedures.

Board for Licensing for Marriage and Family Therapists

Board

201 KAR 32:050. Code of ethics.

201 KAR 32:060. Continuing education requirements.

**Office of Occupations and Professions
Board of Interpreters for the Deaf and Hard of Hearing**

Board

201 KAR 39:050. Renewal of licenses, extension of temporary licenses and reinstatement.

Board of Medical Imaging and Radiation Therapy

Board

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses. (Comments Received)

201 KAR 46:060. Continuing education requirements. (Deferred from April)

201 KAR 46:070. Violations and enforcement. (Not Amended After Comments)

201 KAR 46:090. Complaint process and administrative hearings. (Not Amended After Comments)

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

Game

301 KAR 2:075. Wildlife rehabilitation permit.

301 KAR 2:083. Holding and intrastate transportation of captive cervids.

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands and federally controlled areas. (Deferred from April)

**ENERGY AND ENVIRONMENT CABINET
Office of the Secretary**

Administration

400 KAR 1:001. Definitions for 400 KAR Chapter 1.

400 KAR 1:031. Repeal of 400 KAR 1:030.

400 KAR 1:090. Administrative hearings practice provisions.

400 KAR 1:100. General administrative hearing practice provisions relating to matters brought under KRS Chapters 146, 149, 151, 223, and 224.

**Department of Environmental Protection
Division of Air Quality**

Environmental Protection

401 KAR 100:011. Repeal of 100:010.

VOLUME 43, NUMBER 11 – MAY 1, 2017

Department of Natural Resources Division of Mine Reclamation and Enforcement

Surface Effects of Noncoal Mining

405 KAR 5:095. Administrative hearings, informal settlement conferences, and general practice provisions relating to a mineral operation.

General Provisions

405 KAR 7:092. Administrative hearings and assessment conferences relating to matters brought under KRS Chapter 350 relating to surface coal mining and reclamation operations, and coal exploration operations.

405 KAR 7:093. Repeal of 405 KAR 7:091.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections

Office of the Secretary

501 KAR 6:040. Kentucky State Penitentiary.

TRANSPORTATION CABINET Department of Vehicle Regulation

Motor Carriers

601 KAR 1:018. Special overweight or over dimensional motor vehicle load permits.

Division of Driver Licensing

Administration

601 KAR 2:030 & E. Ignition interlock. ("E" expires 4/25/2017) (Not Amended After Comments) (Deferred from February)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department of Workplace Development Office of Employment and Training

Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim. (Not Amended After Comments) (Deferred from February)

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Kentucky Health Benefit and Information Exchange

Kentucky Health Benefit Exchange

900 KAR 10:041. Repeal of 900 KAR 10:040 and 900 KAR 10:050.

Department for Public Health Division of Epidemiology and Health Planning

Communicable Diseases

902 KAR 2:060. Immunization schedules for attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools. (Amended After Comments)

Division of Prevention and Quality Improvement

Programs for the Underserved

902 KAR 21:030. Pediatric Cancer Research and Treatment Grant Program.

Department for Medicaid Services Division of Policy and Operations

Medicaid Services

907 KAR 1:065. Payments for price-based nursing facility services. (Amended After Comments)

REMOVED FROM THE MAY AGENDA

GENERAL GOVERNMENT CABINET Office of Occupations and Professions Board of Interpreters for the Deaf and Hard of Hearing

Board

201 KAR 39:001. Definitions for 201 KAR Chapter 39. (Comments Received, SOC ext. due 5/15/2017)

201 KAR 39:030. Application; qualifications for licensure; and certification levels. (Comments Received, SOC ext. due 5/15/2017)

201 KAR 39:070. Application and qualifications for temporary licensure. (Comments Received, SOC ext. due 5/15/2017)

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

General Administrative Procedures

401 KAR 50:060. Enforcement. (Withdrawn by Agency 3/30/2017)

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
787 KAR 2:040E

KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs established by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This emergency amendment amends the membership criteria and operating guidelines for local workforce development boards, amends the requirements for interlocal agreements for local workforce development areas, establishes guidelines for the hiring of staff by local workforce development boards, and requires a written agreement for entities that perform multiple functions in a local workforce development area implementing the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. §3101 et seq. This action must be taken on an emergency basis in accordance with KRS 13A.190(1)(a) by July 1, 2017 to continue the implementation of WIOA, in accordance with additional federal guidance given to the states, and to prevent a potential loss of federal funds. A new ordinary administrative regulation is not sufficient to meet the deadlines established by the federal law. This emergency administrative regulation shall be replaced by an ordinary administrative regulation to be concurrently filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
HAL HEINER, Secretary

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employment and Training
(Emergency Amendment)

787 KAR 2:040E. Local workforce development area governance.

RELATES TO: KRS 151B.020(6), 29 U.S.C. 3101 et seq.
STATUTORY AUTHORITY: KRS 151B.020(6)
EFFECTIVE: March 31, 2017

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This administrative regulation establishes the membership criteria and operating guidelines for local workforce development boards, requires interlocal and partnership agreements for local workforce development areas, [and] establishes the process for the identification of regions and designation of local workforce development areas, establishes the guidelines for the hiring of staff by local workforce development boards, and requires a written agreement for entities that perform multiple functions in a local workforce development area under the Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq. In addition to the minimum federal requirements set forth in 29 U.S.C. 3122, this administrative regulation provides further guidance and clarification necessary for effective local implementation activities.

Section 1. Local workforce development board membership criteria and operating guidelines. Each chief local elected official in a local workforce development area shall appoint members to the local workforce development board and each local workforce development board shall operate in compliance with the Workforce Innovation and Opportunity Act (WIOA) – Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation

Process and Board Certification, Policy Number 15-001.

Section 2. Interlocal agreement. Each local elected official of a unit of general local government within a local workforce development area shall jointly execute a written interlocal agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act – Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities, Policy Number 15-002.

Section 3. Partnership agreement. Each chief local elected official, representing the local elected officials in a local workforce development area, and each designated chair, representing the local workforce development board, shall jointly execute a written partnership agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act – Local Elected Official(s) and Local Workforce Development Board Partnership Agreement, Policy Number 15-003.

Section 4. Identification of regions and designation of local workforce development areas. The process and procedures for the identification of regions and the designation of local workforce development areas within the Commonwealth of Kentucky shall be in compliance with the Identification of Regions and Designation of Local Workforce Development Areas, Policy Number 15-004.

Section 5. Hiring of staff for local workforce development boards. (1) Local workforce development boards may hire a director and other staff in accordance with Local Workforce Development Board Staff, Policy Number 17-001.

Section 6. Entities performing multiple functions in a local workforce development area. (1) Entities that have been selected or otherwise designated to perform more than one function in a local workforce development area must develop a written agreement in that, at a minimum, complies with Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions, Policy Number 17-002.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Workforce Innovation and Opportunity Act (WIOA) - Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification", Policy Number 15-001, March 31, 2017[July 1, 2015];

(b) The "Workforce Innovation and Opportunity Act - Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities", Policy Number 15-002, March 31, 2017[March 4, 2015];

(c) The "Workforce Innovation and Opportunity Act - Local Elected Official(s) and Local Workforce Development Board Partnership Agreement", Policy Number 15-003, October 1, 2015;[and]

(d) The "Identification of Regions and Designation of Local Workforce Development Areas", Policy Number 15-004, May 14, 2015;

(e) The "Local Workforce Development Board Staff", Policy Number 17-001, March 31, 2017; and

(f) The "Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions", Policy Number 17-002, March 31, 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Employment and Training, 275 E. Main Street, 2nd Floor, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

HAL HEINER, Secretary
APPROVED BY AGENCY: March 31, 2017
FILED WITH LRC: March 31, 2017 at 4 p.m.
CONTACT PERSON: Beth Kuhn, Commissioner; Kentucky

Department of Workforce Investment; 300 Sower Blvd., 4th Floor; Frankfort, Kentucky 40601, phone (502) 564-0372, fax (502) 564-9990, email Beth.Kuhn@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Kuhn, phone (502) 564-0372, email Beth.Kuhn@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the membership criteria and operating guidelines of local workforce development boards, requires interlocal and partnership agreements for the local workforce development areas, and establishes the process for the identification of regions and designation of local workforce development areas.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3101 et seq.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes in that it provides guidance and clarification regarding local workforce development board membership criteria and operating guidelines and clarification of the roles and responsibilities of the chief local elected officials and the local elected officials with regards to the interlocal and partnership agreements implementing the WIOA. It also establishes the process for the identification of regions and the designation of local workforce development areas consistent with federal law.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the Cabinet in implementing the WIOA and will help qualify for the continued receipt of federal funds.

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

(a) How the amendment will change this existing administrative regulation: These amendments will more clearly delineate the roles of the LWDB, Local Elected Officials and Chief Local Elected Officials. Additionally, the amendments define unallowable conflict of interest policy. These changes reflect the issuance of 20 C.F.R. 679 on June 30, 2016.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary to comply with the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3101 et seq. and 20 C.F.R. 679.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes in that it provides guidance and clarification regarding local workforce development board membership criteria and operating guidelines and clarification of the roles and responsibilities of the chief local elected officials and the local elected officials with regards to the interlocal and partnership agreements implementing the WIOA. It also establishes the process for the identification of regions and the designation of local workforce development areas consistent with federal law.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist the Cabinet in implementing the WIOA and will help qualify for the continued receipt of federal funds.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Office of the Governor, Kentucky Workforce Investment Board or its successor, local workforce development areas, along with their workforce development boards, chief local elected officials, and local elected officials, will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The chief local elected official in each

local area will have to appoint members of the local boards in accordance with the "Workforce Innovation and Opportunity Act (WIOA) – Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification", Policy Number 15-001 and the local boards will have to operate in accordance with the policy. All local elected officials on behalf of their general unit of local government will have to enter into interlocal agreements that comply with the "Workforce Innovation and Opportunity Act – Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities", Policy Number 15-002 and the conflict of interest provisions of "Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions", Policy Number 17-002. Local Boards will have to hire staff, procure services, and operate according to these policies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are minimal costs to the entities in order to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Local elected officials, chief local elected officials, and local workforce development boards will have a clearer understanding of their roles and responsibilities under WIOA as a result of compliance with this administrative regulation.

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

(a) Initially: It is estimated the costs to the administrative bodies to implement this administrative regulation will be minimal initially. The costs may be covered by federal WIOA funds.

(b) On a continuing basis: It is estimated the costs to the administrative bodies to implement this administrative regulation will be negligible on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Federal WIOA funding will be used for implementation and enforcement.

(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 will not be 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 any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as all chief local elected officials, local elected officials, local workforce development areas, and local workforce development boards will be impacted 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? Office of the Governor, Education and Workforce Development Cabinet, Kentucky Workforce Investment Board or its successor, Local Elected Officials, Chief Local Elected Officials, Local Workforce Development Boards, Local Workforce Development Areas

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 151B.020(6) and 29 U.S.C. 3101 et seq.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue for the first year.

(b) How much revenue will this administrative regulation

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

(c) How much will it cost to administer this program for the first year? Costs will be negligible to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The costs will be negligible 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. Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3122 and §3121, 20 C.F.R. 679.430, and Training and Employment Guidance Letter (TEGL) WIOA No. 27-14, TEGL 27-14, Change 1, TEGL 15-16

2. State compliance standards. KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperated with other state and federal agencies for the proper administration of the cabinet and its programs.

3. Minimum or uniform standards contained in the federal mandate. The composition and functions of each local workforce development board and the activities of chief elected officials must be consistent with the minimum criteria set forth in 29 U.S.C. 3122 and 20 C.F.R. 679. Additional guidance is available in USDOL TEGL 15-16.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will impose additional requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The additional requirements provide further guidance and clarification necessary for effective local implementation activities.

STATEMENT OF EMERGENCY 907 KAR 1:041E

This emergency administrative regulation is being promulgated to repeal 907 KAR 1:018, Reimbursement for drugs, and 907 KAR 1:019, Outpatient pharmacy program, because their provisions are being established in a new chapter, 907 KAR Chapter 23. This emergency repealer is needed to avoid confusion that would result from having multiple administrative regulations covering the same subject matter in effect simultaneously. The new administrative regulations in 907 KAR Chapter 23 are being promulgated as emergency administrative regulations pursuant to KRS 13A.190(1)(a)2. and 3., to prevent a loss of federal funds and to meet a deadline for promulgation established by federal law. By extension, those same justifications apply to this emergency repealer. This emergency administrative regulation will not be replaced by an ordinary administrative regulation because, pursuant to KRS 13A.190(2), it will be effective upon filing with the regulations compiler. Once 907 KAR 1:018 and 907 KAR 1:019 are repealed by this emergency administrative regulation, they will no longer exist and, therefore, cannot be repealed by a subsequent ordinary administrative regulation.

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

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Policy and Operations (Emergency Repealer)

907 KAR 1:041E. Repeal of 907 KAR 1:018 and 907 KAR 1:019.

RELATES TO: KRS 205.560, 205.561, 205.5632, 205.5634, 205.5636, 205.5638, 205.5639, 205.6316(4), 42 C.F.R. 440.120, 447.500 - 447.520, 42 U.S.C. 256b, 1396a - 1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

EFFECTIVE: March 31, 2017

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulations repeals 907 KAR 1:018 and 907 KAR 1:019. The Department for Medicaid Services is repealing those two (2) administrative regulations because the provisions governing reimbursement for drugs and the outpatient pharmacy program are now established in 907 KAR Chapter 23.

Section 1. The following administrative regulations are hereby repealed:

- (1) 907 KAR 1:018, Reimbursement for drugs; and
- (2) 907 KAR 1:019, Outpatient Pharmacy Program.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 at 9:00 a.m. in Suites A & B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015, donna.little@ky.gov or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation repeals 907 KAR 1:018, Reimbursement for drugs, and 907 KAR 1:019, Outpatient pharmacy program, because their provisions are being established in a new chapter, 907 KAR Chapter 23. This emergency repealer is needed to avoid confusion that would result from having multiple administrative regulations covering the same subject matter in effect simultaneously.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal two (2) existing

administrative regulations because their provisions are being established in a new chapter, 907 KAR Chapter 23. The repeal is necessary to avoid confusion from having multiple administrative regulations covering the same subject matter in effect simultaneously.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by repealing two (2) administrative regulations in accordance with KRS 13A.310.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal of two (2) administrative regulations will avoid confusion that would result from having multiple administrative regulations covering the same subject matter in effect simultaneously.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: In order to be reimbursed by the DMS, participating providers will have to submit pharmacy or medical claims for covered outpatient drugs in accordance with the new administrative regulations promulgated in 907 KAR Chapter 23, rather than by using the two (2) administrative regulations being repealed by this repealer administrative regulation.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with the new administrative regulations promulgated in 907 KAR Chapter 23, applicable providers will benefit by receiving a true drug ingredient cost based reimbursement along with a professional dispensing fee from DMS for dispensing covered outpatient drugs to Medicaid recipients who are not enrolled with a managed care organization. The benefit to this repealer administrative regulation is that there will not be multiple administrative regulations covering the same subject matter simultaneously.

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

(a) Initially: There are no costs to this repeal.

(b) On a continuing basis: Please see (5)(a) above

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no source of funding needed to implement this repeal.

(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 repeal.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation

simply repeals two (2) administrative regulations.

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? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.310, 205.560, 205.561, 205.5632, 205.5634, 205.5636, 205.5638, 205.5639, 205.6316(4), 42 C.F.R. 440.120, 447.500 - 447.520, 42 U.S.C. 256b, 1396a - 1396d, 1396r-8

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 is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation is not expected to have any costs for its administration.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Those revisions have been promulgated in 907 KAR Chapter 23, at the same time as this emergency repealer. To avoid having multiple administrative regulations covering the same subject matter simultaneously, this administrative regulation repeals 907 KAR 1:018 and 907 KAR 1:019.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Revising reimbursement methodology for outpatient drugs (in 907 KAR Chapter 23) dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization will not change compliance standards.

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 or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

**STATEMENT OF EMERGENCY
907 KAR 3:206E**

This emergency administrative regulation is being promulgated to repeal 907 KAR 3:205, Hemophilia Treatment Reimbursement and Coverage Via the 340B Drug Pricing Program, because its provisions are being established in a new chapter, 907 KAR Chapter 23. This emergency repealer is needed to avoid confusion that would result from having multiple administrative regulations covering the same subject matter in effect simultaneously. The new administrative regulations in 907 KAR Chapter 23 are being promulgated as emergency administrative regulations pursuant to KRS 13A.190(1)(a)2. and 3., to prevent a loss of federal funds and to meet a deadline for promulgation established by federal law. By extension, those same justifications apply to this emergency repealer. This emergency administrative regulation will not be replaced by an ordinary administrative regulation because, pursuant to KRS 13A.190(2), it will be effective upon filing with the regulations compiler. Once 907 KAR 3:205 is repealed by this emergency administrative regulation, it will no longer exist and, therefore, cannot be repealed by a subsequent ordinary administrative regulation.

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

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(Emergency Repealer)**

907 KAR 3:206E. Repeal of 907 KAR 3:205.

RELATES TO: 42 U.S.C. 256b; 42 U.S.C. 701(a)(2)
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

EFFECTIVE: March 31, 2017

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation repeals 907 KAR 3:205 because its subject matter is now covered by 907 KAR Chapter 23.

Section 1. 907 KAR 3:205, Hemophilia Treatment Reimbursement and Coverage Via the 340B Drug Pricing Program, is hereby repealed.

STEPHEN P. MILLER, Commissioner
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 at 9:00 a.m. in Suites A & B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov, or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation repeals 907 KAR 3:205, Hemophilia Treatment Reimbursement and Coverage Via the 340B Drug Pricing Program, because its provisions are being established in a new chapter, 907 KAR Chapter 23. This emergency repealer is needed to avoid confusion that would result from having multiple administrative regulations covering the same subject matter in effect simultaneously.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal an existing administrative regulation because its provisions are being established in a new chapter, 907 KAR Chapter 23. The repeal is necessary to avoid confusion from having multiple administrative regulations covering the same subject matter in effect simultaneously.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by repealing an administrative regulation in accordance with KRS 13A.310.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal of the administrative regulation will avoid confusion that would result from having multiple administrative regulations covering the same subject matter in effect simultaneously.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: In order to be reimbursed by the DMS, participating providers will have to submit pharmacy or medical claims for covered outpatient drugs in accordance with the new administrative regulations promulgated in 907 KAR Chapter 23, rather than by using the administrative regulation being repealed by this repealer administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in

question (3): There will be no additional costs experienced by affected providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with the new administrative regulations promulgated in 907 KAR Chapter 23, applicable providers will benefit by receiving a true drug ingredient cost based reimbursement along with a professional dispensing fee from DMS for dispensing covered outpatient drugs to Medicaid recipients who are not enrolled with a managed care organization. The benefit to this repealer administrative regulation is that there will not be multiple administrative regulations covering the same subject matter simultaneously.

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

(a) Initially: There are no costs to this repeal.

(b) On a continuing basis: Please see (5)(a) above

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no source of funding needed to implement this repeal.

(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 repeal.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation simply repeals an 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? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 U.S.C. 256b; 42 U.S.C. 701(a)(2)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation is not expected to have any costs for its administration.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Those revisions have been promulgated in 907 KAR Chapter 23, at the same time as this emergency repealer. To avoid having multiple administrative regulations covering the same subject matter simultaneously, this administrative regulation repeals 907 KAR 3:205.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Revising reimbursement methodology for outpatient drugs (in 907 KAR Chapter 23) dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization will not change compliance standards.

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 or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

STATEMENT OF EMERGENCY 907 KAR 23:001E

This emergency administrative regulation is being promulgated to establish the definitions for 907 KAR Chapter 23, which is a new chapter being promulgated to establish the Medicaid pharmacy program. The Centers for Medicare and Medicaid Services (CMS) has issued the Medicaid Program; Covered Outpatient Drugs (COD); Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447. State Medicaid agencies must comply with the new COD Final Rule by submitting a State Plan Amendment effective no later than April 1, 2017 followed by necessary regulatory changes. Therefore, this administrative regulation is being submitted pursuant to KRS 13A.190(1)(a)2. and 3., to prevent a loss of federal funds and to meet a deadline for promulgation established by federal law. The basis of the state and federal partnership is governed by the federal medical assistance percentage (FMAP). Under this financing arrangement, the federal government guarantees federal matching funds to states for qualifying Medicaid expenditures, allowing federal funds to flow to states based on actual costs and needs. When states are not in compliance with federal rules, the FMAP contribution of federal funds for state spending is at risk. Loss of these contributions would have impact on the amount of Medicaid spending supplied from the state general appropriations fund. Since April 1, 2017 is a Saturday, in order to comply with the CMS mandate for an April 1, 2017 effective date, to maintain pharmacy program spend as "qualified", and to secure the federal funding portion of Medicaid spend, it is necessary to file this administrative regulation by emergency measure, no later than March 31, 2017. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

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

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(New Emergency Administrative Regulation)**

907 KAR 23:001E. Definitions for 907 KAR Chapter 23.

RELATES TO: KRS 205.560, 205.561, 205.5631, 205.5632, 205.5634, 205.5636, 205.5638, 205.5639, 205.6316(4), 217.015, 42 C.F.R. 440.120, 447.500 - 447.520, 42 U.S.C. 256b, 1396a - 1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

EFFECTIVE: March 31, 2017

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the definitions for 907 KAR Chapter 23.

Section 1. Definitions. (1) "340B ceiling price" means the maximum statutory price established under Section 340B of the Public Health Service Act (340B Program), 42 U.S.C. 256b, and as calculated according to 42 C.F.R. 10.10.

(2) "Actual 340B acquisition cost" means the actual price paid for a drug purchased through the 340B program.

(3) "Average sales price" or "ASP" means the average sales price reported quarterly by the drug manufacturer to the Centers for Medicare and Medicaid Services (CMS).

(4) "Brand name drug" means the registered trade name of a drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

(5) "Commissioner" is defined by KRS 205.5631(1).

(6) "Covered drug" means a drug for which the Department for Medicaid Services provides reimbursement if medically necessary, not otherwise excluded, and provided in accordance with 907 KAR 23:010.

(7) "Covered outpatient drug" is defined by 42 U.S.C. 1396r-8(k)(2), unless excluded by 907 KAR 23:010 or 907 KAR 23:020.

(8) "Department" means the Department for Medicaid Services or its designated agent.

(9) "Department's pharmacy webpage" means the site maintained by the Department for Medicaid Services and accessible at <http://www.chfs.ky.gov/dms/Pharmacy>.

(10) "Department's pharmacy web portal" means the portal that:

(a) Provides online access to prescription and Kentucky specific plan information as well as supporting documentation; and

(b) Is accessible through the department's pharmacy webpage.

(11) "Dosage form" means the type of physical formulation used to deliver a drug to the intended site of action and includes a tablet, an extended release tablet, a capsule, an elixir, a solution, a powder, a spray, a cream, an ointment, or any other distinct physical formulation recognized as a dosage form by the Food and Drug Administration.

(12) "Drug Management Review Advisory Board" or "DMRAB" means the advisory board established pursuant to KRS 205.5636.

(13) "Effective" or "effectiveness" means a finding that a pharmaceutical agent does or does not have a significant, clinically-meaningful therapeutic advantage in terms of safety, usefulness, or clinical outcome over the other pharmaceutical agents based on pertinent information from a variety of sources determined by the department to be relevant and reliable.

(14) "Emergency supply" means a seventy-two (72) hour supply.

(15) "Enrollee" means a recipient who is enrolled with a managed care organization.

(16) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(17) "Federal upper limit" or "FUL" means the upper payment limit for multiple source drugs for which a limit has been established by CMS as defined by 42 C.F.R. 447.512, 447.514, and 447.516.

(18) "Food and Drug Administration" or "FDA" means the Food and Drug Administration of the United States Department of Health and Human Services.

(19) "Generic drug" or "generic form" means a drug that contains identical amounts of the same active drug ingredients in the same dosage form and that meets official compendia or other applicable standards of strength, quality, purity, and identity in comparison with the brand name drug.

(20) "Kentucky Medicaid Fee-for-Service Outpatient Drug List" or "Outpatient Drug List" means each list available through the department's pharmacy webpage that:

(a) Specifies drugs, drug categories, and related covered items;

(b) Indicates prior authorization requirements or special prescribing or dispensing restrictions;

(c) Identifies excluded medical uses; and

(d) Includes other drug related information, such as:

1. Formulary status, drug coverage, and other plan limitations (prior authorization, quantity limits, step therapy, and diagnosis) associated with a drug;

2. The selected drugs available to fee-for-service recipients that have been included based on proven clinical and cost effectiveness and that prescribers are encouraged to prescribe if medically appropriate;

3. Physician administered drugs that may be billed to the fee-for-service medical benefit using appropriate Healthcare Common Procedure Coding System codes, National Drug Codes, and appropriate units;

4. Over-the-counter drugs that, if prescribed, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

5. Legend cold and cough drugs and legend vitamin products that, if prescribed and FDA indicated for the intended use, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

6. Over-the-counter drugs that, if provided to a Medicaid nursing facility service recipient, are included in the nursing facility's standard price or daily per diem rate and are not otherwise reimbursed by the department;

7. Covered drugs that have a quantity limit consistent with the maximum dosage that the FDA has approved to be both safe and effective; and

8. Covered drugs that require a diagnosis code or a pre-requisite to therapy, or both.

(21) "Legend drug" means a drug so defined by the FDA and required to bear the statement: "Caution: Federal law prohibits dispensing without prescription".

(22) "Managed care organization" means an entity for which the department has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.

(23) "Manufacturer" is defined by 42 U.S.C. 1396r-8(k)(5).

(24) "Maximum allowable cost" or "MAC" means a Kentucky-specific maximum amount that:

(a) May be established for any drug for which there are two (2) or more A-rated therapeutically equivalent, multiple-source, non-innovator drugs, as established in 907 KAR 23:020, Section 5; and

(b) Is an acquisition cost based model that includes all types of medications, including specialty and hemophilia products.

(25) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(26) "National Average Drug Acquisition Cost" or "NADAC" means the average acquisition cost for drug ingredients for prescribed and covered outpatient drugs determined by a survey of retail community pharmacy providers as published by CMS.

(27) "Official compendia" or "compendia" is defined by 42 U.S.C. 1396r-8(g)(1)(B)(i).

(28) "Over-the-counter" or "OTC" means a drug approved by the FDA to be sold without bearing the statement "Caution: Federal

law prohibits dispensing without prescription".

(29) "Pharmacy and Therapeutics Advisory Committee" or "P&T Committee" means the pharmacy advisory committee established by KRS 205.564 and in compliance with 45 C.F.R. 156.122.

(30) "Pharmacy provider" means a pharmacy that is:

(a) Within the scope of practice under Kentucky licensing laws and has the legal authority to operate as a pharmacy;

(b) Enrolled in the Medicaid Program pursuant to 907 KAR 1:672; and

(c) Currently participating in the Medicaid Program pursuant to 907 KAR 1:671.

(31) "Physician administered drug" or "PAD" means any rebateable covered outpatient drug that is:

(a) Provided or administered to a Medicaid recipient;

(b) Billed by a provider other than a pharmacy provider through the medical benefit, including providers who are physician offices or another outpatient clinical setting; and

(c) An injectable or non-injectable drug furnished incident to provider services that are billed separately to Medicaid.

(32) "Prescribed drug" is defined by 42 U.S.C. 1396r-8(k)(4).

(33) "Prescriber" means a health care professional who:

(a) Within the scope of practice under Kentucky licensing laws, has the legal authority to write or order a prescription for the drug that is ordered;

(b) Is enrolled in the Medicaid Program pursuant to 907 KAR 1:672; and

(c) Is currently participating in the Medicaid Program pursuant to 907 KAR 1:671.

(34) "Prior authorization request form" means a form that is:

(a) Used to request prior authorization for a prescription as established by 907 KAR 23:010; and

(b) Called either the:

1. Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products; or

2. Kentucky Medicaid Pharmacy Prior Authorization Form.

(35) "Professional dispensing fee" means the fee paid to reimburse a pharmacy provider for professional costs associated with dispensing as defined by 42 C.F.R. 447.502.

(36) "Rebateable drug" means a drug for which the drug manufacturer has entered into and has in effect a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

(37) "Recipient" is defined by KRS 205.8451(9).

(38) "Supplemental rebate" means a cash rebate that offsets a Kentucky Medicaid expenditure and that supplements the Centers for Medicare and Medicaid Services National Rebate Program.

(39) "Therapeutically equivalent" means determined to be therapeutically equivalent by the FDA.

(40) "Usual and customary price" means the provider's usual and customary charge to the public, as identified by the claim charge.

(41) "Wholesale acquisition cost" or "WAC" means the list price paid by a wholesaler, distributor, or other direct accounts for drugs purchased from the wholesaler's supplier as listed in a nationally recognized comprehensive drug data file for which the department has contracted.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the definitions for 907 KAR

Chapter 23. The definitions were previously included in 907 KAR 1:018 and 907 KAR 1:019 and have been updated to comply with the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions for terms used in 907 KAR Chapter 23.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing definitions for terms used in DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing definitions for DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This is a definitions administrative regulation so actions are not needed to comply with this administrative regulation. The requirements are established in 907 KAR 23:010 and 907 KAR 23:020.

(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 experienced by affected providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be no benefits to entities from this administrative regulation as it merely establishes definitions.

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

(a) Initially: This is a definitions administrative regulation and it will not cost anything to implement.

(b) On a continuing basis: This is a definitions administrative regulation and it will not cost anything to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This is a definitions administrative regulation and does not need a source of funding for implementation and enforcement.

(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 establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because this administration regulation establishes definitions that apply equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 1396r-8

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 establishes definitions and is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation establishes definitions and is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation establishes definitions and is not expected to cost anything to administer.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation establishes definitions and is not expected to cost anything to administer.

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. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. This administrative regulation establishes the definitions for 907 KAR Chapter 23.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). This administrative regulation establishes the definitions for 907 KAR Chapter 23.

4. Will this administrative regulation impose stricter

requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

STATEMENT OF EMERGENCY

907 KAR 23:010E

This emergency administrative regulation is being promulgated to establish the Department for Medicaid Services' (DMS's) coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. The provisions were previously included in 907 KAR 1:018 and 907 KAR 1:019 and have been updated to establish the Department for Medicaid Services' (DMS's) coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are enrolled with a managed care organization have not changed. The Centers for Medicare and Medicaid Services (CMS) has issued the Medicaid Program; Covered Outpatient Drugs (COD); Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447. State Medicaid agencies must comply with the new COD Final Rule by submitting a State Plan Amendment effective no later than April 1, 2017 followed by necessary regulatory changes. Therefore, this administrative regulation is being submitted pursuant to KRS 13A.190(1)(a)2. and 3., to prevent a loss of federal funds and to meet a deadline for promulgation established by federal law. The basis of the state and federal partnership is governed by the federal medical assistance percentage (FMAP). Under this financing arrangement, the federal government guarantees federal matching funds to states for qualifying Medicaid expenditures, allowing federal funds to flow to states based on actual costs and needs. When states are not in compliance with federal rules, the FMAP contribution of federal funds for state spending is at risk. Loss of these contributions would have impact on the amount of Medicaid spending supplied from the state general appropriations fund. Since April 1, 2017 is a Saturday, in order to comply with the CMS mandate for an April 1, 2017 effective date, to maintain pharmacy program spend as "qualified", and to secure the federal funding portion of Medicaid spend, it is necessary to file this administrative regulation by emergency measure, no later than March 31, 2017. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

MATTHEW G. BEVIN, Governor

VICKIE YATES BROWN GLISSON, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Emergency Administrative Regulation)

907 KAR 23:010E. Outpatient pharmacy program.

RELATES TO: KRS Chapter 13B, 205.510, 205.560, 205.561, 205.5631-205.5639, 205.564, 205.6316, 205.8451, 205.8453, 217.015, 217.822, 42 C.F.R. 430.10, 431.54, 440.120, 447.331, 447.332, 447.333, 447.334, 42 U.S.C. 1396a, 1396b, 1396c, 1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.561, 205.5632, 205.5634, 205.5639(2), 205.564(10), (13)

EFFECTIVE: March 31, 2017

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet

for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. KRS 205.560 provides that the scope of medical care for which Medicaid shall pay is determined by administrative regulations promulgated by the cabinet. This administrative regulation establishes the provisions for coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

Section 1. Covered Drugs. A covered drug shall be:

- (1) Medically necessary;
- (2) Approved by the FDA;
- (3) Prescribed for an indication that has been approved by the FDA or for which there is documentation in official compendia or peer-reviewed medical literature supporting its medical use;
- (4) A rebateable drug; and
- (5) A covered outpatient drug.

Section 2. Diabetic Supplies. Except if Medicare is the primary payer, the department shall cover the diabetic supplies listed in this section via the department's pharmacy program and not via the department's durable medical equipment program established in 907 KAR 1:479:

- (1) A syringe with needle (sterile, 1cc or less);
- (2) Urine test or reagent strips or tablets;
- (3) Blood ketone test or reagent strip;
- (4) Blood glucose test or reagent strips;
- (5) Calibrating solutions;
- (6) Lancet device;
- (7) Lancets; or
- (8) Home blood glucose monitor.

Section 3. Tamper-Resistant Prescription Pads. (1) Each covered drug or diabetic supply shall be prescribed on a tamper-resistant prescription pad, except if the prescription is:

- (a) An electronic prescription;
 - (b) A faxed prescription; or
 - (c) A prescription telephoned by a prescriber or authorized agent.
- (2) To qualify as a tamper-resistant prescription, the prescription pad shall contain one (1) or more of each industry-recognized feature designed to prevent:
- (a) Unauthorized copying of a completed or blank prescription form;
 - (b) The erasure or modification of information written by the prescriber on the prescription; and
 - (c) The use of counterfeit prescription forms.

Section 4. Kentucky Medicaid Fee-for-Service Outpatient Drug List.

(1) The department shall maintain each Outpatient Drug List to include drug coverage and availability information in the following formats:

(a) Kentucky Medicaid Provider Drug Portal Lookup, which shall be an online searchable drug database that functionally affords users the ability to perform a search of the Kentucky specific fee-for-service drug formulary for the purpose of ascertaining formulary status, drug coverage, and other plan limitations (prior authorization, quantity limits, step therapy, and diagnosis) associated with a drug;

(b) Kentucky Preferred Drug Listing (PDL), which shall be a listing of selected drugs available to fee-for-service recipients that have been included based on proven clinical and cost effectiveness and that prescribers are encouraged to prescribe if medically appropriate;

(c) Physician Administered Drug List (PAD), which was formerly known as the Physician Injectable Drug List (PIDL), and which shall indicate the list of physician administered drugs that can be billed to the fee-for-service medical benefit using appropriate Healthcare Common Procedure Coding System codes,

National Drug Codes, and appropriate units;

(d) Over-the-Counter (OTC) Drug List, which shall be a list of OTCs that, if prescribed, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

(e) Covered Prescription Cold, Cough, and Vitamin Product List, which shall indicate the legend drugs that, if prescribed and FDA indicated for the intended use, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

(f) Long Term Care Per Diem List, which shall indicate OTC drugs that, if provided to a Medicaid nursing facility service recipient, are included in the nursing facility's standard price or daily per diem rate, and are not otherwise reimbursed by the department;

(g) Maximum Quantity Limits List, which shall indicate covered drugs that have a quantity limit consistent with the maximum dosage that the FDA has approved to be both safe and effective; and

(h) Kentucky Medicaid Diagnosis Drug List, which shall indicate covered drugs that require a diagnosis code or a prerequisite to therapy, or both.

(3) Each Outpatient Drug List shall be updated by the department at least quarterly or otherwise as needed.

(4) Each Outpatient Drug List shall be accessible through the department's pharmacy webpage.

Section 5. Exclusions to Coverage. The following drugs shall be excluded from coverage and shall not be reimbursed:

- (1) A drug that the FDA considers to be:
 - (a) A less-than-effective drug; or
 - (b) Identical, related, or similar to a less-than-effective drug;
- (2) A drug or its medical use in one (1) of the following categories unless the drug or its medical use is designated as covered by an Outpatient Drug List:
 - (a) A drug if used for anorexia, weight loss, or weight gain;
 - (b) A drug if used to promote fertility;
 - (c) A drug if used for cosmetic purposes or hair growth;
 - (d) A drug if used for the symptomatic relief of cough and colds;
 - (e) A vitamin or mineral product other than prenatal vitamins and fluoride preparations;
 - (f) An OTC drug provided to a Medicaid nursing facility service recipient and included in the nursing facility's standard price or daily per diem rate;
 - (g) A drug that the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee; or
 - (h) A drug utilized for erectile dysfunction therapy unless the drug is used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the FDA;
- (3) A drug that is not rebateable, unless there has been a review and determination by the department that it is in the best interest of a recipient for the department to make payment for the drug and federal financial participation is available for the drug;
- (4) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service;
- (5) A drug for which the department requires prior authorization if prior authorization has not been approved;
- (6) A drug that shall no longer be dispensed by a pharmacy provider because it has reached the manufacturer's termination date or is 365 days past the manufacturer's obsolete date; and
- (7) Investigational drugs or drugs utilized for non-FDA indications or other investigational treatments.

Section 6. Limitations to Coverage. (1) All dispensing and administration of covered drugs shall comply with applicable federal and state law.

(2) Refills.

(a) A controlled substance in Schedule II shall not be refilled.

(b) If authorized by a prescriber, a prescription for a:

1. Controlled substance in Schedule III, IV, or V may be refilled up to five (5) times within a six (6) month period from the date the prescription was written or ordered, at which time a new

prescription shall be required; or

2. Noncontrolled substance, except as provided in subsection (3)(a) of this section, may be refilled up to eleven (11) times within a twelve (12) month period from the date the prescription was written or ordered, at which time a new prescription shall be required.

(3) Days Supply. For each initial fill or refill of a prescription, a pharmacist shall dispense the drug in the quantity prescribed not to exceed a thirty-two (32) day supply unless:

(a) The drug is indicated as a noncontrolled maintenance drug per the department's nationally recognized comprehensive drug data file as a drug exempt from the thirty-two (32) day dispensing limit, in which case the pharmacist shall dispense the quantity prescribed not to exceed a three (3) month supply or 100 units, whichever is greater;

(b) A prior authorization request has been submitted on a Kentucky Medicaid prior authorization request form and approved by the department because the recipient needs additional medication while traveling or for a valid medical reason, in which case the pharmacist shall dispense the quantity prescribed not to exceed a three (3) month supply or 100 units, whichever is greater; or

(c) The drug is prepackaged by the manufacturer and is intended to be dispensed as an intact unit, and it is not feasible for the pharmacist to dispense only a month's supply because one (1) or more units of the prepackaged drug will provide more than a thirty-two (32) day supply.

(4) A refill of a prescription shall not be covered unless at least ninety (90) percent of the prescription time period has elapsed.

(5) Compounded Drugs. The department may require prior authorization for a compounded drug that requires preparation by mixing two (2) or more individual drugs.

(6) Emergency Fills. In an emergency situation, a pharmacy provider may dispense an emergency supply of a prescribed drug to a recipient in accordance with this subsection.

(a) An emergency situation shall exist if, based on the clinical judgment of the dispensing pharmacist, it would reasonably be expected that a delay in providing the drug to the recipient would place the recipient's health in serious jeopardy or the recipient would experience substantial pain and suffering.

(b) At the time of dispensing the emergency supply, the pharmacist shall:

1. Submit a prior authorization request form to the department using the urgent fax number or the department's pharmacy webpage; or

2. Notify the prescriber as soon as possible that an emergency supply was dispensed and that the prescriber is required to obtain prior authorization for the requested drug from the department.

(c) An emergency supply shall not be provided for:

1. An OTC drug;

2. A controlled substance; or

3. A drug excluded from coverage by this administrative regulation.

(d) The quantity of an emergency supply shall be:

1. The lesser of a seventy-two (72) hour supply of the drug or the amount prescribed; or

2. The amount prescribed if the drug is prepackaged by the manufacturer and is intended to be dispensed as an intact unit and it is not feasible for the pharmacist to dispense in a smaller quantity.

Section 7. Confirming Receipt of Prescription. (1) A recipient, or a designee of the recipient, shall sign his or her name in a format that allows the signature to be reproduced or preserved by the pharmacy provider confirming that the recipient received the prescription.

(2) A pharmacy provider shall maintain, or be able to produce a copy of, the recipient's signature referenced in subsection (1) of this section for six (6) years.

Section 8. Exemptions to Kentucky Enrolled Prescriber Requirements. The department shall reimburse for a full prescription or an emergency supply of a prescription, prescribed

by a provider who is not enrolled in the Kentucky Medicaid Program, if the department determines it is in the best interest of the recipient to receive the prescription.

Section 9. Utilization Management. Utilization management techniques shall be applied by the department to support medically appropriate and cost effective access to covered drugs and shall include prior authorization, step therapy, quantity limitations, generic substitution, therapeutic substitution protocols, and clinical edits.

(1) Step therapy.

(a) The department may implement step therapy drug treatment protocols by requiring the use of a medically-appropriate drug that is available without prior authorization before the use of a drug that requires prior authorization.

(b) The department may approve a request from the prescriber or a pharmacist for exemption of a specific recipient from step therapy based on documentation that a drug available without prior authorization:

1. Was used and was not an effective medical treatment or lost its effectiveness;

2. Is reasonably expected to not be an effective medical treatment;

3. Resulted in, or is reasonably expected to result in, a clinically-significant adverse reaction or drug interaction; or

4. Is medically contraindicated.

(2) Prior authorization.

(a)1. If prior authorization is required for a drug, the applicable prior authorization request form shall be completed and submitted to the department by fax, mail service, telephone, or the department's pharmacy web portal.

2. The applicable prior authorization request form shall be the:

a. Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products if prior authorization is being requested for buprenorphine products for substance use treatment; or

b. Kentucky Medicaid Pharmacy Prior Authorization Form if the prior authorization is being requested for a drug that is not a buprenorphine product for substance use treatment.

(b) If a recipient presents a prescription to a pharmacy provider for a drug that requires prior authorization, the pharmacist shall:

1. Complete and submit a prior authorization request form in accordance with this subsection; or

2. Notify the prescriber or the prescriber's authorized representative that the drug requires prior authorization.

a. If the prescriber indicates that an alternative available without prior authorization is acceptable and provides a new prescription, the pharmacist shall dispense the alternative.

b. If the prescriber indicates that an alternative available without prior authorization has been tried and failed or is clinically inappropriate or if the prescriber is unwilling to consider an alternative, the pharmacist shall request that the prescriber obtain prior authorization from the department.

(c) The department's notification of a decision on a request for prior authorization shall be made in accordance with this paragraph.

1. If the department approves a prior authorization request, notification of the approval shall be provided by telephone, fax, or the department's pharmacy web portal to the party requesting the prior authorization and, if known, to the pharmacist.

2. If the department denies a prior authorization request, the department shall provide a denial notice:

a. By mail to the recipient and in accordance with 907 KAR 1:563; and

b. By fax, telephone, or, if notification cannot be made by fax or telephone, by mail to the party who requested the prior authorization.

(d) Prior authorization time limits.

1. The department may grant approval of a prior authorization request for a drug for a specific recipient for a period of time not to exceed 365 calendar days.

2. Approval of a new prior authorization request shall be required for continuation of therapy subsequent to the expiration of

a time-limited prior authorization request.

Section 10. Drug Review Process. The drug review process to determine if a drug requires prior authorization or other utilization management, or is otherwise restricted or excluded by the department, shall be in accordance with this section.

(1) Drug review considerations. Drug review shall be based upon available and relevant clinical information to assess appropriate use of medications and include:

(a) A review of clinically-significant adverse side effects, drug interactions and contraindications, and an assessment of the likelihood of significant abuse of the drug; and

(b) An assessment of the cost of the drug compared to other drugs used for the same therapeutic indication and if the drug offers a substantial clinically-meaningful advantage in terms of safety, effectiveness, or clinical outcome over other available drugs used for the same therapeutic indication. Cost shall be based on the net cost of the drug after federal rebate and supplemental rebates have been subtracted.

(2) New drugs. Except as provided by subsections (3) and (4) of this section, upon initial coverage by the Kentucky Medicaid Program, a drug that is newly approved for marketing by the FDA under a product licensing application, new drug application, or a supplement to a new drug application and that is a new chemical or molecular entity and not otherwise excluded shall be subject to prior authorization in accordance with KRS 205.5632.

(3) Product line. If a drug, which has been determined to require prior authorization, becomes available on the market in a new strength, package size, or other form that does not meet the definition of a new drug, the new strength, package size, or other form shall require prior authorization.

(4) Generic equivalency for prescribed brands. A brand name drug for which there is a generic form that contains identical amounts of the same active drug ingredients in the same dosage form and that meets compendia or other applicable standards of strength, quality, purity, and identity in comparison with the brand name drug shall require prior authorization, unless there has been a review and determination by the department that it is in the best interest of a recipient for the department to cover the drug without prior authorization.

(5) Advisory recommendation. Drugs subject to review by the Pharmacy and Therapeutics Advisory Committee (P&T Committee) shall be reviewed in accordance with KRS 205.564 and this administrative regulation. Upon review, the P&T Committee shall make a recommendation to the department regarding utilization management of the drug including prior authorization and the recommendation shall be advisory to the commissioner in making the final determination.

(6) The department may exclude from coverage or require prior authorization for a drug that is subject to coverage limitations in accordance with 42 U.S.C. 1396r-8(d).

Section 11. Pharmacy and Therapeutics Advisory Committee (P&T Committee) Meeting Procedures. P&T Committee meetings, processes, and procedures shall be in accordance with KRS 205.564 and this administrative regulation.

(1) Drug review considerations. The P&T Committee shall consider the drug review information specified in Section 10(1) of this administrative regulation when developing recommendations.

(2) Meeting processes and procedures.

(a) Public presentations. A public presentation at a P&T Committee meeting shall comply with this paragraph.

1. A presentation shall be limited to an agenda item.

2. A verbal presentation by pharmaceutical industry representatives shall not exceed three (3) minutes in aggregate per drug per drug manufacturer with two (2) additional minutes allowed for questions from the P&T Committee. Pharmaceutical industry representatives shall be limited to presenting:

a. Information on a new product; or

b. New information on a previously reviewed current agenda topic (package insert changes, new indications, or peer-reviewed journal articles).

3. A verbal presentation by an individual other than a

pharmaceutical industry representative shall not exceed five (5) minutes.

4. A request to make a verbal presentation shall be submitted in writing via fax or e-mail to the department no later than five (5) business days in advance of the P&T Committee meeting date.

(b) Nonverbal comments, documents, or electronic media material (limited to package insert changes, new indications, or peer reviewed journal articles) shall be e-mailed to the department in a Microsoft compatible format or mailed to the department as a package including twenty-five (25) printed copies. All materials shall be received by the department no later than seven (7) business days prior to the P&T Committee meeting date.

(3) Postings.

(a) P&T Committee meeting documents shall be published in accordance with KRS 205.564(6), and shall include the:

1. Meeting agenda;

2. Options, including any department recommendations, for drug review and drug review placements,

3. P&T Committee recommendations; and

4. Commissioner's final determination.

Section 12. Exceptions to P&T Committee Recommendations.

(1)(a) An interested party who is adversely affected by a recommendation of the P&T Committee may submit a written exception to the commissioner.

(b) The written exception shall be received by the commissioner within seven (7) calendar days of the date of the P&T Committee meeting at which the recommendation was made.

(c) Only information that was not available to be presented at the time of the P&T Committee meeting shall be included in the written exception.

(2) After the time for filing written exceptions has expired, the commissioner shall consider each recommendation of the P&T Committee and all exceptions that were filed in a timely manner prior to making a final determination.

Section 13. Final Determination. The commissioner shall issue and post a final determination in accordance with KRS 205.564(9) and (11).

(1) A decision of the commissioner to remand any recommendation to the P&T Committee shall not constitute a final decision or final determination for purposes of an appeal pursuant to KRS Chapter 13B.

(2) If any recommendation of the P&T Committee is not accepted, the commissioner or commissioner's designee shall inform the P&T Committee of the basis for the final determination in accordance with KRS 205.564(9).

Section 14. Appeals. An appeal request shall:

(1) Be in writing;

(2) Be sent by mail, messenger, carrier service, or express-delivery service to the commissioner in a manner that safeguards the information;

(3) State the specific reasons the final determination of the commissioner is alleged to be erroneous or not based on the facts and law available to the P&T Committee and the commissioner at the time of the decision;

(4) Be received by the commissioner within the deadline established by KRS 205.564(12); and

(5) Be forwarded by the commissioner to the Division of Administrative Hearings of the Cabinet for Health and Family Services for processing in accordance with the provisions of KRS Chapter 13B.

Section 15. Drug Management Review Advisory Board Meeting Procedures and Appeals. (1) A person may address the DMRAB if:

(a) The presentation is directly related to an agenda item; and

(b) The person gives notice to the department by fax or email at least five (5) business days prior to the meeting.

(2) A verbal presentation:

(a) In aggregate per drug per drug manufacturer shall not exceed three (3) minutes with two (2) additional minutes allowed

for questions from the DMRAB, if required; or

(b) By an individual on a subject shall not exceed three (3) minutes with two (2) additional minutes allowed for questions from the DMRAB, if required.

(3) The proposed agenda shall be posted on the department's pharmacy webpage at least fourteen (14) calendar days prior to the meeting.

(4) An appeal of a final decision by the commissioner by a manufacturer of a product shall be in accordance with KRS 205.5639(5). The appeal request shall:

- (a) Be in writing;
- (b) State the specific reasons the manufacturer believes the final decision to be incorrect;
- (c) Provide any supporting documentation; and
- (d) Be received by the department within thirty (30) calendar days of the manufacturer's actual notice of the final decision.

Section 16. Medicaid Program Participation Compliance. (1) A provider shall comply with:

- (a) 907 KAR 1:671;
 - (b) 907 KAR 1:672; and
 - (c) All applicable state and federal laws.
- (2)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.
- (b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:
1. Interpreted to be fraud or abuse; and
 2. Prosecuted in accordance with applicable federal or state law.

Section 17. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

- (2) A provider that chooses to use electronic signatures shall:
- (a) Develop and implement a written security policy that shall:
 1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
 2. Identify each electronic signature for which an individual has access; and
 3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;
 - (b) Develop a consent form that shall:
 1. Be completed and executed by each individual using an electronic signature;
 2. Attest to the signature's authenticity; and
 3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and
 - (c) Provide the department, immediately upon request, with:
 1. A copy of the provider's electronic signature policy;
 2. The signed consent form; and
 3. The original filed signature.

Section 18. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 19. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 20. Appeal Rights. (1) An appeal of an adverse action taken by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in

accordance with 907 KAR 17:010.

Section 21. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products", 1-3-17; and
- (b) "Kentucky Medicaid Pharmacy Prior Authorization Form", 1-3-17.

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

- (a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or
- (b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov or Tricia Orme, (502) 564-7905; tricia.orme@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the Department for Medicaid Services' (DMS's) coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. The provisions were previously included in 907 KAR 1:018 and 907 KAR 1:019 and have been updated to establish the Department for Medicaid Services' (DMS's) coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are enrolled with a managed care organization have not changed.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(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 DMS's coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing DMS's coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional or new actions are needed to comply with this administrative regulation.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be no additional benefits to entities from this administrative regulation as it makes no changes to drug coverage policy.

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

(a) Initially: The required system changes are of no cost to DMS as a result of the CMS mandate to implement an AAC based methodology.

(b) On a continuing basis: Please see (5)(a) above

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by the amendment to this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.561, 205.5632, 205.5634, 205.5639(2), 205.564(10), (13), 42 U.S.C. 1396a(a)(30), 1396r-8

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 is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? Because the system changes are pursuant to a CMS mandate, the fiscal agent as well as the pharmacy benefit manager are required to make the necessary changes at no cost to DMS.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology but retain its coverage policy for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Revising reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization shall not change compliance standards or Medicaid coverage of outpatient drugs.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

STATEMENT OF EMERGENCY 907 KAR 23:020E

This emergency administrative regulation is being promulgated to establish the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. This administrative regulation introduces a new actual acquisition cost (AAC) based reimbursement utilizing the National Average Drug Acquisition Cost (NADAC) as published by the Centers for Medicare and Medicaid Services (CMS) as part of the pharmacy program lowest of logic reimbursement methodology, and to establish reimbursement for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. The Centers for Medicare and Medicaid Services (CMS) has issued the Medicaid Program; Covered Outpatient Drugs (COD); Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447. State Medicaid agencies must comply with the new COD Final Rule by submitting a State Plan Amendment effective no later than April 1, 2017 followed by necessary regulatory changes. Therefore, this administrative regulation is being submitted

pursuant to KRS 13A.190(1)(a)2. and 3., to prevent a loss of federal funds and to meet a deadline for promulgation established by federal law. The basis of the state and federal partnership is governed by the federal medical assistance percentage (FMAP). Under this financing arrangement, the federal government guarantees federal matching funds to states for qualifying Medicaid expenditures, allowing federal funds to flow to states based on actual costs and needs. When states are not in compliance with federal rules, the FMAP contribution of federal funds for state spending is at risk. Loss of these contributions would have impact on the amount of Medicaid spending supplied from the state general appropriations fund. Since April 1, 2017 is a Saturday, in order to comply with the CMS mandate for an April 1, 2017 effective date, to maintain pharmacy program spend as "qualified", and to secure the federal funding portion of Medicaid spend, it is necessary to file this administrative regulation by emergency measure, no later than March 31, 2017. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

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

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations
(New Emergency Administrative Regulation)

907 KAR 23:020E. Reimbursement for outpatient drugs.

RELATES TO: KRS 205.560, 205.561, 205.5631, 205.5632, 205.5634, 205.5636, 205.5638, 205.5639, 205.6316(4), 217.015, 42 C.F.R. 440.120, 447.500 - 447.520, 42 U.S.C. 256b, 1396a - 1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

EFFECTIVE: March 31, 2017

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. KRS 205.561(2) and 205.6316(4) require the department to promulgate an administrative regulation to establish the professional dispensing fee for covered drugs. This administrative regulation establishes the Medicaid Program reimbursement requirements, including the professional dispensing fee, for covered outpatient drugs dispensed to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. Reimbursement. Reimbursement to a pharmacy or medical provider participating in the Medicaid Program for a covered outpatient drug provided to an eligible recipient shall be determined in accordance with the requirements established in this section. (1) A rebate agreement in accordance with 42 U.S.C. 1396r-8(a) shall be signed by the drug manufacturer, or the drug shall be provided based on an exemption from the rebate requirement established by 907 KAR 23:010, Section 5(3).

(2) A pharmacy claim shall meet the point of sale (POS) requirements for services in accordance with 907 KAR 1:673.

(3) Reimbursement shall not be made for more than one (1) prescription to the same recipient during the same time period for a drug with the same:

- (a) National Drug Code (NDC); or
- (b) Drug or active ingredient name, strength, and dosage form.

(4) A timely claim payment shall be processed in accordance with 42 C.F.R. 447.45.

(a) In accordance with 42 C.F.R. 447.45, a claim shall be submitted to the department within twelve (12) months of the date of service.

(b) The department shall not reimburse for a claim submitted to the department after twelve (12) months from the date of service unless the claim is for a drug dispensed to an individual who was retroactively determined to be eligible for Medicaid.

(c) The department shall not reimburse a claim for a drug dispensed to an individual who was retroactively determined to be eligible for Medicaid after 365 days have lapsed from the date that the department issued the notice of retroactive eligibility.

(5) Reimbursement shall be denied if:

(a) The recipient is ineligible on the date of service;

(b) The drug is excluded from coverage in accordance with 907 KAR 23:010; or

(c) Prior authorization is required by the department and the request for prior authorization has not been approved prior to dispensing the drug, except in an emergency supply situation.

(6) Pursuant to KRS 205.622, prior to billing the department, a provider shall submit a bill to a third party payer if the provider has knowledge that the third party payer may be liable for payment.

(a) If a provider is aware that a Medicaid recipient has additional insurance or if a recipient indicates in any manner that the recipient has additional insurance, the provider shall submit a bill to the third party in accordance with KRS 205.622.

(b) A provider who is aware that a recipient may have other insurance, but the other insurance is not identified on the medical assistance identification card or by the recipient, shall notify the department's fiscal agent of the potential third-party liability.

(7) Drug copayment requirements and provisions shall be as established in 907 KAR 1:604.

(8) If a payment is made for a drug that was not administered or dispensed in accordance with 907 KAR 23:010 or the payment was not appropriately reimbursed as required by this administrative regulation, the provider shall refund the amount of the payment to the department or the department may, at its discretion, recoup the amount of the payment.

(9) Adherence to the requirements established in this section shall be monitored through an on-site audit, post payment review of the claim, a computer audit, or an edit of the claim.

Section 2. Reimbursement Methodology. (1) Drug cost shall be determined in the pharmacy program using drug pricing and coding information obtained from nationally recognized comprehensive drug data files with pricing based on the actual package size utilized.

(2) Lowest of Logic. Except as provided in Section 4 of this administrative regulation, covered outpatient drug cost shall be reimbursed at the lowest of the:

- (a) National Average Drug Acquisition Cost or NADAC;
- (b) Wholesale acquisition cost or WAC;
- (c) Federal upper limit or FUL;
- (d) Maximum allowable cost or MAC; or
- (e) Usual and customary price.

Section 3. Professional Dispensing Fee. Effective April 1, 2017, the professional dispensing fee for a covered outpatient drug prescribed by an authorized prescriber and dispensed by a participating pharmacy provider in accordance with 907 KAR 23:010, and pursuant to a valid prescription shall be \$10.64 per provider per recipient per drug per month.

Section 4. Reimbursement Limitations. (1) Emergency supply. Dispensing of an emergency supply of a drug shall be made outside of the prescriber's normal business hours and as permitted in accordance with 907 KAR 23:010.

(2) Partial fill. If the dispensing of a drug results in partial filling of the quantity prescribed, including an emergency supply, reimbursement for the drug ingredient cost for the actual quantity dispensed in the partial fill and the completion fill for the remainder of the prescribed quantity shall:

(a) Utilize the lowest of logic established by Section 2 of this administrative regulation; and

(b) Include payment of only one (1) professional dispensing fee, which shall be paid at the time of the completion fill.

(3) Maintenance drugs. The department shall not reimburse for

a refill of a maintenance drug prior to the end of the dispensing period established by 907 KAR 23:010 unless the department determines that it is in the best interest of the recipient.

(4) For a nursing facility resident meeting Medicaid nursing facility level of care criteria, and in accordance with 201 KAR 2:190 and 902 KAR 55:065, an unused drug paid for by Medicaid shall be returned to the originating pharmacy and the department shall be credited for the drug ingredient cost.

(5) For a Medicaid recipient participating in a hospice program, payment for a drug shall be in accordance with 907 KAR 1:340.

(6) 340B Pharmacy Transactions.

(a) A pharmacy dispensing drugs purchased through the 340B Program pursuant to a 340B eligible prescription from a covered entity shall bill the department no more than the actual 340B acquisition cost, plus the professional dispensing fee.

(b) For a 340B purchased drug dispensed by a pharmacy, the lowest of logic shall include the 340B ceiling price.

(c) A drug dispensed by a 340B contract pharmacy shall not be eligible as a 340B transaction and shall be reimbursed in accordance with the lowest of logic as required by Section 2 of this administrative regulation plus the professional dispensing fee.

(7) Physician administered drugs (PAD).

(a) Federal rebate required. Only covered PAD products that are federally rebateable pursuant to a manufacturer rebate agreement shall be reimbursed.

(b) Non-340B purchased PAD. Reimbursement for drug cost for a drug administered by a physician or the physician's authorized agent in an office or outpatient clinic setting, not purchased through the 340B Program, and submitted for reimbursement as a medical benefit shall be reimbursed only for the drug cost by the lowest of logic required by Section 2 of this administrative regulation, which shall include the average sales price (ASP) plus six (6) percent. A professional dispensing fee shall not be paid for PAD.

(c) 340B purchased PAD. For a drug purchased through the 340B Program and administered by a physician or the physician's authorized agent in an office or outpatient clinic setting, and submitted for reimbursement as a medical benefit, the lowest of logic required by Section 2 of this administrative regulation shall include the 340B ceiling price. The covered entity shall bill no more than the actual 340B acquisition cost. A professional dispensing fee shall not be paid for PAD.

(8) Non-340B hemophilia products. Clotting factors acquired outside of the 340B Program shall be reimbursed by the lowest of logic required by Section 2 of this administrative regulation, which shall include the average sales price (ASP) plus six (6) percent. The professional dispensing fee established by Section 3 of this administrative regulation shall also be paid.

Section 5. The maximum allowable cost, or MAC, shall be determined by taking into account each drug's cost, rebate status (non-rebateable or rebateable) in accordance with 42 U.S.C. 1396r-8(a), marketplace status (obsolete, terminated, or regional availability), equivalency rating (A-rated), and relative comparable pricing. Other factors considered shall include clinical indications of drug substitution, utilization, and availability in the marketplace.

(1) Drug pricing resources used to compare estimated acquisition costs for multiple-source drugs shall include comprehensive data files maintained by a vendor under contract to the department, such as:

(a) NADAC as published by CMS;

(b) WAC, manufacturer's price list, or other nationally recognized sources;

(c) The Average Manufacturers Price for 5i Drugs as reported by CMS;

(d) ASP as published by CMS;

(e) Nationally recognized drug file vendors, such as First Data Bank or Medispan;

(f) Pharmacy providers; or

(g) Wholesalers.

(2) The department shall maintain a current listing of drugs and their corresponding MAC prices accessible through the department's pharmacy webpage.

(3) The process for a pharmacy provider to appeal a MAC price for a drug shall be as established in this subsection.

(a) The pharmacy provider shall email or fax a completed Kentucky Medicaid MAC Price Research Request Form to Kentucky's authorized agent in accordance with the instructions on the form.

(b) An appeal of a MAC price for a drug shall be investigated and resolved within three (3) business days.

(c) If available, the provider shall be supplied with the name of one (1) or more manufacturers who have a price comparable to the MAC price.

(d) The MAC price and effective date of that price shall be adjusted accordingly, retroactive to the date of service for the claim in question, if:

1. It is determined that a manufacturer does not exist in the price range referenced in paragraph (c) of this subsection; or

2. The provider is able to document that despite reasonable efforts to obtain access, he or she does not have access to the one (1) or more manufacturers supplied to the provider.

(e) If an adjusted MAC price becomes effective, the provider shall be informed that the claim may be rebilled for the price adjustment.

Section 6. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 7. Incorporation by Reference. (1) "Kentucky Medicaid MAC Price Research Request Form", 2012, is incorporated by reference.

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

(a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov or Tricia Orme, (502) 564-7905; tricia.orme@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. The provisions were previously included in 907 KAR 1:018 and 907 KAR 1:019. This administrative regulation introduces a new actual acquisition cost (AAC) based reimbursement utilizing the National Average Drug Acquisition Cost (NADAC) as published by CMS as part of the pharmacy program lowest of logic reimbursement methodology, and establishes reimbursement for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Reimbursement pursuant to this administrative regulation only applies to pharmacy services rendered to Medicaid "fee-for-service" recipients. These are Medicaid recipients who are not enrolled with a managed care

organization. Managed care organizations are not required to reimburse for covered outpatient drugs in accordance with this administrative regulation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. This administrative regulation establishes a new AAC based reimbursement methodology that results from a mandate from the CMS. DMS reimbursement of outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization is necessary to comply with the Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447. State Medicaid agencies must comply with the new COD Final Rule by submitting a State Plan Amendment no later than April 1, 2017 followed by necessary regulatory changes.

(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 revising DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization in a manner that complies with a federal mandate.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by revising DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: In order to be reimbursed by the DMS, participating providers will have to submit pharmacy or medical claims for covered outpatient drugs in accordance with this administrative regulation and applicable billing rules.

(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 experienced by affected providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicable providers will benefit by receiving a true drug ingredient cost based reimbursement along with a professional dispensing fee from DMS for dispensing covered outpatient drugs to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) Initially: Because the system changes are pursuant to a CMS mandate, the fiscal agent as well as the pharmacy benefit

manager are required to make the necessary changes at no cost to DMS.

(b) On a continuing basis: Please see (5)(a) above

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

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 is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? Because the system changes are pursuant to a CMS mandate, the fiscal agent as well as the pharmacy benefit manager are required to make the necessary changes at no cost to DMS.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule

mandates that the Medicaid Program revise its reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Revising reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization shall not change compliance standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

GENERAL GOVERNMENT
Board of Physical Therapy
(As Amended at ARRS, April 11, 2017)

201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants.

RELATES TO: KRS 327.040, 327.070

STATUTORY AUTHORITY: KRS 327.040(11), (12), (13), 367.4082

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040 (12) ~~requires~~**[and (13) authorize]** the Board of Physical Therapy to establish by administrative regulation a code of ethical standards and standards of practice for physical therapists and physical therapist assistants. This administrative regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070.

Section 1. Code of Ethical Standards. (1) ~~A~~ physical ~~therapist~~**[therapists]** and ~~a~~ physical therapist ~~assistant~~**[assistants]** shall:

- (a) Respect the rights and dignity of all patients;
- (b) Practice within the scope of the credential holder's training, expertise and experience;
- (c) Ensure that all personnel involved in the delivery of physical therapy services are identified to the patient by name and title;
- (d) Report to the board any reasonably suspected violation of KRS Chapter 327, KRS 367.4082, or 201 KAR Chapter 22 by ~~a~~**[another]** credential holder or applicant within thirty (30) days;~~and~~
- (e) Report to the board any civil judgment, settlement, or civil claim involving the credential holder's practice of physical therapy made against the credential holder relating to the credential holder's own physical therapy practice within thirty (30) days;~~and~~
- (f) Comply with the provisions of KRS 367.4082.

(2) ~~A~~ physical ~~therapist~~**[therapists]** and ~~a~~ physical therapist ~~assistant~~**[assistants]** shall not:

- (a) Verbally or physically abuse a client; or
- (b) Continue physical therapy services beyond the point of reasonable benefit to the patient, unless the patient consents in writing.

Section 2. Standards of Practice for the Physical Therapist. While engaged in the practice of physical therapy, a physical therapist shall:

- (1) Perform screenings in order to:
 - (a) Provide information on a person's health status relating to physical therapy;
 - (b) Determine the need for physical therapy evaluation and treatment;
 - (c) Make a recommendation regarding a person's ability to return to work or physical activity; and
 - (d) Provide physical therapy services;
- (2) Evaluate each patient prior to initiation of treatment;
- (3) Upon receipt of a patient under an active plan of care from another physical ~~therapist~~**[therapy service]**, ~~the receiving physical therapist shall~~**[the receiving physical therapist shall]**:
 - (a) Complete an~~initial~~**[initial]** evaluation in compliance with subsection (2) of this section**[Sections 2(2)]** and Section 5(2)**[1]**~~(a)-(d)~~**(e)]** of this administrative regulation;~~or~~
 - (b) Ensure the evaluation and plan of care from the other physical ~~therapist~~**[therapy service are]** current and appropriate;
 - (c) Retain the evaluation and plan of care from the other physical ~~therapist~~**[therapy service]** in the medical record; ~~[(4) Document the patient transfer of care in the medical record;]~~ and ~~(d)~~**(e)]** Comply with reassessment requirements based on the

date of the most recent evaluation.

- (4) Reassess each patient in accordance with the following:
 - (a) Reassessing inpatients in either a hospital or comprehensive rehabilitation facility every fourteen (14) days;
 - (b) Reassessing every ninety (90) days, with the physical therapist assistant present, patients in:
 1. A facility defined in 902 KAR 20:086 as an intermediate care facility (ICF) for the mentally retarded (MR) and developmentally disabled (DD); or
 2. A school system.

a. A forty-five (45) day grace period shall be allowed upon transfer from another school district or from the start of the school year;

b. During this grace period treatment may continue based upon the previous reassessment or~~initial~~**[initial]** evaluation;

(c) Reassessing each patient not otherwise noted every thirty (30) days following the ~~last~~**[initial]** evaluation or subsequent reassessment;

(d) Reassessing a patient whose medical condition has changed;

(5) Refer the patient to other professionals or services if the treatment or service is beyond the physical therapist's scope of practice;

(6) Be responsible for the physical therapy record of each patient;

(7) Be responsible for the plan of care until the patient is received by another physical therapist pursuant to subsection (3)**[3]** of this section;

(8) Provide services that meet or exceed the generally accepted practice of the profession;

(9)~~(8)~~ Explain the plan of care to the patient ~~and,~~**[and,** to others designated by the patient~~], and to appropriate professionals~~**];**

(10)~~(9)~~ Make it clear to the patient that the patient has the right to choose any qualified professional or equipment supplier if the physical therapist makes recommendations for those; and

(11)~~(10)~~ Disclose in writing to each patient any financial interest, compensation, or other value to be received by the referral source:

- (a) For services provided by the physical therapist;
- (b) For equipment rental or purchase; or
- (c) For other services the physical therapist may recommend for the patient. ~~[(12)]~~**[(11)]**~~[Unless prohibited by law, all members of a business entity shall be allowed to pool or apportion fees received in accordance with a business agreement.]~~

Section 3. Standards of Practice for the Physical Therapist Assistant. While engaged in the practice of physical therapy, the physical therapist assistant shall:

(1) Provide services only under the supervision and direction of a physical therapist;

(2) Refuse to carry out procedures that the assistant believes are not in the best interest of the patient or that the assistant is not competent to provide by training or skill level;

(3) Initiate treatment only after evaluation by the physical therapist;

(4) Upon direction from the physical therapist, gather data relating to the patient's disability, but not determine the significance of the data as it pertains to the development of the plan of care;

(5) Refer to the physical therapist inquiries that require an interpretation of patient information related to rehabilitation potential;

(6) Comply with the plan of ~~care~~**[supervision]** established by the physical therapist;

(7) Communicate with the physical therapist any change or lack of change that occurs in the patient's condition that may indicate the need for reassessment; and

(8) Discontinue physical therapy services if reassessments are not done in compliance with Section 2(4) of this administrative regulation, and inform[communicate to] the supervising physical therapist[appropriate parties].

Section 4. Standards for Supervision. While supervising the physical therapist assistant and supportive personnel, the physical therapist shall:

(1)(a) At all times, including all work locations in all jurisdictions, be limited to supervising not more than four (4) physical therapist assistants or supportive personnel; and

(b) Abide by the maximum staffing ratio of physical therapists to physical therapist assistants or supportive personnel required in this section except that a maximum of seven (7) work days in a sixty (60) consecutive day period shall not constitute a violation of this standard;

(2) Provide direct supervision when supervising supportive personnel as defined by 201 KAR 22:001, Section 1(23), effective September 1, 2013;

(3) Not delegate procedures or techniques to the physical therapist assistant that are outside his or her scope of training, education or expertise;

(4) Not delegate procedures or techniques to supportive personnel that are outside his or her scope of training, education or expertise.

(a) Scope of training and competency for supportive personnel shall be documented and verified at least annually.

(b) Documentation of training and competency shall be immediately available for review; and

(5) Be responsible for:

(a) Interpreting any referral;

(b) Conducting the[initial] physical therapy evaluation;

(c) Establishing reporting procedures to be followed by the physical therapist assistant and supportive personnel;

(d) Evaluating the competency of the physical therapist assistant and supportive personnel;

(e) Supervising the physical therapist assistant by being available and accessible by telecommunications during the working hours of the physical therapist assistant;

(f) Ensuring that if supportive personnel provide direct patient care that there is direct supervision as defined by 201 KAR 22:001, Section 1(6), effective September 1, 2013 by a physical therapist or physical therapist assistant;

(g) Ensuring that a physical therapy student fulfilling clinical education requirements shall receive on-site supervision by a physical therapist;

(h) Ensuring that a physical therapist assistant student fulfilling clinical education requirements shall receive on-site supervision of which eighty (80) percent may be by a credentialed physical therapist assistant; and

(i) Establishing discharge planning for patients who require continuing physical therapy; and

(i) Directing and being accountable;

—(6) The physical therapist shall direct and be responsible for services rendered by physical therapist students or physical therapist assistant students, including documentation requirements in Section 5 of this administrative regulation.

Section 5. Standards for Documentation. (1) The physical therapist shall be responsible for the physical therapy record of a patient. The physical therapy record shall include an evaluation and, as required, ongoing documentation and reassessment.[consist of:]

(2)(1) An[The initial] evaluation in the physical therapy record consists[consisting] of:] a written or typed report signed and dated by the physical therapist who is performing the evaluation or who is supervising the physical therapist student performing the evaluation. The evaluation[, which] shall include:

(a) Pertinent medical and social history;

(b) Appropriate subjective and objective information;

(c) An[Appropriate objective testing];

(d) assessment, which may indicate[include] problems, interpretations[interpretation], and a[physical therapy] diagnosis

identifying the nature and extent of the patient's impairment; and (d) The[e] plan of care, which includes the[including]:

1. Treatment[to be rendered]; and

2.[Frequency and duration of treatment; and

3.] Measurable goals, including anticipated time frame of achievement.

(3)(2) Ongoing documentation in the physical therapy record[;][Progress notes][which] shall:

(a) Be completed at least weekly or, if treatment is less than weekly, at each patient visit;

(b) Be written or typed, signed, and dated:

1. By the physical therapist or physical therapist assistant[person] rendering treatment;[or]

2. By the[student or by the] supervising physical therapist or physical therapist assistant if treatment was rendered by a physical therapist student or physical therapist assistant student; or

3. By the physical therapist student or physical therapist assistant student rendering treatment if countersigned and dated by the supervising physical therapist;

~~[(b) Be countersigned and dated by the physical therapist if written by supportive personnel, students, or physical therapy examination candidates; and]~~

(c) Include:

1. The treatment rendered since the last evaluation, ongoing documentation, or reassessment[A current record of treatment];

2. The patient's[adverse] response to treatment; and

3. Appropriate subjective and objective information[Any factors affecting treatment; and

4. Data obtained by all objective tests performed];

(4) The[(3)] reassessment included in the physical therapy record for the revision or reaffirmation of the existing plan of care, or the establishment of a new plan of care[, which] shall be written or typed, signed, and dated by a physical therapist.

(a) The[This] reassessment shall be in compliance with Section 2(4) of this administrative regulation.

(b)]:

~~(a) If a physical therapist or physical therapist student is treating the patient, these reports may be incorporated into the progress notes.~~

~~(b) If a physical therapist assistant, physical therapist assistant student, or supportive personnel are treating the patient, the report shall be a separate entry into the record.~~

~~(c)] A reassessment shall include:~~

~~1. Subjective, objective, and medical information acquired by the physical therapist, physical therapist student, physical therapist assistant, or physical therapist assistant student;~~

~~2. An assessment in compliance with subsection (2)(1)(c) of this section completed by the physical therapist or physical therapist student; and~~

~~3. A plan of care in compliance with subsection (2)(1)(d) of this section completed by the physical therapist or physical therapist student.~~

~~(5)(4)] directly observed objective, subjective, and medical information completed by the physical therapist, or physical therapist student, that is necessary for the revision or reaffirmation of the plan of care and measurable goals;~~

~~(4) Discharge summary, which shall be a written or typed, signed, and dated statement.~~

~~(a) A physical therapist assistant, physical therapist student, or physical therapist assistant student may write the discharge summary, which shall be signed by the responsible physical therapist.~~

~~(b) The discharge summary shall include:~~

~~1. The date of discharge;~~

~~2. The reason for discharge;~~

~~3. The physical therapy status upon discharge; and~~

~~4. A discharge plan, which shall include recommendations the physical therapist has regarding the need for continuing physical therapy.~~

~~5. A discharge summary, which shall be written within thirty (30) days of the termination of the current plan of care if a subsequent plan of care has not been established; and~~

~~(5)] The correct designation following the signature of the~~

person who has entered a statement into the patient record shall be as follows:

- (a) If written by a physical therapist: "PT". Appropriate designations for advanced physical therapy degrees may follow "PT";
- (b) If written by a physical therapist assistant: "PTA";
- (c) If written by supportive personnel: "PT Aide", or "Physical Therapy Aide", or "PT Tech"; and
- (d) If written by a student: "Physical Therapist Student" or "PT Student"; "Physical Therapist Assistant Student" or "PTA Student".

Section 6. Apportionment of Fees. Unless prohibited by law, all members of a business entity shall be allowed to pool or apportion fees received in accordance with a business agreement.

SCOTT D. MAJORS, Executive Director

APPROVED BY THE BOARD: November 17, 2016.

FILED WITH LRC: December 15, 2016 at 10 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; and Louis D. Kelly, Esq., General Counsel, Board of Physical Therapy, Adams, Steiner, Woltermann & Dusing, 40 W. Pike Street, P.O. Box 861, Covington, Kentucky 41012, phone (859) 394-6200, fax (859) 392-7239, email lkelly@aswdlaw.com.

**GENERAL GOVERNMENT
Board of Prosthetics, Orthotics and Pedorthics
(As Amended at ARRS, April 11, 2017)**

201 KAR 44:040. Professional Conduct and Code of Ethics.

RELATES TO: KRS 319B.030, **319B.040**, 319B.140

STATUTORY AUTHORITY: KRS 319B.030 (1)(h), 319B.140 (1)(b), (d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.030(1)(h) requires the board to establish standards of practice for person licensed pursuant to KRS Chapter 319B. This administrative regulation defines unprofessional conduct and sets forth a code of ethics for persons licensed under KRS Chapter 319B.

Section 1. Failure to comply with any of the provisions in this **administrative regulation[section]** shall constitute unprofessional conduct in the practice of Licensed Prosthetist, Licensed Orthotist, Licensed Prosthetist/Orthotist, Licensed Pedorthist, or Licensed Orthotic Fitter.

Section 2. Responsibilities to Other Licensed Healthcare Practitioner or Provider. The licensee shall:

- (1) Receive and document a prescription or other valid referral, authorization, hospital or skilled nursing facility order from a licensed healthcare practitioner or provider:
 - (a) Authorized by law to provide those prescriptions; and
 - (b) Which is consistent with the standards of the healthcare practitioner or provider;
- (2) Consult and coordinate with the licensed healthcare practitioner or provider to determine and to document the medical appropriateness of the orthotic, prosthetic, or pedorthic device;
- (3) Notify the licensed healthcare practitioner or provider of changes in the patient's condition that may affect the patient's orthotic, prosthetic or pedorthic treatment plan; and
- (4) Notify and obtain authorization from the licensed healthcare practitioner or provider prior to repair or adjustment of an orthotic, prosthetic, or pedorthic device if:
 - (a) The repairs or adjustments do not conform to the original prescription; or
 - (b) The repairs or adjustments substantially alter the design or function of the originally prescribed device.

Section 3. Responsibilities to the Patient. (1) The licensee shall:

- (a) Monitor and observe the patient's physical condition regarding the orthotic, prosthetic, or pedorthic care and the prescribed device;
 - (b) Ensure the orthotic, prosthetic, or pedorthic device is functioning appropriately to implement the patient's treatment plan;
 - (c) Maintain as confidential all information relating to a patient's identity, background, condition, treatment or management plan, or any other private information relating to the patient;
 - (d) Not communicate any confidential information to any person or entity who is not providing direct medical care to the patient:
 - 1. Without the prior written consent of the patient or patient's legal guardian; or
 - 2. Unless required by a court order or other applicable legal requirements;
 - (e) Comply with KRS 422.317;
 - (f) Complete all patient care documentation within **thirty (30) days[a reasonable time]** from date of service;
 - (g) Submit all insurance requirements necessary for billing within **thirty (30) days[a reasonable time]** from the date of service;
 - (h) Accept a patient regardless of race, gender, color, religion or national origin or on any basis that would constitute illegal discrimination under state or federal law;
 - (i) Refer a patient to another licensed healthcare practitioner or provider if the nature and extent of a problem of the patient exceeds the scope of competence of the licensee;
 - (j) Inform the patient of the patient's right to seek orthotic, prosthetic, or pedorthic services from any qualified healthcare practitioner or provider; and
 - (k) Consult the patient's parent, legal guardian, or other third party who has decision-making authority for the patient when the patient's personal judgment to make decisions concerning the device or services being offered may be impaired.
- (2) The licensee shall not:
- (a) Engage in false, misleading, or deceptive acts related to the cost of the services provided or recommended;
 - (b) Utilize or continue orthotic, prosthetic or pedorthic services beyond the point of reasonable benefit or by providing services more frequently than medically necessary unless consented to in writing by the patient;
 - (c) Submit false, misleading, or deceptive information regarding payment or reimbursement;
 - (d) Engage in the excessive use of alcoholic beverages or the abusive use of controlled substances;
 - (e) Verbally or physically abuse a client;
 - (f) Delegate to an unlicensed employee or person a service which requires the skill, knowledge, or judgment of a licensee under KRS Chapter 319B;
 - (g) Aid or abet an unlicensed person to practice when a license is required; or
 - (h) Exercise undue influence in a manner as to exploit the patient for financial or other personal advantage to the licensee or a third party.

Section 4. Patient Documentation. A licensee shall complete all documentation as follows:

- (1) A patient assessment to include:
 - (a) The documentation required by Section 2(1)(a) of this administrative regulation;
 - (b) Physical evaluation; and
 - (c) Patient's written and informed consent;
- (2) A treatment plan to include:
 - (a) Documentation of subjective, objective, assessment, and plan of care;
 - (b) Applicable documentation to support treatment modality; and
 - (c) Follow-up and evaluation of clinical outcomes; and
- (3) Practice management to include:
 - (a) Documented L coding for prescribed orthotic or prosthetic

device; and

(b) Billing, fee, and insurance arrangements.

Section 5. Responsibilities to Research Subjects. The licensee, if engaged in a research project or study, shall:

(1) Ensure that all patients affiliated with those projects or studies consent in writing to the use of the results of the study;

(2) Maintain as confidential all information relating to a patient's identity, background, condition, treatment or management plan, or any other information relating to the patient;

(3) Maintain patient dignity and well-being;

(4) Ensure the research is conducted in accordance with all federal and state laws;

(5) Take ~~reasonable~~ steps to prevent false, misleading, or deceptive acts and practices relating to the research project or study; and

(6) Immediately report, in writing, unethical or illegal conduct to the board or appropriate law enforcement authority, if the licensee has reason to believe that any unethical or illegal conduct has occurred or is likely to occur.

Section 6. Responsibilities to the Kentucky Board of Prosthetics, Orthotics and Pedorthics. (1) The licensee shall:

(a) Comply with the reporting requirements of KRS 319B.050(1) and (4);

(b) Notify the board, in writing, within thirty (30) days after the date upon which:

1. A payment is made by the licensee, or on the licensee's behalf, to settle a claim of professional negligence;

2. Conviction of a felony in any court;

3. A disciplinary action against the licensee by any other governmental licensing authority of this state or any other state; or

4. Suspension or cessation of participation of any federal or state reimbursement program;

(c) File an initiating complaint with the board if the licensee has actual knowledge, which may be inferred from the circumstances, that another licensee has committed a violation of KRS Chapter 319B or the administrative regulations;

(d) Use the correct designation following the licensee's name on any patient record or advertising as follows:

1. If the licensee is an Orthotist, "LO";

2. If the licensee is a Prosthetist, "LP";

3. If the licensee is a Prosthetist/Orthotist, "LPO";

4. If the licensee is a Pedorthist, "LPed";

5. If the licensee is an Orthotic Fitter, "LOF"; or

6. Appropriate designations for advanced academic degrees or bona fide certifications, if any, following the above designations; and

(e) Supervise any American Board ~~for/of~~ Certification ~~in/for~~ Orthotics, Prosthetics and Pedorthics (ABC) certified or its equivalent orthotic or prosthetic assistants in ~~the licensee's~~ ~~their~~ charge following all current guidelines ~~established~~ ~~set forth~~ by ABC or its equivalent.

(2) The licensee shall not:

(a) Fail to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in a complaint filed with the board;

3. Not appearing before the board at a time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(b) Pay any financial interest, compensation, or other value to be received by a referral source for:

1. Services provided by the licensee;

2. Prosthetic, orthotic, pedorthic devices; or

3. Other services the licensee may recommend for the patient;

(c) Have, or attempt to have, sexual relations with:

1. An active patient of record, unless a consensual sexual relationship existed between them before the licensee-patient relationship commenced;

2. A patient of record for a period of ninety (90) days from the

last date of service rendered to the patient or;

3. A parent, legal guardian, or other third party, who has decision-making authority for:

a. An active patient of record; or

b. For a period of ninety (90) days from the last date of service rendered to the patient whichever is longer;

(d) Use any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation however disseminated or published which is false, misleading, deceptive, or untruthful; or

(e) Commit or attempt to commit any unfair, false, misleading, or deceptive act or practice.

PAUL HATCHER, Chair

APPROVED BY AGENCY: January 12, 2017

FILED WITH LRC: January 12, 2017 at 10 a.m.

CONTACT PERSON: Megan Woodson, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-782-8807, fax 502-696-3853, email Megan.Woodson@ky.gov

**GENERAL GOVERNMENT CABINET
Board of Licensed Diabetes Educators
(As Amended at ARRS, April 11, 2017)**

201 KAR 45:100. Fees for licensure of diabetes educators.

RELATES TO: KRS 309.335

STATUTORY AUTHORITY: KRS 309.331, 309.335

NECESSITY, FUNCTION AND CONFORMITY: KRS 309.335 requires the board to promulgate an administrative regulation establishing the initial fee, annual fee, and late renewal fee for licensure as a diabetes educator. This administrative regulation establishes fees for licensure as a diabetes educator.

Section 1. Licensure Fee. The fee for licensure as a licensed diabetes educator, apprentice diabetes educator, or master licensed diabetes educator shall be fifty (50) dollars.

Section 2. Renewal ~~and~~ ~~and~~ Reinstatement ~~and~~ ~~and~~ Reactivation. (1) The renewal date for all licenses issued by the board shall be November 1 of each calendar year.

(2) The ~~following~~ fees established in paragraphs (a) through (c) of this subsection shall be paid for renewals ~~and~~ ~~and~~ reinstatements ~~and~~ ~~and~~ reactivations for licenses ~~and~~ permits issued by the board ~~;~~ ;

(a) The renewal fee on or before November 1 shall be fifty (\$50) dollars annually ~~;~~ ;

(b) The renewal fee after ~~November 1~~ ~~December 2~~ but before ~~December 31~~ ~~January 30~~ shall be the licensure fee as set forth in Section 1 of this administrative regulation, plus a twenty (20) dollar late fee. (c) The reinstatement fee after ~~December 31~~ ~~January 30~~ of an expired license due to failure to renew shall be \$120.

~~[(d) The reactivation fee for a license or permit holder whose license or permit has been placed in inactive status shall be fifty (50) dollars.]~~

KIM DECOSTE, Chairperson

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at noon

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, email matt.james@ky.gov.

GENERAL GOVERNMENT CABINET
Kentucky Board of Licensed Diabetes Educators
(As Amended at ARRS, April 11, 2017)

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 shall 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, **April 2017[3/2017]** [01/2015]; and

(b) "Supervised Work Experience Report", Form DE-05, 09/2016.

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

KIM DECOSTE, Chairperson

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at noon

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, email matt.james@ky.gov.

GENERAL GOVERNMENT CABINET
Board of Licensed Diabetes Educators
(As Amended at ARRS, April 11, 2017)

201 KAR 45:120. Renewal, reinstatement, and inactive status.

RELATES TO: KRS 309.331, 309.334, 309.335

STATUTORY AUTHORITY: KRS 309.331(1), 309.335

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331 requires the board to promulgate administrative regulations establishing procedures for annual renewal of licenses, and KRS 309.335(2)(c) requires the board to promulgate administrative regulations for reinstatement of licenses. This administrative regulation establishes procedures for annual renewal and reinstatement of licenses.

Section 1. Regular License Renewal. (1) A licensed diabetes educator or master licensed diabetes educator shall submit to the board by November 1 of each year:

(a) A completed Renewal Application, Form DE-02;

(b) Proof of the required continuing education as set forth in 201 KAR 45:130; and;

(c) The renewal fee as established in 201 KAR 45:100.

(2) If a license is not renewed by December 31 [January 30] of the new licensure year, the license shall automatically expire.

Section 2. Reinstatement. (1) An expired license or permit shall be reinstated upon the licensee or permit holder:

(a) Submitting a completed Reinstatement Application, Form DE-08;

(b) Paying the required fees established in 201 KAR 45:100; and

(c) Submitting proof of completion of an amount of continuing education courses equivalent to the continuing education requirements as established in 201 KAR 45:130 for each year since the last date the license was active.

(2) An expired license or permit may be reinstated within five (5) years of the date of expiration.

Section 3. Inactive Status. (1) A licensee or permit holder may place his or her license or permit in inactive status. To request that a license or permit be placed in inactive status, the licensee or permit holder shall submit written notice to the board prior to November 1.

(2)(a) An individual with an inactive license or permit shall not practice diabetes education while the license or permit is inactive.

(b) A licensee or permit holder may remain in inactive status for a maximum of five (5) years.

(3)(a) During the period of inactive status, the licensee or permit holder shall not be required to meet the annual continuing education requirements as established in 201 KAR 45:130.

(b) Upon the licensee's or permit holder's request for licensure reactivation, the licensee or permit holder shall provide proof of completion of an amount of continuing education courses equivalent to the continuing education requirements as established in 201 KAR 45:130 for each year the license was inactive, and payment of the [reactivation] fee as established in 201 KAR 45:100.

(4)(a) An individual shall submit in writing a request to the board to be placed back in active status.

(b) The request shall be submitted at least one (1) week in advance of the board's regularly scheduled board meeting.

Section 4. Regular Permit Renewal. (1) An apprentice diabetes educator shall submit to the board by November 1 of each year:

- (a) A completed Apprentice Renewal Application, Form DE-04;
- (b) Proof of the required continuing education established in 201 KAR 45:130; and
- (c) The renewal fee established in 201 KAR 45:100.

(2)(a) If a permit is not renewed by ~~December 31~~January 30 of the new licensure year, it shall automatically expire, ~~and the apprentice diabetes educator shall reapply for a permit as established in KRS 309.334~~.

(b) ~~A permit may be reinstated. Reinstatement shall comply[by complying] with the requirements of Section 2 of this administrative regulation. [Work experience accumulated shall not carry over between permits.]~~

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

- (a) "Renewal Application", Form DE-02, 02/2015;
- (b) "Apprentice Renewal Application", Form DE-04, 06/2015; and
- (c) "Reinstatement Application," Form DE-08, 03/2017~~[06/2015]~~.

(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: February 15, 2017

FILED WITH LRC: February 15, 2017 at noon

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, email matt.james@ky.gov.

**GENERAL GOVERNMENT CABINET
Board of Licensed Diabetes Educators
(As Amended at ARRS, April 11, 2017)**

201 KAR 45:130. Continuing education.

RELATES TO: KRS 309.337, 309.339

STATUTORY AUTHORITY: KRS 309.331

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.337 requires the board to promulgate administrative regulations establishing continuing education requirements. This administrative regulation establishes continuing education requirements for licensed diabetes educators.

Section 1. Accrual of Continuing Education Hours. (1)(a) The annual continuing education accrual period shall be from November 1 of each year to October 31 of the next year.

(b) Prior to renewal of a license for the next licensure period, a licensee shall have earned at least fifteen (15) hours of approved continuing education.

(2) More than fifteen (15) hours of continuing education shall not be carried over into the next continuing education period.

(3) It shall be the responsibility of each licensee to finance the costs of continuing education.

Section 2. Methods of Acquiring Continuing Education Hours.

(1) Continuing education hours for license renewal shall be applicable to diabetes and presented at a professional level that enhances the quality and effectiveness of diabetes self-management education.

(2) A licensee shall obtain continuing education courses from any of the following continuing education providers or programs approved by the providers:

- (a) American Association of Diabetes Educators (AADE);
- (b) American Diabetes Association (ADA);
- (c) Academy of Nutrition and Dietetics (AND);
- (d) Accreditation Council for Pharmacy Education (ACPE);

(e) Accreditation Council for Continuing Medical Education (ACCME-AMA);

- (f) American Nurses Credentialing Center (ANCC);
- (g) American Academy of Family Physicians (AAFP);
- (h) American Academy of Nurse Practitioners (AANP);
- (i) American Academy of Optometry (AAO);
- (j) American Academy of Physician Assistants (AAPA);
- (k) American Association of Clinical Endocrinologists (AACE);
- (l) American College of Endocrinology (ACE);
- (m) American College of Sports Medicine (ACSM);
- (n) American Medical Association (AMA) or its Kentucky affiliate;

- (o) American Nurses Association (ANA);
- (p) American Occupational Therapy Association (AOTA);
- (q) American Physical Therapy Association (APTA);
- (r) American Psychological Association (APA);
- (s) Commission on Dietetic Registration (CDR);
- (t) Council on Continuing Medical Education (CCME-AOA);
- (u) Council on Podiatric Medical Education (CPME-APMA);
- (v) International Diabetes Federation (IDF);
- (w) National Association of Clinical Nurse Specialists (NACNS);

- (x) National Association of Social Workers (NASW);
- (y) Kentucky Board of Nursing (KBN);
- (z) Kentucky Board of Pharmacy;
- (aa) Kentucky Board of Medical Licensure; or
- (bb) Kentucky Nurses Association (KNA).

Section 3. Recordkeeping of Continuing Education Hours. (1) A licensee shall maintain a record of all continuing education courses attended for at least two (2) years after attending the course.

(2) Appropriate documentation to be kept shall include:

- (a) Proof of attendance;
- (b) Date of activity;
- (c) Description of activity;
- (d) Total hours of instruction, excluding breaks; and
- (e) Names and professional qualifications of the presenters.

(3)(a) Each licensee shall sign a statement on the Renewal Application form incorporated by reference in 201 KAR 45:120, indicating compliance with the continuing education requirements.

(b) A license shall not be renewed without the licensee signing this sworn statement.

Section 4. Reconsideration. (1) A licensee may request the board to reconsider its denial of a continuing education course. The[by filing a written] request shall be filed with the board in writing.

(2)(a) A licensee shall file the request for reconsideration pursuant to KRS Chapter 13B within thirty (30) calendar days of notification of the denial.

(b) The request will be reviewed by the board at its next regularly scheduled meeting.

Section 5. Auditing of Continuing Education. (1) In January following the renewal period, the board shall annually conduct a random audit of up to fifteen (15) percent of licensees and permit holders from the preceding renewal period.

(2) Each licensee or permit holder selected for audit shall submit documentation of completion of continuing education units from the preceding renewal period to the board within forty-five (45) days of the date of the request.

(3) A licensee or permit holder who fails to comply with the audit request or the continuing education requirements shall be subject to the disciplinary action established in this subsection.

(a) For the first offense, the licensee or permit holder shall be fined fifty (50) dollars. The licensee or permit holder shall be subject to audit after the next renewal period.

(b) For the second offense, the licensee or permit holder's license or permit[holder] shall be suspended for thirty (30) days.

1. The licensee or permit holder shall have thirty (30) days to submit proof of completion of the continuing education requirements established in Section 1 of this administrative

regulation.

2. If the licensee or permit holder does not comply with subparagraph 1. of this paragraph, the licensee or permit holder's license or permit shall expire.

KIM DECOSTE, Chairperson

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at noon

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) 564-5380, email matt.james@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

(As Amended at ARRS, April 11, 2017)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640, 532.260

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) "Department of Corrections Policies and Procedures," April 11[March 14] [January 12], 2017[November 7, 2016], are incorporated by reference. Department of Corrections Policies and Procedures include:

- 1.2 News Media (Amended 6/10/14)
- 1.4 The Monitoring and Operation of Private Prisons (Amended 5/15/08)
- 2.1 Inmate Canteen (Amended 2/26/16)
- 2.12 Abandoned Inmate Funds (Amended 2/26/16)
- 3.1 Code of Ethics (Amended 12/10/13)
- 3.5 Sexual Harassment and Anti-Harassment (Amended 12/10/13)
- 3.9 Student Intern Placement Procedure (Amended 11/7/16)
- 3.10 Appearance and Dress for Nonuniformed Staff (Amended 9/13/10)
- 3.11 Drug Free Workplace Employee Drug Testing (Amended 12/10/13)
- 3.1 Employee Time and Attendance Requirements (Amended 6/14/16)
- 3.17 Uniformed Employee Dress Code (Amended 4/11/17[4/12/17][2/26/16])
- 3.22 Staff Sexual Offenses (Amended 12/10/13)
- 3.23 Internal Affairs Investigation (Added 8/25/09)
- 5.1 Research and Survey Projects (Amended 12/10/13)
- 5.3 Program Evaluation and Measurement (Amended 6/9/15)
- 6.1 Open Records Law (Amended 5/14/07)
- 6.2 Inmate Record (Added 11/7/16)
- 8.2 Fire Safety (Amended 3/14/14)
- 8.7 Notification of Extraordinary Occurrence (Amended 3/14/14)
- 9.4 Transportation of Inmates to Funerals or Bedside Visits (Amended 6/9/15)
- 9.6 Contraband (Amended 2/26/16)
- 9.8 Search Policy (Amended 5/13/14)
- 9.13 Transport to Court - Civil Action (Amended 07/09/07)
- 9.18 Informants (Amended 9/13/10)
- 9.19 Found Lost or Abandoned Property (Amended 10/14/05)
- 10.2 Special Management Inmates (Amended 4/11/17[4/12/17][2/26/16])
- 10.3 Safekeepers and Contract Prisoners (Amended 9/15/04)

- 11.2 Dietary Procedures and Compliance (Amended 1/12/17[3/14/14])
- 11.4 Alternative Dietary Patterns (Amended 1/12/17[3/14/14])
- 13.1 Pharmacy Policy and Formulary (Amended 1/15/15)
- 13.2 Health Maintenance Services (Amended 2/26/16)
- 13.3 Medical Alert System (Amended 3/14/14)
- 13.5 Advance Healthcare Directives (Amended 6/14/16)
- 13.6 Sex Offender Treatment Program (Amended 11/7/16)
- 13.7 Involuntary Psychotropic Medication (Amended 10/14/05)
- 13.8 Substance Abuse Program (Amended 10/12/12)
- 13.9 Dental Services (Amended 10/14/05)
- 13.10 Serious Infectious Disease (Amended 3/14/14)
- 13.11 Do Not Resuscitate Order (Amended 8/9/05)
- 13.12 Suicide Prevention and Intervention Program (Added 8/25/09)
- 13.13 Behavioral Health Services (Amended 11/7/16)
- 13.15 Inmate Observer Program (Added 8/12/16)
- 14.1 Investigation of Missing Inmate Property (Amended 10/14/05)
- 14.2 Personal Hygiene Items (Amended 8/20/13)
- 14.3 Marriage of Inmates (Amended 1/12/17[2/26/16])
- 14.4 Legal Services Program (Amended 3/14/14)
- 14.5 Board of Claims (Amended 10/14/05)
- 14.6 Inmate Grievance Procedure (Amended 4/11/17[4/12/17][6/14/16])
- 14.7 Sexual Abuse Prevention and Intervention Programs (Amended 6/14/16)
- 14.8 Lesbian, Gay, Bisexual, Transgender, and Intersex Offenders (Added 4/11/17[3/14/17])**
- 15.1 Hair, Grooming and ID Card Standards (Amended 8/12/16)
- 15.2 Rule Violations and Penalties (Amended 8/12/16)
- 15.3 Meritorious Good Time (Amended 11/7/16)
- 15.4 Program Credit (Amended 6/12/12)
- 15.5 Restoration of Forfeited Good Time (Amended 2/26/16)
- 15.6 Adjustment Procedures and Programs (Amended 11/7/16)
- 15.7 Inmate Accounts (Amended 4/11/17[10/14/16])
- 15.8 Possession or Use of Unauthorized Substance and Substance Abuse Testing (Amended 1/12/17[10/14/05])
- 16.1 Inmate Visits (Amended 4/11/17[4/12/17][10/12/12])
- 16.2 Inmate Correspondence (Amended 11/7/16)
- 16.3 Inmate Access to Telephones (Amended 10/12/12)
- 16.4 Inmate Packages (Amended 8/12/16)
- 16.5 Video Visitation (Added 8/12/16)
- 17.1 Inmate Personal Property (Amended 6/14/16)
- 17.2 Assessment Center Operations (Amended 6/9/15)
- 17.3 Controlled Intake of Inmates (Amended 3/14/14)
- 17.4 Administrative Remedies: Sentence Calculations (Amended 8/12/16)
- 18.1 Classification of the Inmate (Amended 1/15/15)
- 18.2 Central Office Classification Committee (Amended 8/20/13)
- 18.3 Confinement of Youthful Offenders (Added 6/9/15)
- 18.5 Custody and Security Guidelines (Amended 6/14/16)
- 18.7 Transfers (Amended 5/13/16)
- 18.9 Out-of-state Transfers (Amended 2/26/16)
- 18.11 Placement for Mental Health Treatment in CPTU or PCU (Amended 6/14/16)
- 18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)
- 18.13 Population Categories (Amended 2/26/16)
- 18.15 Protective Custody (Amended 2/26/16)
- 18.16 Information to the Parole Board (Amended[Effective] 3/14/14)
- 18.17 Interstate Agreement on Detainers (Amended 07/09/07)
- 18.18 International Transfer of Inmates (Amended 5/14/07)
- 19.1 Governmental Services Program (Amended 10/12/12)
- 19.2 Sentence Credit for Work (Amended 2/26/16)
- 19.3 Inmate Wage/Time Credit Program (Amended 1/15/15)
- 20.1 Educational Programs and Educational Good Time (Amended 8/25/09)
- 21.1 Library Services (Added 3/14/14)
- 22.1 Privilege Trips (Amended 10/14/05)

VOLUME 43, NUMBER 11 – MAY 1, 2017

- 22.2 Recreation and Inmate Activities (Added 3/14/14)
- 23.1 Religious Programs (Amended 8/12/16)
- 25.2 Public Official Notification of Release of an Inmate (Amended 10/14/05)
- 25.3 Prerelease Program (Effective 11/15/06) [25.4 Institutional Inmate Furloughs (Amended 07/09/07)]
- 25.6 Community Service Center Program and Jail Placement (Amended 11/7/16)
- 25.10 Administrative Release of Inmates (Amended 8/12/16)
- 25.11 Victim Services Notification (Amended 8/25/09)
- 25.12 Home Incarceration Program (Added 8/12/16)
- 26.1 Citizen Involvement and Volunteer Service Program (Amended 10/12/12)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY BALLARD, Commissioner

APPROVED BY AGENCY: March 14, 2017

FILED WITH LRC: March 14, 2017 at 2 p.m.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

(As Amended at ARRS, April 11, 2017)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Kentucky State Reformatory.

Section 1. Incorporation by Reference. (1) "Kentucky State Reformatory policies and procedures", April 11/January 12, 2017[April 11, 2016], are incorporated by reference. Kentucky State Reformatory policies and procedures include:

- KSR 01-00-08 Communication Among the Warden, Management Staff, Department Heads and Inmates (Added 4/11/16)
- KSR 02-00-01 Inmate Canteen (Amended 1/12/17[4/11/16])
- KSR 02-00-03 Screening Disbursements from Inmate Accounts (Amended 1/12/17[4/11/16])
- KSR 02-00-11 Inmate Accounts (Amended 1/12/17[4/11/16])
- KSR 02-00-13 Inmate Canteen Committee (Amended 4/11/16)
- KSR 06-00-03 Kentucky Open Records Law and Release of Institutional and Medical Records[Information] (Amended 1/12/17[4/11/16])
- KSR 09-00-28 Restricted Areas (Amended 12/14/15)
- KSR 09-00-30 Parole Board (Amended 1/12/17[12/14/15])
- KSR 10-01-02 Restrictive Housing[Special Management] Unit General Operational Procedures (Amended 1/12/17[4/11/16])
- KSR 10-01-03 Restrictive Housing[Special Management] Unit - Inmate Tracking System and Record System (Amended 1/12/17[12/14/15])
- KSR 10-01-09 Hold Ticket Inmates (Amended 3/11/16) [KSR 10-02-08 ~~Corrections Psychiatric Treatment Unit (Amended 4/11/16)~~]

- KSR 11-00-01 Meal Planning and Procedure (Amended 1/12/17[4/11/16])
- KSR 11-00-05 Food Service Department Clothing Issuance, Laundry and Sanitation (Amended 12/14/15)
- KSR 11-00-06 Health Standards for Food Service Employees (Amended 1/12/17[4/11/16])
- KSR 12-00-03 State and Personal Hygiene Items Issued to Inmates (Amended 12/14/15)
- KSR 12-00-07 Inmate Barbershop (Amended 4/11/16)
- KSR 12-00-09 Treatment of Inmates with Body Lice (Amended 12/14/15)
- KSR 13-00-03 Medication for Inmates Leaving Institutional Grounds (Amended 12/14/15)
- KSR 13-00-04 Medical and Dental Care (Amended 1/12/17[4/11/16])
- KSR 13-00-05 Medical Records (Amended 4/11/16)
- KSR 13-00-09 Institutional Pharmacy Procedures (Amended 1/12/17[4/11/16])
- KSR 13-00-10 Requirements for Medical Personnel (Amended 12/14/15)
- KSR 13-00-17 Special Care (Amended 12/14/15)
- KSR 13-01-01 Death of an Inmate and Notification of Inmate Family About a Critical Medical Emergency (Added 12/14/15)
- KSR 13-02-01 Mental Health Services (Amended 12/14/15)
- KSR 13-02-03 Suicide Prevention and Intervention Program (Amended 4/11/16)
- KSR 13-02-08 Inmate Observer Program (Amended 1/12/17[12/14/15])
- KSR 14-00-02 Americans with Disabilities Act and Inmate Program Access (Amended 12/14/15)
- KSR 15-00-06 Inmate Identification Cards (Amended 12/14/15) [KSR 15-00-08 ~~Minimum Security Unit (Amended 4/11/16)~~]
- KSR 15-00-09 Tobacco Free Environment (Amended 12/14/15)
- KSR 15-00-10 Program Services for Special Housing Placement (Amended 4/11/16)
- KSR 15-01-01 Responsibilities of Staff Assigned to Units A, B & C (Amended 4/11/16)
- KSR 15-01-02 Staff Operational Procedures for Units A, B, & C (Amended 1/12/17[12/14/15])
- KSR 15-01-03 Inmate Rules for General Population Living Areas (Amended 4/11/17[1/12/17][4/11/16])
- KSR 15-01-06 Honor Housing Criteria and Rules (Amended 1/12/17[12/14/15])
- KSR 15-01-07 Nursing Care Facility Operational Procedures and Rules (Amended 1/12/17[4/11/16])
- KSR 15-01-08 Outside Detail (Added 1/12/17)
- KSR 16-00-02 Inmate Correspondence and Mailroom Operations (Amended 1/12/17[12/14/15])
- KSR 16-00-03 Inmate Access to Telephones (Amended 12/14/15)
- KSR 16-01-01 Inmate Visiting (Amended 1/12/17[4/11/16])
- KSR 17-00-05 Inmate Reception and Orientation (Amended 1/12/17[12/14/15])
- KSR 17-00-07 Inmate Personal Property (Amended 12/14/15)
- KSR 18-00-04 Inmate Transfers, Admission, and Discharge Procedures (Amended 12/14/15)
- KSR 18-00-06 Classification (Amended 12/14/15)
- KSR 18-00-07 Kentucky State Reformatory Placement Committee (Amended 12/14/15)
- KSR 18-01-00 Youthful Offenders (Amended 4/11/17[1/12/17][Added 12/14/15])
- KSR 18-02-01 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Amended 1/12/17[Added 12/14/15])
- KSR 19-00-02 Inmate Work Programs (Amended 1/12/17[12/14/15])
- KSR 19-00-03 Safety Inspections of Inmate Work Assignment Locations (Amended 12/14/15)
- KSR 20-00-01 LaGrange Education Center Programming (Amended 1/12/17[12/14/15])
- KSR 20-00-06 English as a Second Language (Amended 12/14/15)
- KSR 21-00-01 Legal Aide Office and Inmate Law Library Services

VOLUME 43, NUMBER 11 – MAY 1, 2017

and Supervision (Amended 1/12/17[~~4/11/16~~])
 KSR 21-00-02 Library Services (Amended 4/11/16)
 KSR 22-00-03 Inmate Organizations (Amended 1/12/17[~~12/14/15~~])
 KSR 22-00-07 Inmate Magazine (Amended 1/12/17[~~12/14/15~~])
 KSR 23-00-03 Religious Programming (Added 4/11/17[~~4/12/17~~])
 KSR 24-00-01 Social Services Staff (Added 12/14/15)
 KSR 24-00-02 Substance Abuse and Chemical Dependency Program (Amended 1/12/17[~~12/14/15~~])
 KSR 24-00-03 Social Services Program (Amended 1/12/17[~~Added 12/14/15~~])
 KSR 25-00-01 Discharge of an Inmate to Hospital or Nursing Home (Amended 12/14/15)
 KSR 26-00-01 Volunteer Services Program (Amended 1/12/17[~~12/14/15~~])

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY BALLARD, Commissioner

APPROVED BY AGENCY: December 14, 2016

FILED WITH LRC: January 12, 2017 at 1 p.m.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686 email Justice.RegContact@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (As Amended at ARRS, April 11, 2017)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Northpoint Training Center.

Section 1. Incorporation by Reference. (1) "Northpoint Training Center Policies and Procedures", April 11[~~February 14~~][~~December 9~~], 2015, are incorporated by reference. Northpoint Training Center policies and procedures include:

NTC 01-17-01 Relationships with Public, Media and Other Agencies (Amended 7/14/14)
 NTC 02-07-02 Institutional Religious Center Fund (Amended 4/11/17[~~2/14/17~~][~~7/13/11~~])
 NTC 02-08-01 Inmate Canteen (Amended 2/14/17[~~9/28/15~~])
 NTC 02-12-01 Inmate Accounts (Amended 2/14/17[~~12/9/15~~])
 NTC 03-03-01 Tobacco Products and Nicotine Procedures (Amended 2/14/17[~~12/9/15~~])
 NTC 03-25-01 Firewood Cutting and Firewood Sales (Added 2/14/17)
 NTC 06-01-01 Offender Information Services (Amended 9/28/15)
 NTC 06-01-02 Offender Information Services - Release of Information (Amended 9/13/11)
 NTC 09-06-01 Searches and Contraband Procedures; Disposition of Contraband (Amended 4/11/17[~~2/14/17~~][~~9/28/15~~])
 NTC 09-14-01 Inmate Death (Amended 7/13/11)
 NTC 09-16-01 Restricted Areas (Amended 2/14/17[~~12/9/15~~])
 NTC 10-01-01 Restrictive Housing[~~Special Management~~] Unit (Amended 4/11/17[~~2/14/17~~][~~12/9/15~~])

NTC 11-04-02 Menu, Nutrition, Special, and Individual Diets (Amended 9/28/15)
 NTC 11-05-02 Food Service Staff Health Standards (Amended 9/28/15)
 NTC 12-02-01 Personal Hygiene for Inmates: Clothing and Linens (Amended 2/14/17[~~9/28/15~~])
 NTC 12-02-02 Issuance of Personal Hygiene Products (Amended 2/14/17[~~7/13/11~~])
 NTC 12-06-01 Housekeeping Procedures (Amended 7/13/11)
 NTC 12-07-01 Grooming and Hair Care Standards (Amended 2/14/17[~~9/28/15~~])
 NTC 13-01-01 Emergency Medical Care Plan (Amended 4/11/17[~~2/14/17~~][~~7/14/14~~])
 NTC 13-02-01 Provisions and Authority for Health Services (Amended 12/9/15)
 NTC 13-03-01 Sick Call and Pill Call (Amended 2/14/17[~~7/13/11~~])
 NTC 13-04-01 Use[~~Utilization~~] of Pharmaceutical Products (Amended 2/14/17[~~9/13/11~~])
 NTC 13-05-01 Dental Services (Amended 9/28/15)
 NTC 13-08-01 Medical and Dental Records (Amended 9/28/15)
 NTC 13-10-01 Notification of Inmate's Family or Designation Individual of Serious Illness or Injury, Surgery, or Inmate Death (Added 11/15/07)
 NTC 13-11-01 Inmate Health Screening and Evaluation (Amended 2/14/17[~~9/28/15~~])
 NTC 13-12-01 Special Health Care Programs (Amended 12/9/15)
 NTC 13-13-01 Inmate Self Administration of Medication (Amended 2/14/17[~~9/28/15~~])
 NTC 13-19-01 Mental Health Care Program (Amended 2/14/17[~~7/14/14~~])
 NTC 13-19-03 Suicide Prevention and Intervention Program (Amended 2/14/17[~~7/13/11~~])
 NTC 13-20-02 Infectious Disease Control (Amended 2/14/17[~~7/14/14~~])
 NTC 13-22-01 Informed Consent (Amended 9/28/15)
 NTC 13-26-01 Public Advocacy Access to Psychological and Psychiatric Reports (Amended 12/13/05)
 NTC 14-01-01 Legal Services Program (Amended 2/14/17[~~10/14/14~~])
 NTC 14-02-01 Inmate Grievance Procedure (Amended 9/28/15)
 NTC 14-03-02 Board of Claims (Amended 9/13/11)
 NTC 15-02-01 Due Process and Disciplinary Procedures (Amended 9/28/15)
 NTC 15-02-02 Extra Duty Assignments (Amended 9/28/15)
 NTC 15-03-01 Rules for Inmates Assigned to Outside Detail (Amended 9/28/15)
 NTC 15-03-02 Rules for General Population Dormitories (Amended 4/11/17[~~2/14/17~~][~~9/28/15~~])
 NTC 15-04-01 Inmate Identification (Amended 2/14/17[~~7/14/14~~])
 NTC 15-05-01 Drug Abuse and Intoxicants Testing (Amended 2/14/17[~~7/14/14~~])
 NTC 16-01-01 Inmate Mail (Amended 4/11/17[~~2/14/17~~][~~9/28/15~~])
 NTC 16-02-01 Visiting (Amended 2/14/17[~~9/28/15~~])
 NTC 16-03-01 Inmate Furloughs (Amended 9/28/15)
 NTC 16-05-01 Telephone Use and Control (Amended 2/14/17[~~9/28/15~~])
 NTC 17-01-01 Personal Property Control (Amended 4/11/17[~~2/14/17~~][~~9/28/15~~])
 NTC 17-01-04 Disposition of Unauthorized Property (Amended 2/14/17[~~7/14/14~~])
 NTC 17-02-03 Mattress and Pillow Issue (Amended 4/11/17[~~2/14/17~~][~~Added 9/28/15~~])
 NTC 17-03-01 Assessment and Orientation (Amended 12/9/15)
 NTC 18-01-01 Preparole Progress Report (Amended 9/28/15)

NTC 18-02-01	Classification (Amended 4/11/17 [2/14/17] [9/13/14])
NTC 18-02-02	Classification - 48 Hour Notification (Amended 5/12/06)
NTC 18-02-03	Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Amended 12/9/15)
NTC 18-03-01	Conflict Notification [Form] (Amended 2/14/17 [9/28/15])
NTC 18-05-01	Transfer of Inmates (Amended 7/14/14)
NTC 19-01-01	Inmate Work Programs (Amended 4/11/17 [2/14/17] [9/28/15])
NTC 20-01-01	Educational Programs (Amended 2/14/17 [9/28/15])
NTC 20-02-02	Live Work Projects in Technical School Classes (Amended 4/11/17 [2/14/17] [9/28/15])
NTC 20-02-03	Correspondence Courses (Added 9/28/15)
NTC 21-01-01	Library Services (Amended 2/14/17 [9/28/15])
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs (Amended 9/28/15)
NTC 23-01-01	Religious Services (Amended 2/14/17 [9/28/15])
NTC 23-03-01	Marriage of Inmates (Amended 4/11/17 [2/14/17] [9/28/15])
NTC 24-04-01	Honor Housing (Amended 2/14/17[7/13/14])
NTC 24-06-01	Veterans Dormitory (Amended 12/9/15)
NTC 25-01-01	Release Preparation Program (Amended 9/28/15)
NTC 25-01-02	Temporary and Community Center Release
NTC 25-02-01	Funeral Trips and Bedside Visits (Amended 7/14/14)
NTC 25-03-01	Inmate Release Procedure (Amended 12/9/15)
NTC 26-01-01	Citizen Involvement and Volunteer Services Program (Amended 2/14/17 [9/28/15])

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY BALLARD, Commissioner

APPROVED BY AGENCY: February 1, 2017

FILED WITH LRC: February 14, 2017 a 3 p.m.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

**FINANCE AND ADMINISTRATION CABINET
School Facilities Construction Commission
(As Amended at ARRS, April 11, 2017)**

750 KAR 1:030. Emergency and Targeted Investment Fund.

RELATES TO: KRS 157.618

STATUTORY AUTHORITY: KRS 157.617, 157.618, 157.622

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 157.618(5) requires the School Facilities Construction Commission to promulgate administrative regulations to establish the process to apply for and receive funds from the Emergency and Targeted Investment Fund.** [KRS 157.617(4) authorizes the School Facilities Construction Commission to promulgate administrative regulations for the orderly conduct of its affairs, including assisting local school districts to meet the school construction needs of the state. KRS 157.622(4) requires the commission to promulgate administrative regulations governing allocations of state funds to eligible school districts. KRS 157.618(5) requires the commission to promulgate administrative regulations to establish the process to apply for and receive funds from the Emergency and Targeted Investment Fund]. This administrative regulation establishes the application procedure and

requirements for the commission to determine eligibility for funding from the emergency and targeted investment fund due to an unforeseen emergency or the expectation that the facility will be rendered structurally uninhabitable. ~~[This administrative regulation is filed to comply with statutory changes made as a result of Acts Chapter 138, section 4, effective April 27, 2016.]~~

Section 1. Definitions. (1) "Applicant" means any local public school district that has submitted an application to the authority for an offer of assistance from the emergency and targeted investment fund and meets the definition of a "common school" under KRS 158.030. (2) "Application" means the information submitted by an applicant to obtain an offer of assistance, including the need for a specific project and financial information necessary to determine eligibility for assistance from the emergency and targeted investment fund.

(3) "Available local revenues" is defined by KRS 157.615(1).

(4) "Commission" means the School Facilities Construction Commission.

(5) "Core academic facility" means a public elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school, except for district-operated schools that are exclusively:

(a) Vocational-technical, special education, or preschool programs;

(b) Instructional programs operated in institutions or schools outside of the district; or

(c) Alternative schools designed to provide services to at-risk populations with unique needs.

~~(6) ["District facility plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by 702 KAR Chapters 3 and 4.]~~

~~(7) "Offer of assistance" means [a financial commitment from the commission to pay all or a portion of the debt service on bonds issued by or on behalf of the applicant or] a direct loan or grant made to the applicant from the emergency and targeted investment fund.~~

Section 2. Eligible Applicants. ~~[(1)] A local public school district may submit a cover letter and the information requested in Section 3(2) of this administrative regulation for an offer of assistance from the emergency and targeted investment fund if any of the district's core academic facilities meet the criteria set forth in [fall within] KRS 157.618(3). [(2) Local public school districts that submit an application under KRS 157.618(3)(c) or (d) shall have levied a ten (10) cent equivalent tax for the purposes of funding major construction and renovation projects and the project shall be identified as a priority one (1) or priority two (2) in the district facility plan.]~~

Section 3. Submission Requirements. (1) The commission shall accept applications for offers of assistance from the emergency and targeted investment fund from local public school districts throughout the commission's fiscal year.

(2) Applications for offers of assistance from the fund shall include:

(a) Information about the school facility to which the offer of assistance would be applied and an explanation of any events that contributed to the facility's physical condition;

(b) Certification from local officials, engineers, or the commissioner of education that the facility meets the criteria in KRS 157.618(3);

(c) A proposed timeline for bidding and awarding contracts, planning and design, construction, and equipping the facility;

(d) A copy of a motion or resolution from the local board of education approving the request for an offer of assistance from the fund;

(e) An estimate from a financial advisor hired by the applicant of the amount of funding necessary to bring the facility to the Kentucky Department of Education's current standards; and

(f) Certification from the applicant that the project shall adhere to the Kentucky Department of Education's best practice guidelines.

(3)(a) Offers of assistance shall be limited to ~~the lesser of~~ the total cost of the project minus the applicant's available local revenues;

~~1. The difference between the total cost of the project and the applicant's available local revenues; or~~

~~2. A dollar amount limit determined by the commission at the commission's first regular meeting held after the beginning of the commission's fiscal year that shall be applied to all projects during that fiscal year.~~

(b) In addition to the provisions in Section 1(3) of this administrative regulation, available local revenues shall also include any unexpected funds in accounts for projects that have been completed when an application is submitted to receive an offer of assistance from the emergency and targeted investment fund.

(4) All information submitted as application for offers of assistance from the fund shall be submitted to the School Facilities Construction Commission at 229 West Main Street, Suite 102, Frankfort, Kentucky 40601. The supporting documentation required by this section shall be accompanied with a letter from the district's superintendent to the commission requesting assistance and summarizing the district's facility needs.

Section 4. Project Execution. (1) Applicants that receive offers of assistance from the emergency and targeted investment fund shall follow the process established in 750 KAR 1:010, Sections 6, 7(1), (3), and (4), 8, and 10, concerning allowable expenditure of funds, bond issuance procedures, and refinancing savings. 750 KAR 1:010, Section 7(2), shall not apply to this administrative regulation. Emergency and Targeted Investment funds available for a project shall be expended for the project that is identified in the application and any balance of funds remaining after completion of the project shall be applied toward the associated bonds. If the commission's offer of assistance takes the form of a cash grant or loan, any unexpended funds shall be returned to the emergency and targeted investment fund.

(2) Applicants who wish to utilize alternative bond structures shall contact the School Facilities Construction Commission for approval. The executive director shall approve or disapprove the alternative bond structure based on the proposed structure's financial and economic viability.

(3) If a school district receives an offer of assistance from the emergency and targeted investment fund and subsequently, as a result of litigation or insurance, receives funds for the original facility, the district shall reimburse the emergency and targeted investment fund pursuant to KRS 157.618(4).

CHELSEY BIZZLE, Executive Director

APPROVED BY AGENCY: February 14, 2017

FILED WITH LRC: February 14, 2017 at 1 p.m.

CONTACT PERSON: Corey Henderson, Administrative Assistant, School Facilities Construction Commission, 229 W Main Street, Suite 102, Frankfort, Kentucky 40601, phone (502) 564-5582, fax (888) 979-6152, email Corey.Henderson@ky.gov.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

(As Amended at ARRS, April 11, 2017)

803 KAR 2:320 Toxic and hazardous substances.

RELATES TO: KRS 338.015, 338.031, 29 C.F.R. 1910.134, 1910.141, 1910.1000-1910.1450

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. 29 C.F.R. 1910.1000 to 1910.1450 establish

federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Department of Workplace Standards in the area of general industry.

Section 1. Definitions. (1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of three-tenths (0.3) mu particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

~~(3) ["Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.~~

~~(4)]~~ "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

~~(4)](5)]~~ "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4' Methylene bis (2-chloroaniline).

~~(5)](6)]~~ "Closed system" means an operation involving 4, 4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4' Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

~~(6)](7)]~~ "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

~~(7)](8)]~~ "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

~~(8)](9)]~~ "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

~~(9)](10)]~~ "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that may result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

~~(10)](11)]~~ "Employee" is defined by KRS 338.015(2).

~~(11)](12)]~~ "Employer" is defined by KRS 338.015(1).

~~(12)](13)]~~ "Established federal standard" is defined by KRS 338.015(10).

~~(14)]~~ "External environment" means any environment external to regulated and nonregulated areas.

~~(13)](15)]~~ "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

~~(14)](16)]~~ "Laboratory type hood" means a device:

(a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and

(b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than hands and arms.

~~(15)](17)]~~ "National consensus standard" is defined by KRS 338.015(9).

~~(16)](18)]~~ "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

~~(17)](19)]~~ "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

~~(18)](20)]~~ "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

~~(19)](21)]~~ "Regulated area" means an area where entry and exit is restricted and controlled.

~~(20)](22)]~~ "Standard" means "occupational safety and health

standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero-tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, and stored. Those areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.

2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.

a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;

2. Decontaminated before removing the protective garments and hood; and

3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4.a. Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area.

b. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section; and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified

to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where solution may be spilled shall be:

- a. Covered daily or after any spill with a clean covering; and
- b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.

2. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years.

3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.

4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3.a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as provided in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in

a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

a. Local exhaust ventilation may be used to satisfy this requirement.

b. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

(a) Signs, information, and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

Authorized Personnel Only

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed

In this Area

Impervious Suit Including Gloves,

Boots, and Air-Supplied Hood

Required At All Times

Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application of decontamination practices and procedures;

e. The purpose for and significance of emergency practices and procedures;

f. The employee's specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations that may result in the release of 4,4'-Methylene bis (2-chloroaniline); and

h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be prescribed and posted, and employees shall be familiarized with their terms and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain the following information:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;

2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;

3. The number of employees in each regulated area, during normal operations including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest Area Director.

2. A written report shall be filed with the nearest Area Director within fifteen (15) calendar days of the initial report and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

b. A description of the area involved, and the extent of known and possible employee and area contamination;

c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this section shall maintain complete and accurate records of all medical examinations. Records shall be maintained for the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor; records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016. (1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

(b)1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

(b)1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation; and

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities.

(9) Air pressure in laboratory areas, and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall

VOLUME 43, NUMBER 11 – MAY 1, 2017

be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time previously specified assure that either:

(a) A copy of the record is provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record; or

(c) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5. (1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as modified by Sections 1 through 5 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.1000 - 1910.1450, revised July 1, 2016 [2015]; and

(2) The revisions to 29 C.F.R. 1910 Subpart Z as published in the January 9, 2017 Federal Register, Volume 82, Number 5 [The revisions to 29 C.F.R. 1910 Subpart Z as published in the March 25, 2016 Federal Register, Volume 81, Number 58].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: February 14, 2017

FILED WITH LRC: February 14, 2017 at 2 p.m.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682, email Kristi.redmon@ky.gov.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(As Amended at ARRS, April 11, 2017)

803 KAR 2:425. Toxic and hazardous substances.

RELATES TO: 29 C.F.R. 1926.1101-1926.1153

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS

338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to ~~adopt and~~ promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.1101 to 1926.1153 establish the federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the general standards to be enforced by the Department of Workplace Standards in the construction industry.

Section 1. Definitions. (1) "Assistant secretary" means Secretary, Labor Cabinet or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "Director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

(3) "U.S. Department of Labor" means Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, the construction industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1926.1101 through 1926.1153, revised as of July 1, 2016 [2015]; and

(2) The amendments to 29 C.F.R. 1926 Subpart Z as published in the January 9, 2017 Federal Register, Volume 82, Number 5 [March 25, 2016 Federal Register, Volume 81, Number 58].

As approved by the Kentucky Occupational Safety and Health Standards Board.

DERRICK RAMSEY, Chairman

APPROVED BY AGENCY: February 14, 2017

FILED WITH LRC: February 14, 2017 at 2 p.m.

CONTACT PERSON: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-1682, email Kristi.redmon@ky.gov.

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS, April 11, 2017)

804 KAR 3:100. License may be suspended or revoked for accepting Supplemental Nutrition [Needs] Assistance Program (["SNAP"/]) benefits for alcohol purchases [Retail sales to certain persons prohibited].

RELATES TO: KRS 243.490(1), 7 U.S.C. 2012(k), 7 U.S.C. 2013(a), 7 C.F.R. 278.6

STATUTORY AUTHORITY: KRS 241.060(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate administrative regulations governing procedures relative to revocations of licenses. [By the terms of] KRS 243.490(1) [,] authorizes the [this] board to [may] revoke a license [issued to a licensee] for a violation of any [an] Act of Congress or any rule or regulation of any federal board, agency, or commission relating to alcoholic beverages. 7 U.S.C. 2012(k) and 7 U.S.C. 2013(a) prohibit [Since] [Federal law prohibits] [food stamp regulations prohibit] the sale of alcoholic beverages in exchange for SNAP benefits [food coupons]. This administrative regulation provides [states specifically] that any licensee [licensees] accepting SNAP benefits [food stamps] in exchange [return] for alcoholic beverages is [are] subject to having its alcoholic beverage license [license(s)] [their licenses] suspended or revoked.

Section 1. Prohibition Against Alcoholic Beverage Sales Using SNAP Benefits. A [No] licensee of the department [of Alcoholic Beverage Control of the Commonwealth of Kentucky] shall not accept United States Department of Agriculture Supplemental Nutrition [Needs] Assistance Program (["SNAP"/]) benefits

[U.S.D.A. food coupons (or any other food coupon)] in exchange for an alcoholic beverage [beverages of any kind, whether it be distilled spirit, wine, beer, near beer, or any other beverage containing alcohol in any amount].

CHRISTINE TROUT, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at 11 a.m.

CONTACT PERSON: Steve Humphress, General Counsel,
Department of Alcoholic Beverage Control, 1003 Twilight Trail,
Frankfort, Kentucky 40601, phone (502) 782-1026, fax (502) 564-
7479, email Steve.Humphress@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(As Amended at ARRS, April 11, 2017)

902 KAR 20:081. Operations and services; home health agencies.

RELATES TO: KRS 209.032, 216.935, 216.937, 216B.010-
216B.130, 216B.990, 311.840(3) [311.560(4)], 314.011(8),
314.042(8), 320.210(2), 45 C.F.R. Part 160, 164, 42 U.S.C. 1320d-
1320d-8

STATUTORY AUTHORITY: KRS 216B.042 (1) [216B.105]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1) requires [216B.042 and 216B.105 require] [that] the [Kentucky] Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient [regulate] health facilities and health services. This administrative regulation establishes the minimum [provides] licensure requirements for the operation of and services provided by home health agencies.

Section 1. Definitions. (1) "Coordination agreement [agreements]" means an agreement [agreements] to coordinate health care services within the service area of the agency.

(2) "Home health agency" is defined by KRS 216.935(2).

(3) "Home health aide" is defined by KRS 216.935(1) [means a person who provides personal care and other related health services, as ordered by the attending physician. (a) Selection of home health aides shall take into account the ability to:

1. Read and write;
2. Understand and carry out instructions;
3. Record messages; and
4. Keep simple records.

(b) Other factors to consider:

1. Emotional and mental maturity; and
2. Interest in and sympathetic attitude toward caring for the sick at home].

(4) [(3)] ["Intermittent nursing service" means skilled nursing care provided less than eight (8) hours each day and fewer than seven (7) days each week except in special circumstances] [service up to a few hours a day, one (1) day or several days per week or month. On occasion, service may be provided more frequently for more time per day up to seven (7) days per week].

(5) [(4)] "Medical social worker" means an individual who:

(a) [a person who] Has a baccalaureate degree in social work, psychology, sociology, or other field related to social work;

(b) [and] Has at least one (1) year of social work experience in a health care setting; and

(c) Is licensed by the Kentucky Board of Social Work. [Such person shall be appropriately licensed, if required, by the State Board of Examiners of Social Work of Kentucky.]

(5) [(6)] [(5)] "Occupational therapist" is defined by KRS 319A.010(3) [means a person who is registered by the American

Occupational Therapy Association or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and who is engaged in the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association].

(6) [(7)] [(6)] "Physical therapist" is defined by KRS 327.010(2) [means a person who is currently licensed by the Kentucky State Board of Physical Therapy].

(7) [(8)] [(7)] "Qualified medical social worker" means an individual who:

(a) [a person who] Has a master's degree from a school of social work accredited by the Council on Social Work Education;

(b) [and who] Has social work experience in a hospital, outpatient clinic, medical rehabilitation, medical care, or mental health program; and

(c) Is licensed by the Kentucky Board of Social Work. [Such person shall be appropriately licensed, if required, by the State Board of Examiners of Social Work of Kentucky.]

(8) [(9)] [(8)] "Speech-language pathologist" is defined by KRS 334A.020(3) [means a person who:

(a) Meets the education and experience requirements for a certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification].

Section 2. Scope. A home health agency shall provide part-time or [is a public agency or private organization, or a subdivision of such an agency or organization which provides] intermittent health and health related services[,] to a patient in his or her [patients in their] place of residence, either singly or in combination as required by a plan of care [treatment] prescribed by a licensed physician.

Section 3. Administration and Operation. (1) The licensee shall be legally responsible for:

(a) The operation of the home health agency; and

(b) [for] Compliance with federal, state, and local laws and regulations pertaining to the operation of the service.

(2) The licensee shall establish policies for the administration and operation of the service. The policies shall include the following:

(a) Acceptance of patients. The policy shall assure that the acceptance of patients is based on medical, nursing, and social information provided by the:

1. Physician [physicians] responsible for the patient's care;

2. [, by] Institutional personnel; and

3. [by] Staff of the home health agency.

(b) Establishment and review of the plan of care [treatment]. The policy shall assure that services and items [to be] provided are specified under a plan of care:

1. [treatment] Established, signed, and [regularly] reviewed by the physician who is responsible for the care of the patient; and

2. Developed by the physician and appropriate professional staff [or other personnel] acting within the limits of his or her [their] statutory scope of practice.

(3) Home health services shall be available to the total population regardless of age, sex, and ethnic background.

(4) (a) The status of each patient and the [total] plan of care shall be reviewed [by the attending physician, or other personnel acting within the limits of their statutory scope of practice, in consultation with agency professional personnel] at such intervals as the severity of the patient's illness requires[,] but no less frequently than [in any instance, at least once] every two (2) months, with a maximum of sixty (60) days, by home health agency staff and the physician.

(b) Verbal authorization to change the plan of care [treatment] shall be:

1. Put in writing, signed, and dated with the date of receipt by

the registered nurse or other appropriate professional staff responsible for furnishing or supervising the order services; and

2. [reviewed and] Signed by the physician within **thirty (30) [twenty-one (21)]** days after the verbal order is issued.

(5) Clinical records.

(a) The home health agency shall maintain a clinical record for each patient that:

1. [which] Covers the services the agency provides directly and those provided through arrangements with another agency; and

2. [which] Contains pertinent past and current medical, nursing, and social information, including the plan of care.

(b) Ownership.

1. Medical records shall be the property of the home health agency.

2. The original medical record shall not be removed except by court order.

3. Copies of medical records or portions thereof may be used and disclosed in accordance with the requirements established in this administrative regulation.

(c) Confidentiality and Security: Use and Disclosure.

1. The agency 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 home health agency may use and disclose clinical 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. **An agency may establish [This administrative regulation shall not be construed to forbid the agency from establishing] higher levels of confidentiality and security than those required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164 [treatment. All records must be confidential].**

(6) Original drug orders and changes in orders. The following shall be signed by the physician or other prescribing practitioner acting within the statutory scope of his or her license [ordering personnel acting within the limits of their statutory scope of practice] and incorporated in the patient record maintained by the agency:

(a) The original drug order [orders for drugs]; and

(b) Changes in orders for the administration of [these] drugs subject to federal and state controlled substance acts, and other legend drugs [i.e., requiring prescriptions].

(7) Verbal authorization for an original order for drugs or a change order [to change drug orders] shall be reviewed and signed by the same prescribing practitioner [ordering personnel] within **thirty (30) [twenty-one (21)]** days after the order is issued.

(8) [7] Evaluation.

(a) The agency shall have procedures that [which] provide for a systematic evaluation of the agency's [its] program at least once every two (2) years.

(b) The agency staff shall conduct the evaluation.

(c) The program evaluation shall include [:(a)] measures to determine whether the policies established are followed, including:

1. [in providing services. These shall include] A review of patient records on a sample basis [in order] to determine that services are being used appropriately and the extent to which the needs of the patients the agency serves are being met both quantitatively and qualitatively; and

2. [b)] A mechanism for reviewing overall management aspects of the agency's services [its service] to assure economy and efficiency of operations.

(9) [8] Planning. Each agency shall develop and annually review a long range plan which includes:

(a) Assessment of needs for services in the service area of the agency; [:]

(b) Identification of agency's role in meeting those needs; [:]

(c) Staff expansion for a two (2) year period; [:]

(d) Establishment of goals and objectives; and [:]

(e) Coordination of volunteer services, community education, and community development activities if these services are provided by the agency.

(10) [9] Subdivision operating as home health agency.

(a) If [When] a subdivision of an agency, including [e.g.,] the home care department of a hospital or the nursing division of a health department, [:] applies for a license, the subdivision shall:

1. [rather than the parent organization must] Be licensed as a home health agency; and

2. Maintain records of the subdivision's [in such a way that subdivision] activities, ensuring that [and] expenditures attributable to the services provided are identifiable.

(b) The parent organization shall determine who:

1. Signs each [the] coordination agreement [agreements] and other official documents; [:] and

2. Receives and disburses [receive and disburse] funds.

Section 4. Personnel; Supervision and Training. (1) Personnel policies. The agency shall have written policies available to staff concerning qualifications, responsibilities, and conditions of employment for each type of personnel (including whether licensure [where this] is required by state law). The policies shall [be written and available to staff and] cover:

(a) Wage scales, hours of work, vacation, and sick leave;

(b) [Preemployment criminal conviction information;

(c) A plan for a preemployment [and periodic] medical examination and follow-up medical examination no less than every three (3) years thereafter for agency staff who serve patients in their place of residence;

(c) Annual [:] tuberculin screening conducted pursuant to 902 KAR 20:205 [test and/or chest x-ray,] [and other appropriate tests];

(d) Plans for orientation and for on-the-job training [where necessary];

(e) Annual [Periodic] evaluation of employee performance; [and]

(f) Job descriptions for each category of health personnel which are specific to [and include] the type of activity each may carry out;

(g) Pre-employment abuse registry checks conducted pursuant to KRS 216.937 and KRS 209.032; and

(h) Pre-employment criminal background checks in which the agency shall not employ an individual in a position that involves providing direct services if the individual has been convicted of a:

1. Felony offense related to:

a. Theft;

b. Abuse, possession, or sale of illegal drugs;

c. Abuse, neglect, or exploitation of a child or an adult; or

d. A sexual crime; or

2. Misdemeanor offense related to abuse, neglect, or exploitation of an adult.

(2) Agency supervision. The home health agency shall designate a physician or registered nurse to supervise the agency's performance in providing home health services in accordance with the:

(a) Orders of the physician responsible for the care of the patient; and

(b) [under a] Plan of care [treatment] established by the [such] physician.

(3) Supervision of therapy services.

(a) If the [When] services of aides or other personnel providing supplementary services are utilized in providing home health services, the staff [they] shall be trained and supervised by a **qualified practitioner responsible for the delivery or supervision of services within the practitioner's scope of licensure [appropriate professional personnel].**

(b) If [When such] supervision is less than full-time, [e.g., for a limited number of hours or days each week,] the supervision shall:

1. Be provided on a planned basis; and

2. [shall be frequent enough to] Assure adequate review of each individual plan of care [treatment plans] and progress.

(4) Supervision of home health aides.

(a) A registered nurse shall provide direct supervision as described in this subsection [necessary] and be readily available at other times by telephone.

(b) The supervisor shall evaluate [be constantly evaluating] the home health aide closely to ensure the aide's competence in providing care, including the aide's ability to:

1. ~~[in terms of the aide's ability to]~~ Carry out assigned duties;
 2. ~~[, to]~~ Relate well to the patient~~;~~ and
 3. ~~[te]~~ Work effectively as a member of a team of health workers.
 (c) ~~If the patient receives skilled nursing care or another skilled service, the registered nurse~~;~~ or a qualified practitioner responsible for the delivery or supervision of services within the practitioner's scope of licensure/appropriate professional staff member~~;~~, if other services are provided,~~ shall make a supervisory visit to the patient's residence at least every two (2) weeks~~[either]~~ when the aide is;

1. Present to observe and assist~~;~~ or
2. ~~[when the aide is]~~ Absent to assess relationships and determine whether goals are being met.

(d) ~~If home health aide services are provided to a patient who is not receiving skilled nursing care or another skilled service, the registered nurse shall make a supervisory visit to the patient's residence at least every sixty (60) days and the supervisory visit shall occur while the home health aide is providing patient care.~~

(5) Training of home health aides. The home health agency shall ~~ensure[require]~~ that ~~each~~ home health aide successfully completes ~~an[the]~~ aide training and competency evaluation program, including training in ~~aides receive or have received a basic training program for home health aides. A home health aide shall be trained in:~~

- (a) Methods of assisting patients to achieve maximum self-reliance;
- (b) Principles of nutrition and meal preparation;
- (c) The aging process and the emotional problems of illness;
- (d) Procedures for maintaining a clean, healthful, and pleasant environment;
- (e) Awareness of changes in ~~the~~ patient's condition that should be reported;
- (f) Work of the agency and the health team; and
- (g) Ethics, confidentiality, and recordkeeping.

Section 5. Provision of Services. (1) The home health agency shall provide:

- (a) ~~Part-time or~~ intermittent skilled nursing services; and
- (b) Other services for restoring, maintaining, and promoting health ~~or[and/or]~~ rehabilitation with minimum disruption of daily living, including:
 1. At least one (1) other therapeutic service (physical, speech, or occupational therapy);
 2. Medical social services; or
 3. Home health aide services.

(2) ~~Services shall range from skilled nursing services to basic health related services to unskilled supportive services.~~

(3) ~~Services shall be available five (5) days a week with back-up arrangements for weekend and emergency services.~~

(3) ~~(4)~~ In addition to ~~the~~ ~~intermittent skilled nursing~~ services described in subsection (1) of this section, the agency ~~may~~ ~~[shall]~~ provide:

- (a) ~~home health aide services;~~ Medical supplies; or
- (b) ~~[and]~~ Equipment services.

(4) The following conditions shall be met for the provision of ~~[When a home health agency provides] therapeutic and medical social services~~;~~, the following conditions shall be met:~~

- (a) Physical, speech, or occupational therapy. ~~[When] An agency that provides or arranges for physical, speech, or occupational therapy directly or under a contractual arrangement shall provide the service~~;~~, shall be given~~ in accordance with a physician's written order~~[orders]~~ by or under the supervision of a therapist ~~defined by [meeting the respective qualifications as set forth in] Section 1(5), (6), or (8)(5); [(6), (7), or (9)] [and (8)] of this administrative regulation.~~
- (b) Respiratory therapy. ~~[When] An agency that provides or arranges for respiratory therapy directly or under a contractual arrangement shall provide the service~~;~~, services shall be given~~ in accordance with a physician's written order~~;~~ by or under the supervision of a licensed nurse with experience ~~and[and/or]~~ training in the field of respiratory therapy.
- (c) Medical social services. ~~[When] An agency that provides or arranges for medical social services directly or under a contractual arrangement shall provide the service~~;~~, services shall be given~~ in

accordance with a physician's written order by a ~~[qualified]~~ medical social worker or a qualified medical social worker as defined by Section 1(4) or (7)(5) or (8) ~~[meeting the qualifications set out in Section 2]~~ of this administrative regulation.

(5) Home health aide services. A visit by a ~~[Visits of the]~~ home health aide for the provision of ~~[providing]~~ personal care and other related health services shall ~~[must]~~ be:

- (a) Ordered by ~~a[the]~~ physician; and
- (b) Included in a plan of care ~~[treatment]~~ approved by the physician.

(6) Services arranged ~~[for]~~ with another ~~[licensed]~~ provider. ~~[When] A home health agency that makes arrangements for the provision of home health services by another agency shall establish [which is a licensed provider of services, there shall be] a written agreement that[which]:~~

- (a) ~~Identifies each service provided under the agreement;~~
- (b) ~~Ensures that the~~ ~~[Designates the services which are being arranged for.] services shall be provided~~ ~~[are to be]~~ within the scope and limitations set forth in the plan of care;
- (c) ~~Allows for~~ ~~[treatment. Such] services to~~ ~~[may]~~ be altered only upon the specific order~~[orders]~~ of the initiating home health agency ~~[issued] as the[a] result of a change made by the physician in the patient's plan of care~~ ~~[treatment];~~

- (d) ~~[(b)] Describes how the contracted personnel shall~~;~~, where applicable, are to be supervised;~~
- (e) ~~Requires contract personnel to record~~ ~~[and (c) Provides for the recording of the] progress notes and observations~~ ~~[of the contracted personnel] in the home health agency records for purposes of planning and evaluating patient care;~~
- (f) ~~Assures that the contract agency's staff and services meet the requirements established in this administrative regulation for personnel qualifications, functions, supervision, orientation, and training; and~~
- (g) ~~Specifies the period of time the written agreement shall be in effect and how frequently the agreement shall be reviewed.~~

(7) ~~Services arranged for with a nonlicensed provider. When a home health agency arranges for services with an agency that is not a licensed provider of services, a contract shall be written. The contract shall:~~

- (a) ~~Designate the services which are being arranged;~~
- (b) ~~Specify the period of time the contract is to be in effect and how frequently it is to be reviewed;~~
- (c) ~~Describe how the contracted personnel are to be supervised;~~
- (d) ~~State that home health services provided to the patient are in accordance with a plan established by the patient's physician in conjunction with home health agency staff and, when appropriate, others involved in the patient's care. Services provided shall be within the scope and limitations set forth in the plan and shall not be altered in type, scope, or duration by the secondary agency; and~~
- (e) ~~Assure that personnel and services contracted for meet the same requirements as those specified for home health agency personnel and services, including personnel qualifications, functions, supervision, orientation, basic training program for home health aides, and in-service training.~~

(8) Service agreements with other health care facilities. A home health agency shall establish a coordination agreement defined by Section 1(1) ~~[agreements as defined in Section 2] of this administrative regulation~~ ~~[shall be developed]~~ with ~~[the major]~~ health care providers in the agency's service area including ~~;~~ hospitals and long-term care facilities~~;~~ skilled, intermediate and personal care facilities and family care homes].

ROBERT S. SILVERTHORN, JR., Inspector General
 VICKIE YATES BROWN GLISSON, Secretary
 APPROVED BY AGENCY: March 14, 2017
 FILED WITH LRC: March 14, 2017 at 3 p.m.
 CONTACT PERSON: Tricia Orme, Administrative Specialist,
 Office of Legal Services, 275 East Main Street 5 W-B, Frankfort,
 Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email
 tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Community Alternatives
(As Amended at ARRS, April 11, 2017)

907 KAR 15:005. Definitions for 907 KAR Chapter 15.

RELATES TO: KRS 194A.025(3), 205.510(11), 205.8451, 309.080, 309.130(2), (3), 311.840(3), 314.011(5), (7), 319.053, 319.056, 319.064, 319C.010(6), (7), 335.080, 335.100, 335.300(2), (3), 335.500(3), (4), 42 C.F.R. 400.203, 438.2, 441.540, 29 U.S.C. 794

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 205.6311, 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the definitions for 907 KAR Chapter 15.

Section 1. Definitions. (1) "Adult peer support specialist" means an individual who meets the requirements for an adult peer support specialist established in 908 KAR 2:220.

(2) "Advanced practice registered nurse" or "APRN" is defined by KRS 314.011(7).

(3)[(2)] "Approved behavioral health services provider" means a practitioner who[provider that] is:

- (a) A physician; (b) A psychiatrist;
- (c) An advanced practice registered nurse;
- (d) A physician assistant;
- (e) A licensed psychologist;
- (f) A licensed psychological practitioner;
- (g) A certified psychologist with autonomous functioning;
- (h) A licensed clinical social worker;
- (i)[(h)] A licensed professional clinical counselor;
- (j)[(i)] A licensed marriage and family therapist;
- (k)[(j)] A licensed psychological associate working under the supervision of a board-approved licensed psychologist[who is a billing supervisor];

(l) A certified psychologist working under the supervision of a board-approved licensed psychologist[who is a billing supervisor];

(m)[(k)] A marriage and family therapy associate working under the supervision of a billing supervisor;

(n)[(l)] A certified social worker working under the supervision of a billing supervisor;

(o)[(m)] A licensed professional counselor associate working under the supervision of a billing supervisor;

(p)[(n)] A licensed professional art therapist;[or]

(q)[(o)] A licensed professional art therapist associate working under the supervision of a billing supervisor;

(r) A licensed clinical alcohol and drug counselor;

(s) A licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor;[or]

(t) A certified alcohol and drug counselor working under the supervision of a billing supervisor;

(u) A licensed behavior analyst; or

(v) A licensed assistant behavior analyst working under the supervision of a billing supervisor.

(4)[(3)] "Behavioral health multi-specialty group[practitioner]" means a group of more than one (1) individually licensed behavioral health practitioners of varying practitioner types who form a business entity to:

- (a) Render health services; and
- (b) Bill the Medicaid Program for services rendered to Medicaid recipients[An approved behavioral health services provider; or
- (b) A certified alcohol and drug counselor].

(5)[(4)] "Behavioral health practitioner under supervision" means an individual who is:

- (a)1. A licensed psychological associate[working under the

supervision of a board-approved licensed psychologist who is a billing supervisor];

2. A licensed professional counselor associate;

3. A licensed clinical alcohol and drug counselor associate;

4. A certified social worker;

5.[4.] A marriage and family therapy associate;

6.[5.] A licensed professional art therapist associate;

7.[6.] A licensed assistant behavior analyst;

8.[7.] [A physician assistant;][or]

[9.] A certified psychologist[working under the supervision of a board-approved licensed psychologist who is a billing supervisor]; or

9.[10.]8.] A certified alcohol and drug counselor; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(6) "Behavioral health provider group" means a group of more than one (1) individually licensed behavioral health practitioners of the same practitioner type who form a business entity to:

(a) Render health services; and

(b) Bill the Medicaid Program for services rendered to Medicaid recipients.

(7)[(5)] "Behavioral health services organization" means an entity that is licensed as a behavioral health services organization pursuant to 902 KAR 20:430.

(8)[(6)] "Billing provider" means the individual who, group of individual providers that, or organization that:

(a) Is authorized to bill the department or a managed care organization for a service; and

(b) Is eligible to be reimbursed by the department or a managed care organization for a service.

(9)[(7)] "Billing supervisor" means an individual who is:

- 1. A physician;
- 2. A psychiatrist;
- 3. An advanced practice registered nurse;
- 4. A licensed clinical alcohol and drug counselor;
- 5. A licensed psychologist;
- 6.[5.] A licensed clinical social worker;
- 7.[6.] A licensed professional clinical counselor;
- 8.[7.] A licensed psychological practitioner;
- 9. A certified psychologist with autonomous functioning;
- 10.[8.] A licensed marriage and family therapist;
- 11.[9.] A licensed professional art therapist; or
- 12.[10.] A licensed behavior analyst; and

(b) Employed by or under contract with the same billing provider as the behavioral health practitioner under supervision who renders services under the supervision of the billing supervisor.

(10)[(8)] "Certified alcohol and drug counselor" is defined by KRS 309.080(2)[means an individual who meets the requirements established in KRS 309.083]. [(10) "Certified prevention specialist" means an individual who is currently certified as a certified prevention specialist by the Kentucky Certification Board for Prevention Professionals.]

(11) "Certified psychologist" means an individual who is a certified psychologist pursuant to KRS 319.056.

(12) "Certified psychologist with autonomous functioning" means an individual who is a certified psychologist with autonomous functioning pursuant to KRS 319.056.

(13)[(9)] "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

(14) "Chemical dependency treatment center" means an entity that is licensed as a chemical dependency treatment center pursuant to 902 KAR 20:160[10:160].

(15)[(10)] "Community support associate" means a paraprofessional who meets the application, training, and supervision requirements of 908 KAR 2:250.

(16)[(11)] "Department" means the Department for Medicaid Services or its designee.

(17)[(12)] "Electronic signature" is defined by KRS 369.102(8).

(18)[(13)] "Enrollee" means a recipient who is enrolled with a managed care organization.

(19)[(14)] "Face-to-face" means occurring:

- (a) In person; or

(b) If authorized by 907 KAR 3:170, via a real-time, electronic communication that involves two (2) way interactive video and audio communication.

~~(20)(15)~~ "Family peer support specialist" means an individual who meets the requirements for a Kentucky family peer support specialist established in 908 KAR 2:230.

~~(21)(16)~~ "Federal financial participation" is defined by 42 C.F.R. 400.203.

~~(22)(17)~~ "Healthcare common procedure coding system" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

~~(23)~~ **"Kentucky-specific Medicare Physician Fee Schedule" means the list of current reimbursement rates for physician services established by the department in accordance with 907 KAR 3:010, Section 3.**

~~(24)~~ "Level I psychiatric residential treatment facility" means an entity that is licensed as a Level I psychiatric residential treatment facility pursuant to 902 KAR 20:320.

~~(25)(24)~~ "Level II psychiatric residential treatment facility" means an entity that is licensed as a Level II psychiatric residential treatment facility pursuant to 902 KAR 20:320.

~~(26)(25)~~ "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).

~~(27)(26)~~ "Licensed behavior analyst" is defined by KRS 319C.010(6).

~~(28)(27)~~ "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

~~(29)(28)~~ "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

~~(30)(29)~~ "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

~~(31)(30)~~ "Licensed marriage and family therapist" is defined by KRS 335.300(2).

~~(32)(31)~~ "Licensed professional art therapist" is defined by KRS 309.130(2).

~~(33)(32)~~ "Licensed professional art therapist associate" is defined by KRS 309.130(3).

~~(34)(33)~~ "Licensed professional clinical counselor" is defined by KRS 335.500(3).

~~(35)(34)~~ "Licensed professional counselor associate" is defined by KRS 335.500(4).

~~(36)(35)~~ "Licensed psychological associate" means an individual who **meets the requirements established in KRS 319.064:**

~~(a)1. Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and~~

~~2. Meets the licensed psychological associate requirements established in 201 KAR Chapter 26; or~~

~~(b) Is a certified psychologist].~~

~~(37)(36)~~ "Licensed psychological practitioner" means an individual who [:

~~(a)] meets the requirements established in KRS 319.053[;]; or~~

~~(b) Is a certified psychologist with autonomous functioning].~~

~~(38)(37)~~ "Licensed psychologist" means an individual who [:

~~(a)] currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and~~

~~(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26].~~

~~(39)(38)~~ "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by [in] 42 C.F.R. 438.2.

~~(40)(39)~~ "Marriage and family therapy associate" is defined by KRS 335.300(3).

~~(41)(40)~~ "Medicaid-covered service" means a service covered by the department as established in Title 907 of the Kentucky Administrative Regulations.

~~(42)(41)~~ "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

~~[(42)](32)~~ "Peer support specialist" means an individual who meets the peer specialist qualifications established in 908 KAR 2:220.

~~(33)] ["Person-centered service plan" means a plan of services for a recipient that meets the requirements established in 42 C.F.R. 441.540.]~~

~~(43)(34)~~ "Physician" is defined by KRS 205.510(11).

~~(44)(35)~~ "Physician assistant" is defined by KRS 311.840(3).

~~(45)(36)~~ "Provider" is defined by KRS 205.8451(7).

~~(46)(37)~~ "Provider abuse" is defined by KRS 205.8451(8).

~~(47)~~ "Psychiatric hospital" means an entity licensed as a psychiatric hospital pursuant to 902 KAR 20:180.

~~(48)(38)~~ "Provider group" means a group of more than one (1) individually licensed practitioners who form a business entity to:

~~(a) Render health services; and~~

~~(b) Bill the Medicaid Program for services rendered to Medicaid recipients.~~

~~(39)] "Recipient" is defined by KRS 205.8451(9).~~

~~(49)(40)] "Recipient abuse" is defined by KRS 205.8451(10).~~

~~(50)~~ "Recipient's representative" means:

~~(a) For a recipient who is authorized by Kentucky law to provide written consent, an individual acting on behalf of, and with written consent from, the recipient; or~~

~~(b) A legal guardian.~~

~~(51)~~ "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(8).

~~(52)(41)] "Registered nurse" is defined by KRS 314.011(5).~~

~~(53)(42)] "Residential crisis stabilization unit" means an entity that is licensed as a residential crisis stabilization unit pursuant to 902 KAR 20:440.~~

~~(54)(43)] "Section 504 plan" means a plan developed;~~

~~(a) Under the auspices of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (Section 504); and~~

~~(b) To ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives accommodations to ensure the child's academic success and access to the learning environment.~~

~~(55)(44)] "Youth peer support specialist" means an individual who meets the requirements established for a Kentucky youth peer support specialist established in 908 KAR 2:240.~~

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at 10 a.m.

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

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Community Alternatives

(As Amended at ARRS, April 11, 2017)

907 KAR 15:010. Coverage provisions and requirements regarding behavioral health services provided by individual behavioral health [independent] providers, behavioral health provider groups, and behavioral health multi-specialty groups.

RELATES TO: KRS 205.520, **Chapter 319, 369.101-369.120, 42 C.F.R. Part 2, 431.17, 45 C.F.R. Parts 160, 164, 20 U.S.C. 1400 et seq., 29 U.S.C. 701 et seq., 42 U.S.C. 290ee-3, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), 12101 et seq., 1320d-2-1320d-8**

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6311

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This

administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program behavioral health services provided by certain licensed individual behavioral health professionals who are independently enrolled in the Medicaid Program, ~~for~~ practitioners working for or under the supervision of the individual behavioral health~~independent~~ providers, **and** individual behavioral health professionals~~;~~ and practitioners under supervision working in behavioral health provider groups or in behavioral health multi-specialty groups.

Section 1. General Coverage Requirements. (1) For the department to reimburse for a service covered under this administrative regulation, the service shall~~be~~:

(a) Be medically necessary;
(b) Meet the coverage requirements established in Section 3 of this administrative regulation;

(c) Be provided to a recipient by:

1. An individual behavioral health provider who:

a. Is enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;

b. Except as established in Section 2(1) of this administrative regulation, currently participates in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; and

c. Is:

(i) A physician;

(ii) A psychiatrist;

(iii) An advanced practice registered nurse;

(iv) A physician assistant;

(v) A licensed psychologist;

(vi) A licensed psychological practitioner;

(vii) A certified psychologist with autonomous functioning;

(viii) A licensed clinical social worker;

(ix) A licensed professional clinical counselor;

(x) A licensed marriage and family therapist;

(xi) A licensed professional art therapist; ~~or~~

(xii) A licensed clinical alcohol and drug counselor; **or**

(xiii) A licensed behavior analyst;~~;~~

2. Any of the individual behavioral health professionals listed in subparagraph 1.c. of this paragraph who is working for:

a. A behavioral health provider group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

b. A behavioral health multi-specialty group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

3. A behavioral health practitioner under supervision working for:

a. An individual behavioral health professional listed in subparagraph 1.c. of this paragraph who is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

b. A behavioral health provider group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

c. A behavioral health multi-specialty group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

4. A certified psychologist working under the supervision of a

board-approved licensed psychologist who is:

a.(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

b. Working for a behavioral health provider group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

c. Working for a behavioral health multi-specialty group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

5. An adult peer support specialist, family peer support specialist, youth peer support specialist, **community support associate,** or registered alcohol and drug peer support specialist working for:

a. Any of the individual behavioral health professionals listed in subparagraph 1.c. of this paragraph who is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671;

b. A behavioral health provider group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671; or

c. A behavioral health multi-specialty group that is:

(i) Currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(ii) Except as established in Section 2(1) of this administrative regulation, currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671~~(b)~~ Provided:

1. To a recipient; and

2. By a:

a. Provider who meets the provider participation requirements established in Section 2 of this administrative regulation; or

b. Practitioner working under the supervision of a provider who meets the provider participation requirements established in Section 2 of this administrative regulation; and

(d) Be~~(e)~~ billed to the department by the:

1. Individual~~Billing~~ provider who provided the service or under whose supervision the service was rendered~~provided by an authorized practitioner~~ in accordance with Section 3 of this administrative regulation;

2. Behavioral health provider group on behalf of which the service was rendered in accordance with Section 3 of this administrative regulation; or

3. Behavioral health multi-specialty group on behalf of which the service was rendered in accordance with Section 3 of this administrative regulation.

(2)(a) Face-to-face~~Direct~~ contact between a provider or practitioner and a recipient shall be required for each service except for:

1. Collateral outpatient therapy for a child under the age of twenty-one (21) years if the collateral outpatient therapy is in the child's plan of care;

2. A family outpatient therapy service in which the corresponding current procedural terminology code establishes that the recipient is not present;

3. A psychological testing service comprised of interpreting or explaining results of an examination or data to family members or others in which **the** corresponding current procedural terminology code establishes that the recipient is not present; or

4. A service planning activity in which the corresponding

current procedural terminology code establishes that the recipient is not present[a collateral service for a child under the age of twenty-one (21) years if the collateral service is in the child's plan of care].

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(3) A billable unit of service shall be actual time spent delivering a service in a face-to-face encounter.

(4) A service shall be:

(a) Stated in a recipient's[treatment] plan of care; and

(b) Provided in accordance with a recipient's[treatment] plan of care[; and

(c) Provided on a regularly scheduled basis except for a screening, assessment, or crisis intervention].

(5) A provider shall establish a plan of care for each recipient receiving services from the provider.

Section 2. Provider Participation. (1)[To be eligible to provide services under this administrative regulation, a provider shall:

(a) Be currently enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672; and

(b) Except as established in subsection (2) of this section, be currently participating in the Kentucky Medicaid Program in accordance with 907 KAR 1:671.

(2)[(3)] In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)[(3)] A provider shall:

(a) Agree to provide services in compliance with federal and state laws regardless of age, sex, race, creed, religion, national origin, handicap, or disability; and

(b) Comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments to the Act.

Section 3. Covered Services. (1) Except as specified in the requirements stated for a given service, the services covered may be provided for a:

(a) Mental health disorder;

(b) Substance use disorder; or

(c) Co-occurring mental health and substance use disorders.

(2) The following services shall be covered under this administrative regulation in accordance with the[corresponding following] requirements established in this section[of this administrative regulation]:

(a) A screening provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10.**[9.] A certified psychologist with autonomous functioning;**

11.**[10.] A licensed clinical and alcohol drug counselor; [or]**

12.**[11.] A licensed professional art therapist; or**

13.**[12.] A behavioral health practitioner under supervision except for a licensed assistant behavior analyst[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;**

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist; or

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service];

(b) An assessment provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10.**[9.] A certified psychologist with autonomous functioning[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];**

11.**[10.] A licensed[professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;**

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist;

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

16. A licensed behavior analyst;

12.**[11.] [or 17.] A licensed clinical alcohol and drug counselor;**

[or]

13.**[12.] A licensed professional art therapist; or**

14.**[13.] A behavioral health practitioner under[licensed assistant behavior analyst working under the] supervision[of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service];**

(c) Psychological testing provided by:

1. A licensed psychologist;

2. A licensed psychological practitioner;[or]

3. A licensed psychological associate[**working under the supervision of a board-approved licensed psychologist who is a]**[if the licensed psychologist is the]**[billing supervisor]**[provider for the service];

4. A certified psychologist with autonomous functioning; or

5. A certified psychologist**[working under the supervision of a board-approved licensed psychologist who is a billing supervisor];**

(d)[Crisis intervention provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the

service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist; or

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

(e)] Service planning provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10. 9.] A certified psychologist with autonomous functioning;

11. 10.] A licensed[psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed] professional art therapist;

12. 14.] 15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

16.] A licensed behavior analyst; or

13. 12.] A behavioral health practitioner[17. A licensed assistant behavior analyst working] under[the] supervision except for a:

a. Certified alcohol and drug counselor; or

b. Licensed clinical alcohol and drug counselor associate[of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service];

(e)](f)] Individual outpatient therapy, group outpatient therapy, collateral outpatient therapy, or crisis intervention services provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10. 9.] A certified psychologist with autonomous functioning[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];

11. 10.] A licensed[professional counselor associate working under the supervision of a licensed professional clinical counselor

if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed] professional art therapist;

12. 14.] 15.] A licensed[professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

16. A licensed] behavior analyst;

13. 12.] A licensed clinical alcohol and drug counselor; or

14. 13.] A behavioral health practitioner[17. A licensed assistant behavior analyst working] under[the] supervision[of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service];

(f)](g)] Family outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10. 9.] A certified psychologist with autonomous functioning[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];

11. 10.] A licensed professional[counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional] art therapist; **or]**

12. 14.] A licensed clinical alcohol and drug counselor; or 13. 12.] or 15.] A behavioral health practitioner[licensed professional art therapist associate working] under[the] supervision except for a licensed assistant behavior analyst[of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service];

(g)](h)] Group outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a

licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist;

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

16. A licensed behavior analyst; or

17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service;

(i) Collateral outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist;

15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

16. A licensed behavior analyst; or

17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service;

(j) A screening, brief intervention, and referral to treatment for a substance use disorder or SBIRT provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10.[9.] A certified psychologist with autonomous functioning[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];

11.[10.] A licensed professional[counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist;

12.[11.] A licensed clinical alcohol and drug counselor; or

13.[12.] A behavioral health practitioner[or 15. A licensed professional art therapist associate working] under[the] supervision except for[of] a licensed assistant behavior analyst[licensed professional art therapist if the licensed professional art therapist is the billing provider for the service];

(h)[(k)] Day treatment provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10.[9.] A certified psychologist with autonomous functioning[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];

11.[10.] A licensed professional[counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist;

12.[11.] A licensed behavior analyst;

13.[12.] A behavioral health practitioner[or

15. A licensed professional art therapist associate working] under[the] supervision[of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service];

14.[13.] An adult peer support specialist, family peer support specialist, or youth peer support specialist working under the supervision of an approved behavioral health services provider;
[or]

15.[14.] A registered alcohol and drug peer support specialist working under the supervision of an approved behavioral health services provider; or

16.[15.] A licensed clinical alcohol and drug counselor;

(i)[(h)] Comprehensive community support services provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

10.[9.] A certified psychologist with autonomous functioning[licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];

11.[10.] A licensed professional[counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];

for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. A licensed professional art therapist;

~~12.[14.]~~ 15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service;

16.] A licensed behavior analyst; or

~~13.[12.]~~ or

17.] A behavioral health practitioner [licensed assistant behavior analyst working] under [the] supervision except for [of] a;

a. Certified alcohol and drug counselor [licensed behavior analyst if the licensed behavior analyst is the billing provider for the service]; or

b. Licensed clinical alcohol and drug counselor associate; ~~[or~~

13. A community support associate;]

~~(j)[(m)]~~ Peer support, except as established in subsection (3)(a) of this section, provided by:

1. An adult [A] peer support specialist working under the supervision of an approved behavioral health service provider; or

2. A youth peer support specialist working under the supervision of an approved behavioral health service provider;

3. A family peer support specialist working under the supervision of an approved behavioral health services provider; or

4. A registered alcohol and drug peer support specialist working under the supervision of an approved behavioral health services provider;

~~(k)[(n)]~~ Parent or family peer support provided by a family peer support specialist working under the supervision of an approved behavioral health service provider;

~~(o)]~~ Intensive outpatient program services, except as established in subsection (3)(b) of this section, provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

~~10.[9.]~~ A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13.] A behavioral health practitioner [physician assistant working] under [the] supervision, except for a licensed assistant behavioral analyst [of a physician if the physician is the billing provider for the service]; or

~~11.[10.]~~ 14.] A licensed professional art therapist; or

15. A licensed professional art therapist associate; or

12.[11.] A licensed clinical alcohol and drug counselor; or

~~(l)[(p)]~~ Therapeutic rehabilitation program services provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. **A physician assistant;**

9. A licensed psychological practitioner;

~~10.[9.]~~ A certified psychologist with autonomous functioning [licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service];

~~11.[10.]~~ A licensed professional [counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service

14. A licensed professional art therapist;

~~12.[11.]~~ or

15.] A behavioral health practitioner [licensed professional art therapist associate working] under [the] supervision except for [of] a;

a. Certified alcohol and drug counselor;

b. Licensed clinical alcohol and drug counselor associate; or

c. Licensed assistant behavior analyst; or

13.[12.] An adult peer support specialist, family peer support specialist, or youth peer support specialist working under the supervision of an approved behavioral health services provider [licensed professional art therapist if the licensed professional art therapist is the billing provider for the service].

(3)(a) Peer support shall only be covered if provided by a behavioral health:

1. Provider group; or

2. Multi-specialty group.

(b) Intensive outpatient program services shall only be covered if provided by a behavioral health:

1. Provider group; or

2. Multi-specialty group.

(4)(a) A screening shall:

1. Determine [Be the determination of] the likelihood that an individual has a mental health disorder, substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder; and

3. Establish the need for an in-depth assessment.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the provider to:

a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;

b. Determine the individual's readiness for change;

c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the individual to develop a treatment and service plan; and

4. Not include psychological or psychiatric evaluations or assessments.

(c) Psychological testing shall:

1. Include:

a. [1.] A psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities; and

b. [2.] Interpretation and a written report of testing results; and

2. Be performed by an individual who has met the requirements of KRS Chapter 319 related to the necessary

credentials to perform psychological testing.

(d) Crisis intervention:

1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:

- a. The recipient; or
- b. Another individual;

2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for individuals;

3. Shall be provided:

- a. On-site at the provider's office;
- b. As an immediate relief to the presenting problem or threat;

and

c. In a face-to-face, one-on-one encounter between the provider and the recipient;

4. 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;

and

5. Shall be followed by a referral to noncrisis services if applicable.

(e)1. Service planning shall[involve]:

a. Involve assisting a recipient in creating an individualized plan for services needed for maximum reduction of a mental health disorder[an intellectual disability];[and]

b. Involve restoring a recipient's functional level to the recipient's best possible functional level; and

c. Be performed using a person-centered planning process.

2. A service plan:

a. Shall be directed by the recipient;[and]

b. Shall include practitioners of the recipient's choosing; and

c. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

(f) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and well-being[wellbeing] of the recipient[individual]; and[or]

b. Recipient's recovery from a substance use[related] disorder, mental health disorder, or co-occurring mental health and substance use disorders;

2. Consist of:

a. A face-to-face, one-on-one encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified[treatment] plan of care;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functioning; and

4. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

(g)1. Family outpatient therapy shall consist of a face-to-face behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals (including multiple members from one (1) family) who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and wellbeing of the recipient[individual]; and[or]

(ii) Recipient's recovery from a substance use disorder, mental health disorder, or co-occurring related disorders; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per individual unless additional time is medically necessary.

(h)1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and well-being[wellbeing] of the recipient[individual]; and[or]

(ii) Recipient's recovery from a substance use[related] disorder, mental health disorder, or co-occurring mental health and substance use disorders;

c.[b.] Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified[treatment] plan of care;

d.[c.] Be provided to a recipient in a group setting:

(i) Of nonrelated individuals except for multi-family group therapy; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f.[d.] Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g.[e.] Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h.[f.] Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. The group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of group outpatient therapy shall be related to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

(i)1. Collateral outpatient therapy shall:

a. Consist of a face-to-face behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's[treatment] plan of care; and

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age; and

c. Not exceed three (3) hours per day per individual unless additional time is medically necessary.

2. Consent to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

(j) Screening, brief intervention, and referral to treatment for a substance use disorder shall:

1. Be an evidence-based early intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment; and

2. Consist of:

a. Using a standardized screening tool to assess an individual for risky substance use behavior;

b. Engaging a recipient[.] who demonstrates risky substance use behavior[.] in a short conversation and providing feedback and advice to the recipient; and

c. Referring a recipient to[:

(i) Therapy; or

(ii) Other] additional mental health disorder, substance use disorder, or co-occurring disorders services[te address substance use] if the recipient is determined to need other additional services to address the recipient's substance use.

(k) 1. Day treatment shall be a nonresidential, intensive treatment program designed for a child under the age of twenty-

one (21) years who has:

a. ~~A mental health disorder, [An emotional disability or neurobiological or] substance use disorder, or co-occurring mental health and substance use disorders;~~ and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment[~~services~~] shall:

a. Consist of an organized, behavioral health program of treatment and rehabilitative services[~~(substance use disorder, mental health, or co-occurring mental health and substance use disorder)~~];

b. ~~[Have unified policies and procedures that:~~

(i) ~~Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and~~

(ii) ~~Have been approved by the recipient's local education authority and the day treatment provider;~~

c. ~~Include:~~

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social ~~skills[skill]~~ training;

(iii) Independent living skills that correlate to the age and development stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

c. ~~[d.] Be provided:~~

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled breaks;

(iii) In coordination with the recipient's individual educational plan if the recipient has an individual educational plan;

(iv) Under the supervision of an approved behavioral health services provider; and

(v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, a provider shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with this section and to coordinate the provision of services among team members; and

b. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education plan.

(l) 1. Comprehensive community support services shall:

a. Be activities necessary to allow an individual to live with maximum independence in the community;

b. Be intended to ensure successful community living through the utilization of skills training[, cueing, or supervision] as identified in the recipient's[treatment] plan of care; and

c. Consist of using a variety of psychiatric or behavioral rehabilitation techniques to[include]:

(i) ~~Improve[Reminding a recipient to take medications and monitoring symptoms and side effects of medications;~~

(ii) ~~Teaching parenting skills;~~

(iii) ~~Teaching community resource access and utilization;~~

(iv) ~~Teaching] emotional regulation skills;~~

(ii) ~~Improve[+ Teaching] crisis coping skills;~~

(iii) ~~Develop and enhance[+ Teaching how to shop;~~

(vii) ~~Teaching about transportation;~~

(viii) ~~Teaching financial management;~~

(ix) ~~Developing and enhancing] interpersonal skills;~~

(iv) ~~Improve[or~~

(x) ~~Improving] daily living skills; and~~

(v) ~~Improve self-monitoring of symptoms and side effects.~~

2. To provide comprehensive community support services, a provider shall:

a. Have the capacity to employ staff authorized pursuant to 908 KAR 2:250 to provide comprehensive community support services in accordance with subsection (2)(i)[(2)(m)] of this section and to coordinate the provision of services among team members;

and

b. Meet the requirements for comprehensive community support services established in 908 KAR 2:250.

(m) 1. Peer support services shall:

a. Be[~~social and~~] emotional support that is provided by;

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220[is employed by a provider group] and who is experiencing or has experienced a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders[disorder] to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders[disorder] in order to bring about a desired social or personal change;

(ii) A parent who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders to a parent or family member of a child sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;

(iii) A family member who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders to a parent or family member of a child sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change; or

(iv) A registered alcohol and drug peer support specialist who is experiencing or has experienced a substance use disorder to a recipient by sharing a similar substance use disorder in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled nonclinical therapeutic activities with an individual recipient or a group of recipients;

d. ~~Be provided by a self-identified consumer who has been trained and certified in accordance with 908 KAR 2:220 or 908 KAR 2:240;~~

e. ~~Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;[and]~~

e. Be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

f. Be identified in each recipient's[treatment] plan of care; and

g. Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's plan of care.

2. To provide peer support services, a provider shall:

a. Have demonstrated;

(i) The capacity to provide[the core elements of] peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

b. Employ;

(i) Adult peer support specialists, family peer support specialists, or youth peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240; or

(ii) Registered alcohol and drug peer support specialists; and

c. Use an approved behavioral health services provider to supervise adult peer support specialists, family peer support specialists, or youth peer support specialists.

(n) 1. ~~[Parent or family peer support services shall:~~

a. ~~Be emotional support that is provided by a parent or family member, who is employed by a provider group, of a child who has experienced a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder to a parent or family member with a child sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change;~~

- b. Be an evidence-based practice;
 - c. Be structured and scheduled nonclinical therapeutic activities with an individual recipient or a group of recipients;
 - d. Be provided by a self-identified parent or family member of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services who has been trained and certified in accordance with 908 KAR 2:230;
 - e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient; and
 - f. Be identified in each recipient's treatment plan.
2. To provide parent or family peer support services a provider shall:
- a. Have demonstrated the capacity to provide the core elements of parent or family peer support services for the behavioral health population being served including the age range of the population being served;
 - b. Employ family peer support specialists who are qualified to provide family peer support services in accordance with 908 KAR 2:230; and
 - c. Use an approved behavioral health services provider to supervise family peer support specialists.
- (o)1. Intensive outpatient program services shall:
- a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health or substance use disorder;
 - b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;
 - c. Be provided at least three (3) hours per day at least three (3) days per week; and
 - d. Include:
 - (i) Individual outpatient therapy;
 - (ii) Group outpatient therapy;
 - (iii) Family outpatient therapy unless contraindicated;
 - (iv) Crisis intervention; or
 - (v) Psycho-education.
2. During psycho-education the recipient or recipient's family member shall be:
- a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and
 - b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.
3. An intensive outpatient program services treatment plan shall:
- a. Be individualized; and
 - b. Focus on stabilization and transition to a lesser level of care.
4. To provide intensive outpatient program services, a provider shall:
- a. Be employed by a **behavioral health multi-specialty group or behavioral health** provider group; and
 - b. Have:
 - (i) Access to a board-certified or board-eligible psychiatrist for consultation;
 - (ii) Access to a psychiatrist, other physician, or advanced practice registered nurse for medication management;
 - (iii) **Adequate staffing to ensure a minimum recipient-to-staff ratio of fifteen (15) recipients to one (1) staff person;**
 - (iv) The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;
 - (v) **The capacity to employ staff authorized to provide intensive outpatient program services in accordance with this section and to coordinate the provision of services among team members;**
 - (vi) **The capacity to provide the full range of intensive outpatient program services as stated in this paragraph;**
 - (vii) **Demonstrated experience in serving individuals with behavioral health disorders;**
 - (viii) **The administrative capacity to ensure quality of**

services;

(viii)(ix) A financial management system that provides documentation of services and costs; and

(ix)(x) The capacity to document and maintain individual case records.

5. Intensive outpatient program services shall be provided in a setting with a minimum recipient-to-staff ratio of ten (10) to one (1).

(o)1.(p)1.-A Therapeutic rehabilitation program services shall be:

- a. A rehabilitative service for an:
 - (i) Adult with a severe[serious] mental illness; or
 - (ii) Individual under the age of twenty-one (21) years who has a severe[serious] emotional disability; and
 - b. Designed to maximize the reduction of a mental health disorder[an intellectual disability] and the restoration of the individual's functional level to the individual's best possible functional level.
2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilitation goals within the[person-centered service] plan of care.
3. A therapeutic rehabilitation program shall:
- a. Be delivered using a variety of psychiatric rehabilitation techniques;
 - b. Focus on:
 - (i) Improving daily living skills;
 - (ii) Self-monitoring of symptoms and side effects;
 - (iii) Emotional regulation skills;
 - (iv) Crisis coping skills[skill]; and
 - (v) Interpersonal skills; and
 - c. Be delivered individually or in a group. [(4)(a) The following requirements shall apply to any provider of a service to a recipient for a substance use disorder or co-occurring mental health disorder and substance use disorder:
 - 1. The licensing requirements established in 908 KAR 1:370;
 - 2. The physical plant requirements established in 908 KAR 1:370;
 - 3. The organization and administration requirements established in 908 KAR 1:370;
 - 4. The personnel policy requirements established in 908 KAR 1:370;
 - 5. The quality assurance requirements established in 908 KAR 1:370;
 - 6. The clinical staff requirements established in 908 KAR 1:370;
 - 7. The program operational requirements established in 908 KAR 1:370; and
 - 8. The outpatient program requirements established in 908 KAR 1:370.
- (b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a provider of a detoxification service.]
- (5) The extent and type of a screening shall depend upon the problem of the individual seeking or being referred for services.
- (6) A diagnosis or clinic impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.
- (7) The department shall not reimburse for a service billed by or on behalf of an entity or individual who is not a billing provider.
- [(8)(a) The term "billing provider" used in this administrative regulation shall include:
- 1. The individual provider that is referenced; or
 - 2. A provider group that includes the individual provider that is referenced.
- (b) As an example of paragraph (a) of this subsection, a licensed psychologist who is a billing provider shall include:
- 1. The licensed psychologist as an individual provider; or
 - 2. A provider group of licensed psychologists that includes the licensed psychologist.
- (c) The services established in this administrative regulation shall be provided by a provider enrolled in the Medicaid Program as:
- 1. An individual provider; or
 - 2. A provider group.]

Section 4. Additional Limits and Noncovered Services or Activities. (1) The following services or activities shall not be covered under this administrative regulation:

- (a) A service provided to:
 - 1. A resident of:
 - a. A nursing facility; or
 - b. An intermediate care facility for individuals with an intellectual disability;
 - 2. An inmate of a federal, local, or state:
 - a. Jail;
 - b. Detention center; or
 - c. Prison; or
 - 3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;
- (b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the ~~independent~~ provider;
- (c) A consultation or educational service provided to a recipient or to others;
- (d) Collateral therapy for an individual aged twenty-one (21) years or older;
- (e) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of "face-to-face";
- (f) Travel time;
- (g) A field trip;
- (h) A recreational activity;
- (i) A social activity; or
- (j) A physical exercise activity group.

(2)(a) A consultation by one (1) provider or professional with another shall not be covered under this administrative regulation except regarding collateral outpatient therapy as specified in Section 3(4)(i) ~~(3)(k)~~ of this administrative regulation.

(b) A third party contract shall not be covered under this administrative regulation.

(3)(a) Except as established in paragraph (b) of this subsection, unless a diagnosis is made and documented in the recipient's medical record within three (3) visits, the service shall not be covered.

(b) The requirement established in paragraph (a) of this subsection shall not apply to:

- 1. Crisis intervention;
- 2. A screening; or
- 3. An assessment.

(4) The department shall not reimburse for both a screening and an SBIRT provided to a recipient on the same date of service.

(5) A billing supervisor arrangement between a billing supervisor and a behavioral health practitioner under supervision shall not:

(a) Violate the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the behavioral health practitioner under supervision; or

(b) Substitute for the clinical supervision rules or policies of the respective professional licensure boards governing the billing supervisor and the behavioral health practitioner under supervision.

Section 5. ~~[No]~~ Duplication of Service Prohibited. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider, of any program in which the service is covered, during the same time period.

(2) For example, if a recipient is receiving a behavioral health service from an ~~individual~~ independent behavioral health provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a behavioral health services organization ~~local health department~~.

Section 6. Records Maintenance, Documentation, Protection, and Security. (1) An individual ~~A~~ provider, a behavioral health provider group, or a behavioral health multi-specialty group shall

maintain a current health record for each recipient.

(2)(a) A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

(b) The individual who provided the service shall date and sign the health record within forty-eight (48) hours of ~~on~~ the date that the individual provided the service.

(3) A health record shall:

(a) Include:

1. An identification and intake record including:

- a. Name;
- b. Social Security number;
- c. Date of intake;
- d. Home (legal) address;
- e. Health insurance information;
- f. If applicable, the referral source's name ~~source~~ and address ~~of referral source~~;
- g. Primary care physician's name ~~physician~~ and address;
- h. The reason the individual is seeking help including the presenting problem and diagnosis; ~~and~~

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider's name ~~provider~~; and ~~L/k~~ The name of the informant and any other information deemed necessary by the ~~independent~~ provider to comply with the requirements of:

- (i) This administrative regulation;
- (ii) The provider's licensure board, if applicable;
- (iii) State law; or
- (iv) Federal law;

2. Documentation of the:

- a. Screening;
- b. Assessment;
- c. Disposition if a disposition was performed; and
- d. Six (6) month review of a recipient's ~~treatment~~ plan of care each time a six (6) month review occurs; ~~and~~

3. A complete history including mental status and previous treatment;

4. An identification sheet;

5. A consent for treatment sheet that is accurately signed and dated; and

6. The individual's stated purpose for seeking services; and

(b) Be:

- 1. Maintained in an organized central file;
- 2. Furnished upon request to the:
 - a. Cabinet for Health and Family Services ~~upon request~~; or
 - b. For an enrollee, managed care organization in which the recipient is enrolled or has been ~~upon request if the recipient is enrolled in the past with a managed care organization~~;
- 3. Made available for inspection and copying by:
 - a. Cabinet for Health and Family Services' personnel; or
 - b. Personnel of the managed care organization in which the recipient is enrolled if applicable ~~the recipient is enrolled with a managed care organization~~;
- 4. Readily accessible; and
- 5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient if the recipient received services beyond a screening.

(4) Documentation of a screening shall include:

(a) Information relative to the individual's stated request for services; and

(b) Other stated personal or health concerns if other concerns are stated.

(5)(a) A behavioral health practitioner's ~~provider's~~ notes regarding a recipient shall:

- 1. Be made within forty-eight (48) hours of each service visit;

and

2. Describe the:

- a. Recipient's symptoms or behavior, reaction to treatment, and attitude;
- b. Behavioral health practitioner's ~~Therapist's~~ intervention;

c. Changes in the ~~treatment~~ plan of care if changes are made; and

d. Need for continued treatment if deemed necessary~~[continued treatment is needed]~~.

(b)1. Any edit to notes shall:

- Clearly display the changes; and
- Be initialed and dated by the person who edited the notes.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by the supervising professional within thirty (30) days of each service visit.

2. If services are provided by a behavioral health practitioner ~~[working]~~ under supervision, there shall be a monthly supervisory note recorded by the supervision professional reflecting consultations with the practitioner working under supervision concerning the:

- Case; and
- Supervising professional's evaluation of the services being provided to the recipient.

(6) Immediately following a screening of a recipient, the behavioral health practitioner who performed the screening ~~[provider]~~ shall perform a disposition related to:

- A provisional diagnosis;
- A referral for further consultation and disposition, if applicable; or

(c)1. If applicable, termination of services and referral to an outside source for further services; or

2. If applicable, termination of services without a referral to further services.

(7)(a) A recipient's ~~treatment~~ plan of care shall be reviewed at least once every six (6) months.

(b) Any change to a recipient's ~~treatment~~ plan of care shall be documented, signed, and dated by the rendering practitioner and by the recipient or recipient's representative~~[provider]~~.

(8)(a) Notes regarding services to a recipient shall:

- Be organized in chronological order;
- Be dated;
- Be titled to indicate the service rendered;
- State a starting and ending time for the service; and
- Be recorded and signed by the rendering behavioral health practitioner~~[provider]~~ and include the practitioner's professional title (for example, licensed clinical social worker)~~[of the provider]~~.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not coverable under this administrative regulation, or other non-reimbursable contacts shall:

- Be recorded in the notes; and
- Not be reimbursable.

(9) A termination summary shall:

- Be required, upon termination of services, for each recipient who received at least three (3) service visits; and
- Contain a summary of the significant findings and events during the course of treatment including the:
 - Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's ~~treatment~~ plan of care;
 - Final diagnosis of clinical impression; and
 - Individual's condition upon termination and disposition.

(c) A health record relating to an individual who terminated from receiving services shall be fully completed within ten (10) days following termination.

(10) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(11)(a) Except as established in paragraph (b) of this subsection, if a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring provider shall, within ten (10) business days of the transfer or referral, ~~transfer if the recipient gives the provider written consent to do so, forward a copy or summary of~~ the recipient's health record in a manner that complies with the records' use and

disclosure requirements as established in or required by:

- The Health Insurance Portability and Accountability Act;
- 42 U.S.C. 1320d-2 to 1320d-8; and
- 45 C.F.R. Parts 160 and 164; or

- 42 U.S.C. 290ee-3; and
- 42 C.F.R. Part 2~~[to the health care facility or other provider who is receiving the recipient within ten (10) business days of the transfer or referral]~~.

(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, or an acute care hospital for care or treatment, the transferring provider shall, within forty-eight (48) hours of the transfer or referral, transfer the recipient's records in a manner that complies with the records' use and disclosure requirements as established in or required by:

- The Health Insurance Portability and Accountability Act;
- 42 U.S.C. 1320d-2 to 1320d-8; and
- 45 C.F.R. Parts 160 and 164; or

- 42 U.S.C. 290ee-3; and
- 42 C.F.R. Part 2.

(12)(a) If an individual behavioral health~~[a]~~ provider's, a behavioral health provider group's, or a behavioral health multi-specialty group's Medicaid Program participation status changes as a result of voluntarily terminating from the Medicaid Program, involuntarily terminating from the Medicaid Program, or a licensure suspension~~[, or death of the provider]~~, the health records of the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group shall:

- Remain the property of the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group; and
- Be subject to the retention requirements established in subsection (13) of this section.

(b)1. If an individual behavioral health~~[A]~~ provider dies, the health records maintained by the individual behavioral health provider shall remain the property of the individual behavioral health provider.

2. An individual behavioral health provider shall have a written plan addressing how to maintain health records ~~following in the event of~~ the provider's death in a manner that complies with the retention requirements established in subsection (13) of this section.

(13)(a) Except as established in paragraph (b) or (c) of this subsection, an individual behavioral health~~[a]~~ provider, a behavioral health provider group, or a behavioral health specialty group shall maintain a health record regarding a recipient for at least five (5) [six (6)]~~[five (5)]~~ years from the date of the service or until any audit dispute or issue is resolved beyond five (5) [six (6)]~~[five (5)]~~ years.

(b) After a recipient's death or discharge from services, an individual behavioral health provider, a behavioral health provider group, or a behavioral health multi-specialty group shall maintain the recipient's record for the longest of the following periods:

- Five (5) [Six (6)] years unless the recipient is a minor; or
- If the recipient is a minor, three (3) years after the recipient reaches the age of majority under state law.

(c) If the Secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this section, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(14)(a) An individual behavioral health~~[A]~~ provider, a behavioral health provider group, or a behavioral health multi-specialty group shall comply with 45 C.F.R. Chapter 164.

(b) All information contained in a health record shall:

- Be treated as confidential;
- Not be disclosed to an unauthorized individual; and
- Be disclosed to an authorized representative of:
 - The department;~~or~~
 - Federal government; or
 - For an enrollee, the managed care organization in which the enrollee is enrolled.

(c)1. Upon request, an individual behavioral health~~[a]~~ provider,

a behavioral health provider group, or a behavioral health multi-specialty group shall provide to an authorized representative of the department,^[or] federal government, or managed care organization if applicable, information requested to substantiate:

- a. Staff notes detailing a service that was rendered;
- b. The professional who rendered a service; **and**
- c. The type of service rendered and any other requested information necessary to determine, on an individual basis, whether the service is reimbursable by the department or the managed care organization, if applicable.

2. Failure to provide information referenced in subparagraph 1. of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 7. Medicaid Program Participation Compliance. (1) An individual behavioral health[A] provider, a behavioral health provider group, or a behavioral health multi-specialty group shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(2)(a) If an individual behavioral health[a] provider, a behavioral health provider group, or a behavioral health multi-specialty group receives any duplicate payment or overpayment from the department, regardless of reason, the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this section may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(3)(a) When the department makes payment for a covered service and the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group accepts the payment:

1. The payment shall be considered payment in full;
2. A^[No] bill for the same service shall not be given to the recipient; and
- 3.^[No] Payment from the recipient for the same service shall not be accepted by the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group.

(b)1. An individual behavioral health[A] provider, behavioral health provider group, or behavioral health multi-specialty group may bill a recipient for a service that is not covered by the Kentucky Medicaid Program if the:

- a. Recipient requests the service; and
- b. Individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group makes the recipient aware in advance of providing the service that the:
 - (i) Recipient is liable for the payment; and
 - (ii) Department is not covering the service.

2. If a recipient makes payment for a service in accordance with subparagraph 1. of this paragraph, the:

a. Individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group shall not bill the department for the service; and

b. Department shall not:

- (i) Be liable for any part of the payment associated with the service; and
- (ii) Make any payment to the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group regarding the service.

(4)(a) An individual behavioral health[A] provider, behavioral health provider group, or behavioral health multi-specialty group shall attest^[attests] by the individual behavioral health provider's signature or signature of an individual on behalf of a behavioral health provider group or behavioral health multi-specialty group that any claim associated with a service is valid and submitted in good faith.

(b) Any claim and substantiating record associated with a

service shall be subject to audit by the:

1. Department or its designee;
2. Cabinet for Health and Family Services, Office of Inspector General or its designee;
3. Kentucky Office of Attorney General or its designee;
4. Kentucky Office of the Auditor for Public Accounts or its designee; **or**
5. United States General Accounting Office or its designee.^[;]

(c) If an individual behavioral health[a] provider, behavioral health provider group, or behavioral health multi-specialty group receives a request from the department to provide a claim,^[or] related information,^[or] related documentation, or record for auditing purposes, the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group shall provide the requested information to the department within the timeframe requested by the department.

(d)1. All services provided shall be subject to review for recipient or provider abuse.

2. Willful abuse by an individual behavioral health[a] provider, behavioral health provider group, or behavioral health multi-specialty group shall result in the suspension or termination of the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group from Medicaid Program participation.

(5)(a) If an individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group renders a Medicaid-covered service to a recipient, regardless of if the service is billed through the individual behavioral health provider's, behavioral health provider group's, or behavioral health multi-specialty group's Medicaid provider number or any other entity or individual including a non-Medicaid provider, the recipient shall not be charged or billed for the service.

(b) The department shall terminate from Medicaid Program participation an individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group that:

1. Charges or bills a recipient for a Medicaid-covered service; **or**
2. Participates in an arrangement in which an entity or individual bills a recipient for a Medicaid-covered service rendered by the individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group.

Section 8. Third Party Liability. An individual behavioral health[A] provider, behavioral health provider group, or behavioral health multi-specialty group shall comply with KRS 205.622.

Section 9. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) An individual behavioral health[A] provider, behavioral health provider group, or behavioral health multi-specialty group that chooses to use electronic signatures shall:

- (a) Develop and implement a written security policy that shall:
 1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
 2. Identify each electronic signature for which an individual has access; and
 3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;
- (b) Develop a consent form that shall:
 1. Be completed and executed by each individual using an electronic signature;
 2. Attest to the signature's authenticity; and
 3. Include a statement indicating that the individual has been notified of his responsibility in allowing the use of the electronic signature; and

- (c) Provide the department, immediately upon request, with:
 1. A copy of the individual behavioral health provider's, behavioral health provider group's, or behavioral health multi-specialty group's electronic signature policy;
 2. The signed consent form; and

3. The original filed signature~~[immediately upon request]~~.

Section 10. Auditing Authority. The department shall have the authority to audit any:

- (1) Claim;
- (2) Medical record; or
- (3) Documentation associated with any claim or medical record.

Section 11. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 12. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at 10 a.m.

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

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Community Alternatives

(As Amended at ARRS, April 11, 2017)

907 KAR 15:015. Reimbursement provisions and requirements for behavioral health services provided by individual behavioral health[independent] providers, behavioral health provider groups, or behavioral health multi-specialty groups.

RELATES TO: KRS 205.520, 42 U.S.C. 1396a(a)(10)(B),~~[42 U.S.C.]~~ 1396a(a)(23),~~[42 U.S.C.]~~ 1396a(a)(30)(A)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.6311

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has a responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions and requirements regarding Medicaid Program behavioral health services provided by certain licensed individual behavioral health professionals who are independently enrolled in the Medicaid Program, practitioners working for or under the supervision of the individual behavioral health providers, and individual behavioral health professionals and practitioners under supervision working in/as Medicaid providers behavioral health provider groups~~[,]~~ or in behavioral health multi-specialty groups~~[, and by]~~~~[, or]~~~~[behavioral health service practitioners working]~~~~[for or]~~~~[under supervision for individual]~~~~[of the independent]~~~~[behavioral health]~~~~[service]~~~~[providers, behavioral health provider groups, or behavioral health multi-specialty groups]~~, to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. General Requirements. For the department to reimburse for a service covered under this administrative

regulation, the service shall be:

- (1)~~[Medically necessary;~~
- (2) ~~Provided:~~
 - (a) To a recipient; and
 - (b) By a:
 1. ~~Provider who meets the provider participation requirements established in 907 KAR 15:010; or~~
 2. ~~Practitioner working under the supervision of a provider who meets the provider participation requirements established in 907 KAR 15:010;~~
 - (3) ~~A service]~~ Covered in accordance with 907 KAR 15:010; and
 - (2)~~[(4)]~~ Billed to the department by an individual behavioral health provider, behavioral health provider group, or behavioral health multi-specialty group recognized as a Medicaid Program provider~~[the billing provider who provided the service or under whose supervision the service was provided by an authorized practitioner]~~ in accordance with 907 KAR 15:010.

Section 2. Reimbursement. (1) One (1) unit of service shall be:

- (a) Fifteen (15) minutes in length unless a different unit of service exists for the service in the corresponding:

1. Current procedural terminology code; or
2. Healthcare common procedure coding system code; or
- (b) The unit amount identified in the corresponding:
 1. Current procedural terminology code if an amount is identified in the current procedural terminology code; or
 2. Healthcare common procedure coding system code if an amount is identified in the healthcare common procedure coding system code.

(2) Except as provided by subsection (3) of this section, the rate per unit for a covered service~~[screening]~~ shall be:

- (a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:
 1. Physician; or
 2. Psychiatrist;
- (b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:
 1. An advanced practice registered nurse; or
 2. A licensed psychologist;
- (c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:
 1. Licensed professional clinical counselor;
 2. Licensed clinical social worker;
 3. Licensed psychological practitioner;
 4. Certified psychologist with autonomous functioning;
 5. Licensed marriage and family therapist;
 - 6.~~[or 5.]~~ Licensed professional art therapist;~~[or]~~
 7. Licensed behavior analyst; or
 8. Licensed clinical alcohol and drug counselor;~~[or]~~

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate~~[working under the supervision of a billing supervisor]~~ licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service];
2. Licensed professional counselor associate~~[working under the supervision of a billing supervisor]~~ licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];
3. Licensed psychological associate~~[working under the supervision of a board-approved licensed psychologist]~~ ~~[billing supervisor]~~ licensed psychologist if the licensed psychologist is the billing provider for the service];
4. Certified social worker~~[working under the supervision of a billing supervisor]~~ licensed clinical social worker if the licensed clinical social worker is the billing provider for the service];
5. Physician assistant~~[working for a physician if the physician is the billing provider for the service];~~[or]
6. Licensed professional art therapist associate~~[working under the supervision of a billing supervisor]~~;

7. Licensed assistant behavior analyst;

8. Certified psychologist [working under the supervision of a board-approved licensed psychologist] [who is a billing supervisor]; or

9. [8.] Licensed clinical alcohol and drug counselor associate [working under the supervision of a billing supervisor]; or

(e) Thirty-seven and five-tenths (37.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a [9.] certified alcohol and drug counselor [working under the supervision of a billing supervisor] [licensed professional art therapist if the licensed professional art therapist is the billing provider for the service].

(3) [The rate per unit for an assessment shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or

2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or

2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;

2. Licensed clinical social worker;

3. Licensed psychological practitioner;

4. Certified psychologist with autonomous functioning;

5. Licensed marriage and family therapist;

6. [5.] [Licensed professional art therapist;

7. [or 6.] Licensed behavior analyst; or

8. Licensed clinical alcohol and drug counselor; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a billing supervisor [licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service];

2. Licensed professional counselor associate working under the supervision of a board-approved licensed psychologist [billing supervisor] [licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];

3. Licensed psychological associate working under the supervision of a billing supervisor [licensed psychologist if the licensed psychologist is the billing provider for the service];

4. Certified social worker working under the supervision of a billing supervisor [licensed clinical social worker if the licensed clinical social worker is the billing provider for the service];

5. Physician assistant working for a physician if the physician is the billing provider for the service;

6. Licensed professional art therapist associate working under the supervision of a billing supervisor [licensed professional art therapist if the licensed professional art therapist is the billing provider for the service]; [or] [7. Licensed assistant behavior analyst working under the supervision of a billing supervisor];

8. Certified psychologist working under the supervision of a board-approved licensed psychologist [who is a billing supervisor];

9. Licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor; or

10. Certified alcohol and drug counselor working under the supervision of a billing supervisor [licensed behavior analyst if the licensed behavior analyst is the billing provider for the service].

(4) The rate per unit for psychological testing shall be:

(a) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a licensed psychologist;

(b) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed psychological practitioner; or

2. Certified psychologist with autonomous functioning; or

(c) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service; or

2. Certified psychologist working under the supervision of a board-approved licensed psychologist who is a billing supervisor if the board-approved licensed psychologist is the billing provider for the service.

(5) [The rate per unit for screening, brief intervention, and referral to treatment shall be as established on the Non-Medicare Services Fee Schedule.

(6) The rate per unit for crisis intervention shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or

2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or

2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;

2. Licensed clinical social worker;

3. Licensed psychological practitioner;

4. Licensed marriage and family therapist; or

5. Licensed professional art therapist; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

2. Licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

3. Licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

4. Certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

5. Physician assistant working for a physician if the physician is the billing provider for the service; or

6. Licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service.

(7) The rate per unit for service planning shall be as established on the Non-Medicare Services Fee Schedule.

(8) [The rate per unit for individual outpatient therapy, group outpatient therapy, collateral outpatient therapy, or crisis intervention services shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or

2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or

2. A licensed psychologist;

~~(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

- ~~1. Licensed professional clinical counselor;~~
- ~~2. Licensed clinical social worker;~~
- ~~3. Licensed psychological practitioner;~~
- ~~4. Certified psychologist with autonomous functioning;~~
- ~~5. Licensed marriage and family therapist;~~
- ~~6. [5.] [Licensed professional art therapist;~~
- ~~7. [or 6.] [Licensed behavior analyst; or~~
- ~~8. Licensed clinical alcohol and drug counselor; or~~

~~(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

~~1. Marriage and family therapy associate working under the supervision of a billing supervisor [licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service];~~

~~2. Licensed professional counselor associate working under the supervision of a billing supervisor [licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];~~

~~3. Licensed psychological associate working under the supervision of a board-approved licensed psychologist [billing supervisor] [licensed psychologist if the licensed psychologist is the billing provider for the service];~~

~~4. Certified social worker working under the supervision of a billing supervisor [licensed clinical social worker if the licensed clinical social worker is the billing provider for the service];~~

~~5. Physician assistant working for a physician if the physician is the billing provider for the service;~~

~~6. Licensed professional art therapist associate working under the supervision of a billing supervisor [licensed professional art therapist if the licensed professional art therapist is the billing provider for the service]; [or] 7. Licensed assistant behavior analyst working under the supervision of a billing supervisor;~~

~~8. Certified psychologist working under the supervision of a board-approved licensed psychologist [who is a billing supervisor if the board-approved licensed psychologist is the billing provider];~~

~~9. Licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor; or~~

~~10. Certified alcohol and drug counselor working under the supervision of a billing supervisor [licensed behavior analyst if the licensed behavior analyst is the billing provider for the service];~~

~~(6) [(9)] [The rate per unit for family outpatient therapy shall be:~~

~~(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

- ~~1. Physician; or~~
- ~~2. Psychiatrist;~~

~~(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:~~

- ~~1. An advanced practice registered nurse; or~~
- ~~2. A licensed psychologist;~~

~~(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

- ~~1. Licensed professional clinical counselor;~~
- ~~2. Licensed clinical social worker;~~
- ~~3. Licensed psychological practitioner;~~
- ~~4. Certified psychologist with autonomous functioning;~~
- ~~5. Licensed marriage and family therapist;~~
- ~~6. [or 5.] [Licensed professional art therapist; or~~
- ~~7. Licensed clinical alcohol and drug counselor; or~~

~~(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

- ~~1. Marriage and family therapy associate working under~~

~~the supervision of a billing supervisor [licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service];~~

~~2. Licensed professional counselor associate working under the supervision of a billing supervisor [licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service];~~

~~3. Licensed psychological associate working under the supervision of a board-approved licensed psychologist [billing supervisor] [licensed psychologist if the licensed psychologist is the billing provider for the service];~~

~~4. Certified social worker working under the supervision of a billing supervisor [licensed clinical social worker if the licensed clinical social worker is the billing provider for the service];~~

~~5. Physician assistant working for a physician if the physician is the billing provider for the service; [or] 6. Licensed professional art therapist associate working under the supervision of a billing supervisor;~~

~~7. Certified psychologist working under the supervision of a board-approved licensed psychologist [who is a billing supervisor];~~

~~8. Licensed clinical alcohol and drug counselor associate working under the supervision of a billing supervisor; or~~

~~9. Certified alcohol and drug counselor working under the supervision of a billing supervisor [licensed professional art therapist if the licensed professional art therapist is the billing provider for the service];~~

~~(7) [Reimbursement for the following services shall be as established on the DMS Non-Medicare Behavioral Health and Substance Abuse Services Outpatient (Non-facility) [Services] Fee Schedule:~~

~~(a) Screening, brief intervention, and referral to treatment (SBIRT);~~

~~(b) Service planning;~~

~~(c) Day treatment;~~

~~(d) Comprehensive community support services;~~

~~(e) Peer support services;~~

~~(f) Intensive outpatient program services; or~~

~~(g) Therapeutic rehabilitation program services.~~

~~(4) [(8)] (10) The rate per unit for group outpatient therapy shall be:~~

~~(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

- ~~1. Physician; or~~
- ~~2. Psychiatrist;~~

~~(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:~~

- ~~1. An advanced practice registered nurse; or~~
- ~~2. A licensed psychologist;~~

~~(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

- ~~1. Licensed professional clinical counselor;~~
- ~~2. Licensed clinical social worker;~~
- ~~3. Licensed psychological practitioner;~~
- ~~4. Licensed marriage and family therapist;~~
- ~~5. Licensed professional art therapist; or~~
- ~~6. Licensed behavior analyst; or~~

~~(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:~~

~~1. Marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;~~

~~2. Licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;~~

~~3. Licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;~~

~~4. Certified social worker working under the supervision of a~~

licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

5. Physician assistant working for a physician if the physician is the billing provider for the service;

6. Licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service; or

7. Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service.

(11) The rate per unit for collateral outpatient therapy shall be:

(a) Seventy-five (75) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Physician; or
2. Psychiatrist;

(b) 63.75 percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by:

1. An advanced practice registered nurse; or
2. A licensed psychologist;

(c) Sixty (60) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Licensed professional clinical counselor;
2. Licensed clinical social worker;
3. Licensed psychological practitioner;
4. Licensed marriage and family therapist;
5. Licensed professional art therapist; or
6. Licensed behavior analyst; or

(d) Fifty-two and five-tenths (52.5) percent of the rate on the Kentucky-specific Medicare Physician Fee Schedule for the service if provided by a:

1. Marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

2. Licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

3. Licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

4. Certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

5. Physician assistant working for a physician if the physician is the billing provider for the service;

6. Licensed professional art therapist associate working under the supervision of a licensed professional art therapist if the licensed professional art therapist is the billing provider for the service; or

7. Licensed assistant behavior analyst working under the supervision of a licensed behavior analyst if the licensed behavior analyst is the billing provider for the service.

(12) The rate per unit for day treatment shall be as established on the Non-Medicare Services Fee Schedule.

(13) The rate per unit for comprehensive community support services shall be as established on the Non-Medicare Services Fee Schedule.

(14) The rate per unit for peer support services shall be as established on the Non-Medicare Services Fee Schedule.

(15) The rate per unit for parent or family peer support services shall be as established on the Non-Medicare Services Fee Schedule.

(16) The rate per unit for an intensive outpatient program shall be as established on the Non-Medicare Services Fee Schedule.

(17) The rate per unit for a therapeutic rehabilitation program shall be as established on the Non-Medicare Services Fee Schedule.

(18)(a) The department shall use the current version of the Kentucky-specific Medicare Physician Fee Schedule for reimbursement purposes.

(b) For example, if the Kentucky-specific Medicare Physician Fee Schedule currently published and used by the Centers for Medicare and Medicaid Services for the Medicare Program is:

1. An interim version, the department shall use the interim version until the final version has been published; or

2. ~~The~~ final version, the department shall use the final version.

~~(5)(9)(19)~~ The department shall not reimburse for a service billed by or on behalf of an entity or individual that is not a billing provider.

Section 3.[No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a behavioral health service from an independent behavioral health provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a community mental health center.

Section 4.] Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse in accordance with this administrative regulation for a service covered pursuant to:

- (1) 907 KAR 15:010; and
- (2) This administrative regulation.

Section 4[5]. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 5[6]. Incorporation by Reference. (1) "**Behavioral Health and Substance Abuse Services Outpatient (Non-Facility) Fee Schedule**", **June 7, 2016**, [Non-Medicare Services Fee Schedule", **May 2014**,] is incorporated by reference.

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

(a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, **40601**, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: February 15, 2017 at 10 a.m.

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

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Commissioner's Office
(As Amended at ARRS, April 11, 2017)

907 KAR 17:015. Managed care organization requirements and policies relating to providers.

RELATES TO: **KRS 194A.025(3), 205.646, 304.17A-270, 42 C.F.R. 438, 455,** 42 U.S.C. 1396n(c), **1396u-2(b)(7)[42 C.F.R. 438]**

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.025(3), 194A.030(2), 194A.050(1), 205.520(3), 205.560, **42 C.F.R. Part 438, 42 U.S.C. 1396n(b)[, 42 C.F.R. Part 438]**

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS

205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. 42 U.S.C. 1396n(b) and 42 C.F.R. Part 438 establish requirements relating to managed care. This administrative regulation establishes the managed care organization requirements and policies relating to providers.

Section 1. Provider Network. (1) An MCO shall:

(a) Enroll providers of sufficient types, numbers, and specialties in its network to satisfy the:

1. Access and capacity requirements established in Section 2 of this administrative regulation; and

2. Quality requirements established in 907 KAR 17:025, Section 5;

(b) Attempt to enroll the following providers in its network:

1. A teaching hospital;

2. A rural health clinic;

3. The Kentucky Commission for Children with Special Health Care Needs;

4. A local health department; and

5. A community mental health center;

(c) Demonstrate to the department the extent to which the MCO/it has enrolled providers in its network who have traditionally provided services to Medicaid recipients;

(d) Have at least one (1) FQHC in a region where the MCO operates in accordance with 907 KAR 17:020, if there is an FQHC that is licensed to provide services in the region; and

(e) Exclude, terminate, or suspend from the MCO's/its network a provider or subcontractor who engages in an activity that results in suspension, termination, or exclusion from a Medicare or Medicaid program.

(2) The length of an exclusion, termination, or suspension referenced in subsection (1)(e) of this section shall equal the length of the exclusion, termination, or suspension imposed by a Medicare or Medicaid program.

(3) If an MCO is unable to enroll a provider specified in subsection (1)(b) or (c) of this section, the MCO shall submit to the department for approval, documentation which supports the MCO's conclusion that adequate services and service sites as required in Section 2 of this administrative regulation shall be provided without enrolling the specified provider.

(4) If an MCO or the department determines that the MCO's provider network is inadequate to comply with the access standards established in Section 2 of this administrative regulation for ninety-five (95) percent of the MCO's enrollees, the MCO shall:

(a) Notify the department; and

(b) Submit a corrective action plan to the department.

(5) A corrective action plan referenced in subsection (4)(b) of this section shall:

(a) Describe the deficiency in detail; and

(b) Identify a specific action to be taken by the MCO to correct the deficiency, including a time frame.

Section 2. Provider Access Requirements. (1) The access standards requirements established in 42 C.F.R. 438.206 through 438.210 shall apply to an MCO.

(2) An MCO shall make available and accessible to an enrollee:

(a) Facilities, service locations, and personnel sufficient to provide covered services consistent with the requirements specified in this section;

(b) Emergency medical services twenty-four (24) hours a day, seven (7) days a week; and

(c) Urgent care services within forty-eight (48) hours of request.

(3)(a) An MCO's primary care provider delivery site shall be within:

1. Thirty (30) miles or thirty (30) minutes from an enrollee's residence in an urban area; or

2. Forty-five (45) miles or forty-five (45) minutes from an enrollee's residence in a non-urban area.

(b) An MCO's primary care provider shall not have an enrollee

to primary care provider ratio greater than 1,500:1.

(c) An appointment wait time at an MCO's primary care delivery site shall not exceed:

1. Thirty (30) days from the date of an enrollee's request for a routine or preventive service; or

2. Forty-eight (48) hours from an enrollee's request for urgent care.

(4)(a) An appointment wait time for a specialist, except for a specialist providing a behavioral health service as provided in paragraph (b) of this subsection, shall not exceed:

1. Thirty (30) days from the referral for routine care; or

2. Forty-eight (48) hours from the referral for urgent care.

(b)1. A behavioral health service requiring crisis stabilization shall be provided within twenty-four (24) hours of the referral.

2. Behavioral health urgent care shall be provided within forty-eight (48) hours of the referral.

3. A behavioral health service appointment following a discharge from an acute psychiatric hospital shall occur within fourteen (14) days of discharge.

4. A behavioral health service appointment not included in subparagraph 1, 2, or 3 of this paragraph shall occur within sixty (60) days of the referral.

(5) An MCO shall have:

(a) Specialists available for the subpopulations designated in 907 KAR 17:010, Section 17; and

(b) Sufficient pediatric specialists to meet the needs of enrollees who are less than twenty-one (21) years of age.

(6) An emergency service shall be provided at a health care facility most suitable for the type of injury, illness, or condition, whether or not the facility is in the MCO network.

(7)(a) A hospital located in Region 1, Region 2, Region 4, Region 5, Region 6, Region 7, or Region 8 shall be within:

1. Thirty (30) miles or thirty (30) minutes from an enrollee's residence in an urban area; or

2. Sixty (60) minutes of an enrollee's residence in a non-urban area.

(b) A hospital located in Region 3 shall be within:

1. Thirty (30) miles or thirty (30) minutes of an enrollee's residence in an urban area; or

2. Sixty (60) miles or sixty (60) minutes of an enrollee's residence in a non-urban area.

(8) A behavioral or physical rehabilitation service in:

(a) Region 1, Region 2, Region 4, Region 5, Region 6, Region 7, or Region 8 shall be within sixty (60) minutes of an enrollee's residence; or

(b) Region 3 shall be within sixty (60) miles or sixty (60) minutes of an enrollee's residence.

(9)(a) A dental service in:

1. Region 1, Region 2, Region 4, Region 5, Region 6, Region 7, or Region 8 shall be within sixty (60) minutes of an enrollee's residence; or

2. Region 3 shall be within sixty (60) miles or sixty (60) minutes of an enrollee's residence.

(b) A dental appointment wait time shall not exceed:

1. Three (3) weeks for a regular appointment; or

2. Forty-eight (48) hours for urgent care.

(10)(a) A general vision, laboratory, or radiological service in:

1. Region 1, Region 2, Region 4, Region 5, Region 6, Region 7, or Region 8 shall be within sixty (60) minutes of an enrollee's residence; or

2. Region 3 shall be within sixty (60) miles or sixty (60) minutes of an enrollee's residence.

(b) A general vision, laboratory, or radiological appointment wait time shall not exceed:

1. Three (3) weeks for a regular appointment; or

2. Forty-eight (48) hours for urgent care.

(11)(a) A pharmacy service in:

1. Region 1, Region 2, Region 4, Region 5, Region 6, Region 7, or Region 8 shall be within sixty (60) minutes of an enrollee's residence; or

2. Region 3 shall be within sixty (60) miles or sixty (60) minutes of an enrollee's residence.

(b) A pharmacy delivery site, except for a mail-order pharmacy,

shall not be further than fifty (50) miles from an enrollee's residence.

(c) Transport time or distance threshold shall not apply to a mail-order pharmacy except that it shall:

1. Be physically located within the United States of America; and
 2. Provide delivery to the enrollee's residence.
- (12)(a) Prior authorization shall not be required for a physical emergency service or a behavioral health emergency service.
- (b) In order to be covered, an emergency service shall be:
1. Medically necessary;
 2. Authorized after being provided if the service was not prior authorized; and
 3. Covered in accordance with 907 KAR 17:020.

Section 3. MCO Provider Enrollment. (1) A provider enrolled with an MCO shall:

(a) Be credentialed by the MCO in accordance with the standards established in Section 4 of this administrative regulation; and

(b) Be eligible to enroll with the Kentucky Medicaid Program in accordance with 907 KAR 1:672.

(2) An MCO shall:

(a) Not enroll a provider in its network if:

1. The provider has an active sanction imposed by the Centers for Medicare and Medicaid Services or a state Medicaid agency;
2. A required provider license or a certification is not current;
3. Based on information or records available to the MCO:
 - a. The provider owes money to the Kentucky Medicaid program; or
 - b. The Kentucky Office of the Attorney General has an active fraud investigation of the provider; or
4. The provider is not credentialed;

(b) Have and maintain documentation regarding a provider's qualifications; and

(c) Make the documentation referenced in paragraph (b) of this subsection available for review by the department.

(3)(a) A provider shall not be required to participate in Kentucky Medicaid fee-for-service to enroll with an MCO.

(b) If a provider is not a participant in Kentucky Medicaid fee-for-service, the provider shall obtain a Medicaid provider number from the department in accordance with 907 KAR 1:672.

Section 4. Provider Credentialing and Recredentialing. (1) An MCO shall:

(a) Have policies and procedures that comply with 907 KAR 1:672; KRS 205.560; and 42 C.F.R. 455 Subpart E, 455.400 to 455.470, regarding the credentialing and recredentialing of a provider;

(b) Have a process for verifying a provider's credentials and malpractice insurance that shall include:

1. Written policies and procedures for credentialing and recredentialing of a provider;
2. A governing body, or a group or individual to whom the governing body has formally delegated the credentialing function; and

3. A review of the credentialing policies and procedures by the governing body or its delegate;

(c) Have a credentialing committee that makes recommendations regarding credentialing;

(d) If a provider requires a review by the credentialing committee, based on the MCO's quality criteria, notify the department of the facts and outcomes of the review;

(e) Have written policies and procedures for:

1. Excluding, terminating, or suspending a provider; and
2. Reporting a quality deficiency that results in an exclusion, suspension, or termination of a provider;

(f) Document the MCO's[its] monitoring of a provider;

(g) Verify a provider's qualifications through a primary source that includes:

1. A current valid license or certificate to practice in the Commonwealth of Kentucky;
2. A Drug Enforcement Administration certificate and number,

if applicable;

3. If a provider is not board certified, proof of graduation from a medical school and completion of a residency program;

4. Proof of completion of an accredited nursing, dental, physician assistant, or vision program, if applicable;

5. If a provider states on an application that the provider is board certified in a specialty, a professional board certification;

6. A previous five (5) year work history;

7. A professional liability claims history;

8. If a provider requires access to a hospital to practice, proof that the provider has clinical privileges and is in good standing at the hospital designated by the provider as the primary admitting hospital;

9. Malpractice insurance;

10. Documentation, if applicable, of a:

a. Revocation, suspension, or probation of a state license or Drug Enforcement Agency certificate and number;

b. Curtailment or suspension of a medical staff privilege;

c. Sanction or penalty imposed by the United States Department of Health and Human Services or a state Medicaid agency; or

d. Censure by a state or county professional association; and

11. The most recent provider information available from the National Practitioner Data Bank;

(h) Obtain access to the National Practitioner Data Bank as part of the MCO's[its] credentialing process;

(i) Have:

1. A process to recredential a provider at least once every three (3) years that shall be in accordance with subsection (3) of this section; and

2. Procedures for monitoring a provider sanction, a complaint, or a quality issue between a recredentialing cycle;

(j) Have or obtain National Committee for Quality Assurance (NCQA) accreditation for its Medicaid product line[~~]~~;

~~1. By November 1, 2015, for an MCO that began participating November 1, 2011;~~

~~2. By January 1, 2017, for an MCO that began participating January 1, 2013; or~~

~~3.] within four (4) years of the date an MCO begins participation, for an MCO that did not begin participating by June 27, 2013[the effective date of this administrative regulation]; and~~

(k) Continuously maintain NCQA accreditation for the MCO's[its] Medicaid product line after obtaining the accreditation.

(2) If an MCO subcontracts a credentialing or recredentialing function, the MCO and the subcontractor shall have written policies and procedures for credentialing and recredentialing.

(3) A provider shall complete a credentialing application, in accordance with 907 KAR 1:672, that includes a statement by the provider regarding:

(a) The provider's ability to perform essential functions of a position, with or without accommodation;

(b) The provider's lack of current illegal drug use;

(c) The provider's history of a:

1. Loss of license or a felony conviction;

2. Loss or limitation of a privilege; or

3. Disciplinary action;

(d) A sanction, suspension, or termination by the United States Department of Health and Human Services or a state Medicaid agency;

(e) Clinical privileges and standing at a hospital designated as the primary admitting hospital of the provider;

(f) Malpractice insurance maintained by the provider; and

(g) The correctness and completeness of the application.

(4) The department shall be responsible for credentialing and recredentialing a hospital-based provider.

Section 5. Provider Services. (1) An MCO shall have a provider services function responsible for:

(a) Enrolling, credentialing, recredentialing, and evaluating a provider;

(b) Assisting a provider with an inquiry regarding enrollee status, prior authorization, referral, claim submission, or payment;

(c) Informing a provider of the provider's rights and responsibilities;

(d) Handling, recording, and tracking a provider grievance and appeal;

(e) Developing, distributing, and maintaining a provider manual;

(f) Provider orientation and training, including:

1. Medicaid covered services;
2. EPSDT coverage;
3. Medicaid policies and procedures;
4. MCO policies and procedures; and
5. Fraud, waste, and abuse;

(g) Assisting in coordinating care for a child or adult with a complex or chronic condition;

(h) Assisting a provider with enrolling in the Vaccines for Children Program in accordance with 907 KAR 1:680; and

(i) Providing technical support to a provider regarding the provision of a service.

(2) An MCO's provider services staff shall:

(a) Be available at a minimum Monday through Friday from 8:00 a.m. to 6:00 p.m. Eastern Time; and

(b) Operate a provider call center.

Section 6. Provider Manual. (1) An MCO shall provide a provider manual to a provider within five (5) working days of enrollment with the MCO.

(2) Prior to distributing a provider manual or update to a provider manual, an MCO shall procure the department's approval of the provider manual or provider manual update.

(3) The provider manual shall be available in hard copy and on the MCO's Web site.

Section 7. Provider Orientation and Education. An MCO shall:

(1) Conduct an initial orientation for a provider within thirty (30) days of enrollment with the MCO to include:

- (a) Medicaid coverage policies and procedures;
 - (b) Reporting fraud and abuse;
 - (c) Medicaid eligibility groups;
 - (d) The standards for preventive health services;
 - (e) The special needs of enrollees;
 - (f) Advance medical directives;
 - (g) EPSDT services;
 - (h) Claims submission;
 - (i) Care management or disease management programs available to enrollees;
 - (j) Cultural sensitivity;
 - (k) The needs of enrollees with mental, developmental, or physical disabilities;
 - (l) The reporting of communicable diseases;
 - (m) The MCO's QAPI program as referenced in 907 KAR 17:025, Section 5;
 - (n) Medical records;
 - (o) The external quality review organization; and
 - (p) The rights and responsibilities of enrollees and providers;
- and

(2) Ensure that a provider:

(a) Is informed of an update on a federal, state, or contractual requirement;

(b) Receives education on a finding from the provider's[its] QAPI program if deemed necessary by the MCO or department; and

(c) Makes available to the department training attendance rosters that shall be dated and signed by the attendees.

Section 8. Primary Care Provider Responsibilities. (1) A PCP shall:

(a) Maintain:

1. Continuity of an enrollee's health care;
2. A current medical record for an enrollee in accordance with Section 12 of this administrative regulation; and
3. Formalized relationships with other PCPs to refer enrollees for after-hours care, during certain days, for certain services, or other reasons to extend the PCP's[their] practice;

(b) Refer an enrollee for specialty care or other medically necessary services:

1. Within the MCO's network; or
2. If the services are not available within the MCO's network, outside the MCO's network;

(c) Discuss advance medical directives with an enrollee;

(d) Provide primary and preventive care, including EPSDT services;

(e) Refer an enrollee for a behavioral health service if clinically indicated; and

(f) Have an after-hours phone arrangement that ensures that a PCP or a designated medical practitioner returns the call within thirty (30) minutes.

(2) An MCO shall monitor a PCP to ensure compliance with the requirements established in this section.

Section 9. Provider Discrimination. An MCO shall:

(1) Comply with the anti-discrimination requirements established in:

(a) 42 U.S.C. 1396u-2(b)(7);

(b) 42 C.F.R. 438.12; and

(c) KRS 304.17A-270; and

(2) Provide written notice to a provider denied participation in the MCO's network stating the reason for the denial.

Section 10. Release for Ethical Reasons. An MCO shall:

(1) Not require a provider to perform a treatment or procedure that is contrary to the provider's conscience, religious beliefs, or ethical principles in accordance with 42 C.F.R. 438.102;

(2) Not prohibit or restrict a provider from advising an enrollee about health status, medical care, or a treatment:

(a) Whether or not coverage is provided by the MCO; and

(b) If the provider is acting within the lawful scope of practice; and

(3) Have a referral process in place if a provider declines to perform a service because of an ethical reason.

Section 11. Provider Grievances and Appeals. (1) An MCO shall have written policies and procedures for the filing of a provider grievance or appeal.

(2) A provider shall have the right to file:

(a) A grievance with an MCO; or

(b) An appeal with an MCO regarding:

1. A provider payment issue; or

2. A contractual issue.

(3)(a) Except as established in paragraph (b) or (c) of this subsection, a provider grievance or appeal shall be resolved within thirty (30) calendar days.

(b)1. If a grievance or appeal is not resolved within thirty (30) days, an MCO shall request a fourteen (14) day extension from the provider.

2. The provider shall approve the extension request from the MCO.

(c) If a provider requests an extension, the MCO shall approve the extension.

(4) In accordance with KRS 205.646, a provider who has exhausted an MCO's internal grievance or appeal process may request an external independent third-party review pursuant to 907 KAR 17:035 on any final decision that denies in whole or in part a health care service to an enrollee or a claim for reimbursement.

Section 12. Medical Records. (1) An MCO shall:

(a) Require a provider to maintain an enrollee medical record on paper or in an electronic format; and

(b) Have a process to systematically review provider medical records to ensure compliance with the medical records standards established in this section.

(2) An enrollee medical record shall:

(a) Be legible, current, detailed, organized, and signed by the service provider;

(b)1. Be kept for at least five (5) years from the date of service unless a federal statute or regulation requires a longer retention period; and

2. If a federal statute or regulation requires a retention period longer than five (5) years, be kept for at least as long as the federally ~~required~~ retention period;

(c) Include the following minimal detail for an individual clinical encounter:

1. The history and physical examination for the presenting complaint;

2. A psychological or social factor affecting the patient's physical or behavioral health;

3. An unresolved problem, referral, or result from a diagnostic test; and

4. The plan of treatment including:

a. Medication history, medications prescribed, including the strength, amount, and directions for use and refills;

b. Therapy or other prescribed regimen; and

c. Follow-up plans, including consultation, referrals, and return appointment.

(3) A medical chart organization and documentation shall, at a minimum, contain the ~~following~~:

(a) Enrollee identification information on each page;

(b) Enrollee date of birth, age, gender, marital status, race or ethnicity, mailing address, home and work addresses, and telephone numbers (if applicable), employer (if applicable), school (if applicable), name and telephone number of an emergency contact, consent form, language spoken, and guardianship information (if applicable);

(c) Date of data entry and of the encounter;

(d) Provider's name;

(e) ~~Any~~ Known allergies or adverse reactions of the enrollee;

(f) Enrollee's past medical history;

(g) Identification of any current problem;

(h) Ordering provider's initials or other documentation indicating review, if a consultation, laboratory, or radiology report is filed in the medical record, ~~the ordering provider's initials or other documentation indicating review~~;

(i) Documentation of immunizations;

(j) Identification and history of nicotine, alcohol use, or substance abuse;

(k) Documentation of notification of reportable diseases and conditions to the local health department serving the jurisdiction in which the enrollee resides or to the Department for Public Health pursuant to 902 KAR 2:020;

(l) Follow-up visits provided secondary to reports of emergency room care;

(m) Hospital discharge summaries;

(n) Advance medical directives for adults; and

(o) All written denials of service and the reason for each denial.

Section 13. Provider Surveys. (1) An MCO shall:

(a) Conduct an annual survey of provider satisfaction of the quality and accessibility to a service provided by an MCO;

(b) Annually assess the need for conducting other surveys to support quality and performance improvement initiatives;

(c) Submit to the department for approval the survey tool used to conduct the survey referenced in paragraph (a) of this subsection; and

(d) Provide to the department:

1. A copy of the results of the provider survey referenced in paragraph (a) of this subsection;

2. A description of a methodology to be used to conduct surveys;

3. The number and percentage of providers surveyed;

4. Provider survey response rates;

5. Provider survey findings; and

6. Interventions conducted or planned by the MCO related to activities in this section.

(2) The department shall:

(a) Approve provider survey instruments prior to implementation; and

(b) Approve or disapprove an MCO's provider survey tool within fifteen (15) days of receipt of the survey tool.

Section 14. Cost Reporting Information. The department shall

provide to the MCO the calculation of Medicaid allowable costs as used in the Medicaid Program.

Section 15. Centers for Medicare and Medicaid Services Approval and Federal Financial Participation. A policy established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

(1) Denies or does not provide federal financial participation for the policy; or

(2) Disapproves the policy.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: November 18, 2016

FILED WITH LRC: December 1, 2016 at 1 p.m.

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

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Commissioner's Office

(As Amended at ARRS, April 11, 2017)

907 KAR 17:035. External independent third-party review.

RELATES TO: KRS 194A.025(3), 205.646, 42 C.F.R. 438

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.025(3), 194A.030(2), 194A.050(1), 205.520(3), 205.646, 42 C.F.R. Part 438

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. In accordance with KRS 205.646 requires the department to promulgate administrative regulations to implement an external independent third-party review of a managed care organization's internal appeal process. This administrative regulation establishes provisions regarding a Medicaid provider's right to an external independent third-party review of a managed care organization's adverse final decision of a provider's appeal of a denial of a claim for reimbursement or a service.

Section 1. Managed Care Organization Notice to Provider. (1) If an MCO issues an adverse final decision to a provider of a denial, in whole or in part, of a health care service, or claim for reimbursement as referenced in KRS 205.646(2), the MCO shall notify the provider in writing of the provider's right to an external independent third-party review pursuant to KRS 205.646. (2) The MCO's notice shall:

(a) Comply with the requirements established in KRS 205.646(3) regarding an external independent third-party review; and

(b) State the reason for the adverse decision.

Section 2. External Independent Third-Party Review Preliminary Requirements. (1)(a) To request an external independent third-party review afforded to a provider pursuant to KRS 205.646(2), a provider shall submit a written request for external independent third-party review to the MCO within sixty (60) calendar days of receiving the MCO's final decision resulting from the MCO's internal appeal process.

(b) The sixty (60) day count shall begin on the:

1. Date that the notice was received electronically, if received electronically;

2. Date that the notice was received via fax, per the date and time documented on the fax transmission, if the notice was faxed; or

3. Post mark date on the envelope containing the notice, if the notice was sent via postal mail. An additional three (3) days shall be added when the service is by mail.

(c) A request for an external independent third-party review shall be sent to the MCO:

1. Electronically;
2. By fax; or
3. By postal mail.

(2) A provider's request for an external independent third-party review shall:

(a) Identify each specific issue and dispute directly related to the adverse final decision issued by the MCO;

(b) State the basis on which the MCO's decision on each issue is believed to be erroneous;

(c) Limit disputes[dispute] to the information the provider submitted for the MCO internal appeal and any other information contained in the MCO's final decision; and

(d)[(e)] State the provider's designated contact information, including name, phone number, mailing address, fax number, and email address.

(3) Within five (5) business days of receiving a provider's request for an external independent third-party review, the MCO shall:

(a) Confirm in writing to the provider's designated contact the MCO's receipt of the external independent third-party review request from the provider;

(b) Notify the department of the provider's request for an external independent third-party review; and

(c) Notify the enrollee of the provider's request for an external independent third-party review, if related to the denial of a health care service.

(4)(a) An external independent third-party review shall not be granted regarding a claim about which the enrollee has already requested an administrative hearing pursuant to 907 KAR 17:010, **Section 5**.

(b) If an enrollee files a request for an administrative hearing pursuant to 907 KAR 17:010, **Section 5**, regarding a claim about which a provider has already filed a request for an external independent third-party review, the external independent third-party review shall be held in abeyance until the enrollee's appeal has been fully adjudicated.

(5) Upon receiving a request for an external independent third-party review, the department shall:

(a) Assign the review to an external independent third-party reviewer; and

(b) Notify the:

1. MCO of the external independent third-party reviewer; and
2. Provider's designated contact of the external independent third-party reviewer.

(6) The department shall deny a request to initiate the external independent third-party review process, or a part thereof, if a party fails to:

(a) Exhaust the MCO's internal appeal process in accordance with 907 KAR 17:015; or

(b) Submit a timely request for an external independent party review in accordance with **subsection (1) of this section[this administrative regulation]**.

(7) Within fifteen (15) business days of a provider's request for an external independent third-party review, the MCO shall:

(a) Submit to the department **a record on appeal, which shall consist of:**

1. All documentation submitted by the provider in the MCO's internal review process; and

2. Any other information contained in the MCO's final decision;[all documentation submitted by the provider in the provider's MCO internal appeal process, in addition to any other information related to the MCO's final decision; and]

(b) Designate a contact, including name, phone number, mailing address, fax number, and email address;

(c) Submit a copy of the provider's appeal request;

(d) Submit the MCO's final decision from its internal review process; and

(e) Include with the submission an attestation that the

submitted documents required by paragraphs (a) through (d) of this subsection are accurate and complete.

Section 3. External Independent Third-Party Review. (1) The following shall be the categories of external independent third-party reviews:

(a) Medical necessity. A claim involving a medical necessity determination; or

(b) Service coverage requirements including:

1. A claim involving whether the given service is covered by the Medicaid program; or

2. A claim involving whether the provider followed the MCO requirements for the covered service.

(2)(a) A claim involving a medical necessity determination shall be reviewed by a clinician or clinicians who:

1. Have clinical expertise regarding the subject matter; and
2. Are currently licensed regarding the subject matter.

(b) A claim involving service coverage requirements shall be reviewed by the department.

(3) **Only[There shall be no more than] one (1) claim shall be reviewed per external independent third-party review unless the department determines that reviewing multiple claims related to one (1) member is expedient and appropriate.**

(4) The documentation to be reviewed by an external independent third-party reviewer shall be limited to the documentation referenced in Section 2(7) of this administrative regulation.

(5)(a) An external independent third-party reviewer shall:

1. Except as established in paragraph (c) of this subsection, conduct an external independent third-party review and issue a final decision within thirty (30) calendar days from the receipt of the documentation referenced in Section 2(7) of this administrative regulation; and

2. Issue the final decision to:

- a. The provider's designated contact;
- b. The MCO's designated contact; and
- c. The department.

(b) Within ten (10) business days of receiving the final decision of the external independent third party reviewer, the MCO shall notify the enrollee of the final decision, if related to the denial of a health care service.

(c) An extension of up to fourteen (14) calendar days on a final decision of an external independent third-party review may be allowed upon agreement of both parties.

Section 4. Right to an Administrative Hearing. (1) Upon the issuance of a final decision by an external independent third-party reviewer, the department shall notify in writing the MCO and the provider's designated contact of the right of the party that received an adverse final decision to appeal the decision by requesting an administrative hearing pursuant to 907 KAR 17:040.

(2)(a) A request for an appeal referenced in subsection (1) of this section shall be sent to the department within thirty (30) calendar days of receipt of the department's written notice referenced in subsection (1) of this section.

(b) The request for an appeal shall be sent to the department:

1. Electronically;
2. By fax; or
3. By postal mail.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 14, 2017

FILED WITH LRC: March 14, 2017 at 3 p.m.

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Commissioner's Office
(As Amended at ARRS, April 11, 2017)

907 KAR 17:040. Appeal and administrative hearing post external independent third-party review.

RELATES TO: KRS 194A.025(3), 205.646, 42 C.F.R. 438
 STATUTORY AUTHORITY: KRS 194A.010(1), 194A.025(3), 194A.030(2), 194A.050(1), 205.520(3), 205.646, 42 C.F.R. Part 438
 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. [In accordance with] KRS 205.646 entitles a party to appeal a final decision of the external independent third-party review to the administrative hearing tribunal within the Cabinet for Health and Family Services.;] This administrative regulation establishes provisions regarding a Medicaid provider's and managed care organization's right to an administrative hearing following an external independent third-party review.

Section 1. Administrative Hearing Notice and Preliminary Requirements. (1) Upon the issuance of a final decision by an external independent third-party reviewer pursuant to 907 KAR 17:035, the department shall notify in writing the MCO and the provider of the right of the party that received an adverse final decision to appeal the decision by requesting an administrative hearing pursuant to this administrative regulation.

(2)(a) A written request for an administrative hearing referenced in subsection (1) of this section shall be sent to the department within thirty (30) calendar days of receipt of the department's written notice referenced in subsection (1) of this section.

(b) The request for an administrative hearing shall be sent to the department:

1. Electronically;
2. By fax; or
3. By postal mail.

(3) A provider or MCO request for an administrative hearing shall:

(a) Identify each specific issue and dispute directly related to the adverse final decision issued by the external independent third-party reviewer;

(b) State the basis on which the external independent third-party reviewer's decision on each issue is believed to be erroneous;

(c) Limit disputes to the information contained in the record on appeal, as required by 907 KAR 17:035, Section 2(7)(a), and any other information contained in the external independent third-party reviewer's decision;

(d) State the name, mailing address, and telephone number of individuals who may be contacted about the request for an administrative hearing; and

(e) ~~[(d)]~~ State the mailing address, fax number, email address, or other contact information to which the MCO's confirmation of receipt of the request shall be sent.

(4) The department shall forward to the hearing officer an administrative record on appeal that shall include:

- (a) The notice of action taken;
- (b) The statutory or regulatory basis for the action taken;
- (c) The decision following the external independent third-party review; and

(d) The record on appeal as required by 907 KAR 17:035, Section 2(7)(a)[All documentary evidence provided by:

1. The provider;
2. The provider's billing agent;
3. The provider's subcontractor;
4. The provider's fiscal agent; or
5. Another provider-authorized individual].

(5) The department shall deny a request to initiate the

administrative hearing appeal process, or a part thereof, if a party fails to:

(a) Exhaust the external independent third-party review process in accordance with 907 KAR 17:035; or

(b) Submit a timely request for administrative hearing in accordance with subsection (2) of this section.

Section 2. Administrative Hearing. (1)(a) A hearing officer shall establish the date, time, and location of an administrative hearing.

(b) The administrative hearing shall be held in Frankfort, Kentucky.

(c) The hearing officer shall comply with the notice requirements established in KRS 13B.050.

(d) An administrative hearing date shall be scheduled to occur no later than sixty (60) calendar days from the date that the administrative hearing request was received by the department.

(e) An administrative hearing date may be extended beyond sixty (60) calendar days upon agreement of both parties.

(2) If a pre-hearing conference is requested by a party and granted by the hearing officer, the conference shall comply with KRS 13B.070.

(3) An administrative hearing may be withdrawn if:

(a) The hearing officer receives a written statement from the appealing party requesting the withdrawal; or

(b) The appealing party makes a statement on the record at the hearing withdrawing the request for an administrative hearing.

(4) Upon the agreement of all parties, an administrative hearing may be conducted telephonically or by other electronic means.

(5) A hearing officer shall preside over an administrative hearing and shall conduct the administrative hearing in accordance with:

- (a) KRS 13B.080; and
- (b) KRS 13B.090.

(6) The issue considered at the hearing shall be limited to the administrative record on appeal, as required by Section 1(4) of this administrative regulation[s]specific records and disputes raised or presented in the provider's initial appeal to the MCO].

(7) The hearing officer's decision shall be issued within sixty (60) calendar days after the close of the official record of the administrative hearing and shall include:

- (a) The findings of facts, conclusions of law, and the final order solely based on the evidence on the record;
- (b) The party that shall pay an administrative hearing fee in accordance with Section 3 of this administrative regulation; and
- (c) Notice that judicial review on a final order is available to the parties in accordance with Section 4 of this administrative regulation.

(8) In accordance with KRS 205.646(4), a hearing officer's decision shall constitute the final order in the matter for purposes of appeal.

Section 3. Administrative Hearing Fee. The party that receives an adverse final order shall pay a fee of \$600 to the department within thirty (30) calendar days of the issuance of the final order.

Section 4. Judicial Review of the Final Order. (1) Judicial review of the hearing officer's final order is available pursuant to KRS 13B.140 and KRS 13B.150.

(2) Within twenty (20) days after the service of the petition for judicial review under subsection (1) of this section, the administrative hearings branch shall transmit a certified copy of the official record of the proceeding under review.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 14, 2017

FILED WITH LRC: March 14, 2017 at 3 p.m.

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Income Support
Child Support Enforcement
(As Amended at ARRS, April 11, 2017)

921 KAR 1:430. Child support administrative hearings.

RELATES TO: KRS Chapter 13B, 15.055, 154A.060(2)(g), 205.710, 205.712, 205.745, 205.7685, 205.769, 205.778, 237.110(4)(f), 341.392, 341.420, 405.411, 405.440(4), 405.450(1), (2), (5), 405.463, 405.465, 405.467, 405.470, 405.490(4)

STATUTORY AUTHORITY: KRS 13B.170, 194A.050(1), 205.712, 45 C.F.R. 303.35, 42 U.S.C. 666

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law, qualify for the receipt of federal funds, or to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 42 U.S.C. 666 requires each state to have in effect procedures to increase the effectiveness of the Child Support Enforcement Program. 45 C.F.R. 303.35 requires the agency administering the Child Support Enforcement Program to develop a procedure for administrative reviews of child support cases for individuals with complaints. KRS 13B.170 authorizes an agency to promulgate administrative regulations that are necessary to carry out the provisions of KRS Chapter 13B. This administrative regulation establishes the administrative hearing procedures used by the cabinet in the administration of the Child Support Enforcement Program.

Section 1. Availability of a Hearing. (1) An opportunity for an administrative hearing shall be provided to an individual aggrieved by an action or inaction:

- (a) On the part of the Child Support Enforcement Program; and
- (b) That affects the child support case of the individual.

(2) An individual requesting an administrative hearing shall have the option to designate a representative to act on behalf of the aggrieved party for the hearing process, such as:

- (a) Legal counsel;
- (b) A relative; or
- (c) Any other person.

(3) An administrative hearing shall be conducted by an administrative hearing officer assigned by the Division of Administrative Hearings, Families and Children Administrative Hearings Branch:

- (a) In the county of residence for the appellant or child; or
- (b) By telephone or at an alternate location, if the appellant:
 - 1. Is unable to travel; and

2. Requests alternate hearing arrangements at least five (5) calendar days in advance of the scheduled hearing.

(4) If the appellant or authorized representative speaks a language other than English, the cabinet shall ensure that interpreter services are provided for the administrative hearing.

(5) Child support enforcement staff shall schedule and hold an informal interview or conference with an aggrieved individual:

- (a) Within ten (10) calendar days of receiving the individual's hearing request;
- (b) Prior to an administrative hearing being scheduled; and
- (c) To attempt resolution of the dispute.

(6) If the informal conference does not resolve the issue, the hearing request shall be sent to the Families and Children Administrative Hearings Branch as specified in Section 2 of this administrative regulation for scheduling.

Section 2. Request for a Hearing. (1) An individual shall request an administrative hearing by:

- (a) Completing and submitting a CS-180, Request for Administrative Hearing;
- (b) Submitting a written request; or
- (c) Making an oral request, which is then transferred into a written request within the timeframes specified in subsection (4) of this section.

(2) An administrative hearing request shall be submitted to the:

- (a) Child support contracting official's office in the appellant's county of residence; or
- (b) Child Support Enforcement's central office.

(3) The count of days specified in subsection (4) of this section shall begin from the date of:

- (a) Issuance, if the notice is sent by first class mail; or
- (b) Receipt, if the notice is personally served or sent by certified mail.

(4) A written request for an administrative hearing shall be considered timely if received by the cabinet within:

- (a) Ten (10) calendar days of:
 - 1. An income withholding notice; or
 - 2. A notice of intent to boot a vehicle, in accordance with KRS 205.745(9); ~~or~~

~~3. A notice of intent to request a credit report, in accordance with KRS 205.7685;~~

(b) Fifteen (15) calendar days of a notice of withholding from unemployment insurance, pursuant to KRS 341.392 and 341.420;

(c) Twenty (20) calendar days of:

- 1. An initial notice of monthly support obligation, in accordance with KRS 405.440(4);

2. An order to withhold assets, in accordance with KRS 405.490(4);

3. A request for denial or suspension of a license or certificate;

4. A lien notice, in accordance with KRS 205.745(7); or

5. A notice to place the obligor's name on the delinquent listing; or

(d) Thirty (30) calendar days of a:

- 1. Modified notice of monthly support obligation, in accordance with KRS 405.450(5);

2. Notice that an obligation amount was reviewed without change, in accordance with KRS 405.450(5); or

3. Notice regarding the collection of past-due support in accordance with KRS 154A.060(2)(g), 205.712(17), and 205.769.

(5) In accordance with KRS 205.712(13), an individual shall be granted an administrative hearing based upon a mistake in fact, such as an incorrect:

- (a) Person identified as an obligor; or
 - (b) Current or past due support obligation.
- (6) An appellant or authorized representative may withdraw an administrative hearing request by submitting a written request to the:

(a) Families and Children Administrative Hearings Branch, as specified in Section 3 of this administrative regulation; or

(b) Child support enforcement office that accepted the original request for an administrative hearing.

Section 3. Hearing Notification. (1) The Division of Administrative Hearings, Families and Children Administrative Hearings Branch shall acknowledge an administrative hearing request.

(2) A notice of an administrative hearing shall:

- (a) Comply with the requirements of KRS 13B.050(3);
- (b) Specify the name, address, and phone number of the person to notify if an appellant is unable to attend the scheduled hearing; and

(c) Specify that the hearing request shall be dismissed if an appellant or the authorized representative fails to appear for an administrative hearing without good cause as specified in Section 4(3) of this administrative regulation.

(3) Pursuant to KRS 405.450(1), the cabinet shall schedule an administrative hearing within sixty (60) calendar days of an individual's hearing request.

(4) An administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) An individual that fails to appear for a scheduled hearing shall receive notification to provide good cause within ten (10) calendar days.

Section 4. Denial or Dismissal of an Administrative Hearing Request. (1) A hearing request shall be denied or dismissed if the:

- (a) Request is not based on a mistake of fact as specified in

Section 2(5) of this administrative regulation;

(b) Request is untimely and good cause, as defined in subsection (3) of this section, is:

1. Not claimed; or
2. Found not to exist;

(c) Appellant submits a written request to withdraw the administrative hearing request; or

(d) Appellant or an authorized representative fails to appear for the scheduled hearing without:

1. Notifying the cabinet prior to the hearing; or
2. Establishing good cause for failure to appear, as defined in subsection (3) of this section.

(2) A claim of good cause for an untimely hearing request or failure to appear at an administrative hearing shall be established within ten (10) calendar days of receipt of a notice to provide good cause.

(3) Upon receipt of a good cause claim, a hearing officer shall determine if the appellant:

- (a) Was away from home during the entire filing period;
- (b) Is unable to read or comprehend the right to request an administrative hearing on the notice received;

(c) Moved, resulting in a delay in receiving or failure to receive the notice in the required time period;

(d) Was suffering from a serious illness;

(e) Was caring for an immediate household member who had a serious illness; or

(f) Was not at fault for the delay of the request, as determined by the hearing officer.

(4) The cabinet shall notify an appellant of the dismissal of an administrative hearing request by sending a recommended order of dismissal.

Section 5. Appellant's Rights. (1) An appellant or an appellant's legal representative shall have the right to examine and copy case material pertinent to the dispute before or during the hearing process in accordance with KRS 13B.090(3).

(2) The cabinet shall release case information as specified in subsection (1) of this section to the appellant's authorized representative if the appellant provides written authorization that is:

(a) Signed in the presence of child support enforcement staff who shall also sign as a witness; or

(b) Notarized.

(3) An appellant or representatives shall have the right to:

(a) Examine, prior to the hearing:

1. The list of witnesses to be called during the hearing;
2. Evidence to be presented at the hearing; and
3. Other information in the cabinet's possession that pertains to the hearing;

(b) Present witnesses or documents to support the appellant's claim; and

(c) Appeal the decision of the final order of the hearing to Circuit Court in accordance with KRS 13B.140.

Section 6. Obligation Pending a Hearing or Appeal. (1) If a hearing request is based on the dispute of:

(a) An initial notice of monthly support obligation, the obligation shall be stayed until a final order of the secretary is issued, in accordance with KRS 405.450(2); or

(b) The findings of a modification review of an administratively established obligation, the amount of the existing obligation shall be:

1. Enforceable; and
2. Paid by the obligor pending receipt of the final order.

(2) If the action taken on behalf of the Child Support Enforcement Program is:

(a) Upheld, the obligation amount shall be retroactive to the effective date on the notice of monthly support obligation; or

(b) Found to be incorrect, the cabinet shall return to the obligor any overpayment made since the date the administrative hearing was requested.

(3) If an appellant files an appeal of the final order with the Circuit Court, the appellant shall be obligated to pay the amount listed on the notice of monthly support obligation while the appeal

is pending.

Section 7. Recommended Order. (1) After the hearing has concluded, the hearing officer shall submit to the secretary of the Cabinet for Health and Family Services a recommended order in accordance with KRS 13B.110 that:

(a) Summarizes the facts of the case;

(b) Specifies the address where a party to the hearing may send an exception to the recommended order; and

(c) Identifies the:

1. Findings of fact;
2. Conclusions of law;
3. Supporting evidence; and
4. Applicable state and federal laws and administrative regulations.

(2) A copy of the recommended order shall be sent to the:

(a) Appellant or representative;

(b) The secretary; and

(c) Designated staff of the Child Support Enforcement's central office.

Section 8. Written Exceptions. If a party to the hearing disagrees with the recommended order, within fifteen (15) days from the date the recommended order is mailed, the party may file with the secretary written exceptions in accordance with KRS 13B.110(4).

Section 9. Final Order. (1) Within ninety (90) days from the date the recommended order is mailed, a final order shall be issued by the secretary in accordance with KRS 13B.120.

(2) If the final order differs from the recommended order, the final order shall comply with KRS 13B.120(3).

Section 10. Incorporation by Reference. (1) "CS-180, Request for Administrative Hearing", 7/14, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 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. VENO, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: January 31, 2017

FILED WITH LRC: February 3, 2017 at 3 p.m.

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.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, April 11, 2017)

922 KAR 1:400. Supportive services.

RELATES TO: KRS 2.015, 45.237-45.241, 194A.005(1), 199.011(4), 205.2003(3), 205.211, 205.703, 209.020(2), 209A.020(2), 600.020(1), (6), (8), 610.110(6), 620.020(1), 45 C.F.R. Parts 260-265, 42 U.S.C. 601-679b

STATUTORY AUTHORITY: KRS 194A.050(1), 605.130(4), 605.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill responsibilities vested in the cabinet. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(4), which authorizes the cabinet to perform services necessary for the protection of children. This administrative regulation establishes standards for provision of supportive services to a family receiving ongoing case

management services or to safely maintain a child in the child's home through the cabinet, to the extent funds are available.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 194A.005(1), 600.020(7)(6), 209.020(2), and 209A.020(2).

(2) "Child" is defined by KRS 199.011(4) and 600.020(9).~~means:~~

~~(a) A child~~ is ~~[defined by KRS 199.011(4) and]~~ [600.020(9);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with], and as extended by [KRS 610.110(6); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.]

(3) "Intensive family-based support services" means the goal of keeping the family united or if removal of a child is necessary, placing the child in the least restrictive setting consistent with his or her individual needs.

(4) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families Program, a money payment program for a child who is deprived of parental support or care, as described at 921 KAR 2:006, Section 1(9).

(5) "Kentucky Works" means a program that assists a:

(a) Recipient of K-TAP in obtaining education, training, experience, and employment necessary to leave public assistance; or

(b) Former K-TAP recipient with job retention service.

(6) "Paraprofessional attendant" means a person with a high school diploma or bachelor's degree and training related to the services he or she provides, under the supervision of a licensed professional.

(7) "Rehabilitative services" means medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice under state law, for maximum reduction of physical or mental disability and restoration of a recipient to his or her best possible functional level.

(8) "Relative placement support benefit" means a monetary benefit to address a child's immediate ~~needs~~need during the cabinet's placement of the child with a nonparental relative.

(9) "Safety net services" means:

(a) A short-term intervention or maintenance service to help an individual or family develop and maintain skills and abilities to prevent out-of-home placement for a child in that family; or

(b) Monetary benefits to assist in maintaining self-sufficiency.

(10) "Targeted case management" means a set of activities which assist an individual in accessing needed medical, social, educational, and other support services.

Section 2. In addition to the definition in Section 1(2), a child shall include a person:

(1) Age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6); or

(2) Under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

Section 3. Child Care Services. The cabinet may refer an individual or family for child care services pursuant to 922 KAR 2:160 if the individual or family:

(1) Makes a request for assistance for child care expenses;

(2) Needs child care for protection or prevention of child abuse, neglect, or exploitation; or

(3) Needs child care for a child of a teen parent attending high school.

Section 4.[3.] Child Support Service. The cabinet may make a referral for child support services, by means of the process described at 921 KAR 1:380 on behalf of a child entering out-of-home care through a:

(1) Voluntary commitment agreement; or

(2) Court order assigning legal responsibility for the child to the cabinet.

Section 5.[4.] Intensive Family-based Support Services. (1) Intensive family-based support services shall be provided through a contractual agreement, for the purpose of:

(a) Stabilizing a child in the child's own home or foster home;

(b) Preventing further hospitalization or institutionalization; and

(c) Enabling a child and the child's family to improve their lives.

(2) An intensive family-based support service may be provided to a child with one (1) or more of the following:

(a) Intellectual ~~[Mental retardation]~~ or developmental disability;

(b) Emotional or behavioral disturbance;

(c) Dual diagnosis;

(d) Risk of institutionalization; or

(e) Need for aftercare services following release from an institution or other highly structured setting.

(3) Except for the assessment and discharge planning, intensive family-based support services shall not start while a child is in a hospital or an institution.

(4) Intensive family-based support services shall be available to a family with a child living in a:

(a) Biological home;

(b) Foster home; or

(c) Adoptive placement.

(5) The cabinet may make a referral for intensive family-based support services which may include the following:

(a) A comprehensive assessment, to include:

1. Review of medical, psychiatric, social, and educational assessments conducted within the last twelve (12) months; and

2. An in-home assessment;

(b) If appropriate, discharge planning provided through the service provider's involvement with a foster or biological family, the child, and the hospital or institution to ensure:

1. A coordinated approach upon discharge; and

2. That communication is clear regarding behaviors, goals, and recommended interventions;

(c) Planned support services provided to assist with routine day-to-day activity that is crucial to stabilization of a child within the family unit;

(d) Family intervention services, such as behavioral and family counseling, to assist a child and family in:

1. Identifying and resolving issues underlying the dysfunctional behaviors within a family; or

2. Eliminating barriers to change;

(e) Respite care services provided to allow a biological or a foster parent relief for a designated period of time from the stress of caring for an emotionally disturbed or physically disabled child or to allow time to attend to other needs;

(f) A paraprofessional attendant to provide direct in-home services to a child, or a biological or foster parent, as identified in the case plan;

(g) Purchase of care in an alternate living unit, as a component of an intensive family-based support services contract;

(h) Art or music therapy from a qualified professional;

(i) Educational consultation and support;

(j) Crisis intervention;

(k) Skill development; or

(l) Other service identified in the case plan.

(6) The type, frequency, intensity, and duration of services shall be determined according to each individual situation.

(7) A family case plan shall be developed to address:

(a) Family strengths and needs;

(b) Goals, objectives, and tasks;

(c) Time frames; and

(d) Anticipated outcomes.

Section 6.[5.] Safety Net Services. (1) Safety net services shall be provided for a former K-TAP recipient who:

(a) Has total income at or below 200 percent of federal poverty

level; and

(b) Is no longer eligible for K-TAP benefits due to:

1. Failure to comply with Kentucky Works requirements of 921 KAR 2:370, Section 7(2); or

2. Reaching benefit time limitations established at 921 KAR 2:006, Section 21.

(2) A safety net service shall include contact with the family and may address the following:

(a) Assistance to the individual or family to identify the problem and resources available to improve the situation;

(b) Linkage to the appropriate resources; or

(c) Intervention in a crisis situation including:

1. Fuel shortage;

2. Utility shutoff;

3. Insufficient food, clothing, housing, or employment; or

4. Response to an inquiry regarding the family situation.

(3)(a) The cabinet may authorize fund distribution to an appropriate vendor, in order to provide for a family's safety net services.

(b) Up to a total of \$635 may be paid over four (4) months during the twelve (12) month period following an event specified in subsection (1)(b) of this section.

Section 7.[6.] Medicaid Services. (1) Rehabilitative services shall be provided to a Medicaid-eligible child under the age of twenty-one (21) who meets the Department for Community Based Services' conditions and circumstances as a child in the custody of, or under the supervision of, or at risk of being in the custody of, the cabinet.

(2) Targeted case management services shall be provided to a Medicaid-eligible individual in accordance with 907 KAR 3:020, Section 3(1).

Section 8.[7.] K-TAP Determination for Domestic Violence Victims. If a report of alleged domestic violence is made the cabinet shall:

(1) Attempt to arrange a face-to-face interview with the alleged victim to conduct an assessment or investigation, according to the procedure established at 921 KAR 2:006, Section 25, and, if necessary, shall offer protective and general adult services; and

(2) Upon completion of the assessment or investigation, provide information to K-TAP whether the reported victim:

(a) Is in a domestic violence situation; and

(b) Has agreed to services.

Section 9.[8.] Assessment of Minor Teenage Parents. (1) If a determination is made that a minor teenage parent is an applicant or recipient of K-TAP and is not living with an adult or legal guardian, the minor teenage parent shall be referred for an assessment of the minor teenage parent's[his] safety, including assistance with an alternative living arrangement if necessary.

(2) The cabinet shall:

(a) Conduct a face-to-face contact with the minor teenager's parent and the minor parent's child;

(b) Conduct a face-to-face interview with the minor parent in order to assess the minor parent's current situation and the safety issues for the minor teenage parent and child;

(c) Determine if the minor teenager's parent or guardian accepts the minor teenager's living arrangement;

(d) Refer the family to the appropriate services; and

(e) Provide the following to the Division of Family Support:

1. Identification of safety issues;

2. A recommendation regarding opening a protective or preventive services case on the family; and

3. Services to which the minor teenage parent has been referred.

Section 10.[9.] Relative Placement Support Benefit. (1)[Effective April 1, 2013,] To the extent that funds are available, the cabinet shall provide a one (1) time relative placement support benefit:

(a) To facilitate the cabinet's placement of a child with a

nonparental relative as an alternative to the child's placement in foster care;

(b) If a court of competent jurisdiction has granted temporary custody of the child to the relative or the cabinet[determines that a child is at risk of being placed in foster care, or is in the custody of the cabinet and residing in foster care] due to:

1. Child[A cabinet investigation pursuant to 922 KAR 1:330 that resulted in a substantiation of] abuse or neglect by[naming] the child's biological or adoptive parent[as the perpetrator]; or

2. The death of both parents;

(c) That will provide for a child's immediate needs, such as[need for]:

1. Clothing;

2. School supplies;

3. Additional furniture; or

4. A deposit for a larger apartment[; or

5. An essential documentable cost up to the maximum amount allowed in paragraph (d) of this subsection]; and

(d) That is equal to or does not exceed the [maximum] amount for the appropriate number of eligible children as follows:

Number of Eligible Children	[Maximum] Payment Amount
1	\$350
2	\$700
3	\$1,050
4	\$1,400
5	\$1,750
6 or more	\$2,100

(2)(a) The relative placement support benefit shall be issued by check or electronic fund transfer directly to:

1. The relative with whom the child is placed; or

2. A vendor providing the needed service or item listed in subsection (1)(c) of this section.

(b) Before the provision of the relative placement support benefit, the relative or the vendor shall provide tax status and contact information for accounting of the benefit's disbursement.

(3) The cabinet shall indicate the need for a relative placement support benefit in the relative's home evaluation in accordance with 922 KAR 1:140.

(4) In accordance with Kentucky's Title IV-A Temporary Assistance for Needy Families Block Grant state plan, the cabinet shall prioritize a child for the relative placement support benefit if the child is:

(a) Placed with a relative whose household income is at or below 200 percent of the federal poverty level as determined annually by the U.S. Department of Health and Human Services; or

(b) Determined eligible for K-TAP.

Section 11.[10.] Improper Payments. The cabinet shall recover the amount of an improper payment pursuant to KRS 45.237-45.241 and 205.211, including assistance paid pending the outcome of a hearing, from the claimant-payee.

Section 12.[11.] State Plan. A copy of the state's Title IV-A Temporary Assistance for Needy Families state plan may be obtained by a request in writing made to the Commissioner of the Department for Community Based Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621.

ADRIA JOHNSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: January 31, 2017

FILED WITH LRC: February 3, 2017 at 3 p.m.

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 02-564-7905, fax 502-564-7573, email tricia.orme@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, April 11, 2017)

922 KAR 5:120. Caregiver misconduct registry and appeals.

RELATES TO: KRS Chapter 13B, 194A.060, 205.140, 209.42 U.S.C. 1320d-9, 42 U.S.C. 1397-1397e, 1397m-1

STATUTORY AUTHORITY: KRS 194A.050(1), 209.032(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to adopt all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 209.032(5) requires the cabinet to promulgate administrative regulations necessary to implement a central registry of substantiated findings. This administrative regulation establishes the caregiver misconduct registry, due process prior to the addition of an individual to the registry, and error resolution for correction of the cabinet's records.

Section 1. Definitions. (1) "Abuse" is defined by KRS 209.020(8).

(2) "Adult" is defined by KRS 209.020(4).

(3) "Cabinet" means the Cabinet for Health and Family Services.

(4) "Employee" is defined by KRS 209.032(1)(a).

(5) "Exploitation" is defined by KRS 209.020(9).

(6) "Good cause" means justification for failure to carry forward with a legal obligation related to an appeal, including:

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

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

1. Submit a written request for appeal; or

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

(7) "Investigation" is defined by KRS 209.020(10).

(8) ~~[(7)]~~ "Near fatality" means an injury or condition, as certified by a physician, that places an adult in serious or critical condition.

(9) ~~[(8)]~~ "Neglect" is defined by KRS 209.020(16).

(10) ~~[(9)]~~ "Records" is defined by KRS 209.020(15).

(11) ~~[(10)]~~ "Secure methodology" means the deployment of technology to protect the application's authenticity and to keep user communications, browsing, and identity private in accordance with KRS 209.032.

(12) ~~[(11)]~~ "Validated substantiated finding of adult abuse, neglect, or exploitation" is defined by KRS 209.032(1)(b).

(13) ~~[(12)]~~ "Vulnerable adult services provider" is defined by KRS 209.032(1)(c).

Section 2. Caregiver Misconduct Registry. (1) The cabinet shall establish a caregiver misconduct registry that contains an individual:

(a) Who was ~~providing care to an adult as~~ an employee or a person acting with the expectation of compensation;

(b) Who was the perpetrator of adult abuse, neglect, or exploitation:

1. Pursuant to 922 KAR 5:070; and

2. Substantiated on or after July 15, 2014; and

(c) With a validated substantiated finding of adult abuse, neglect, or exploitation.

(2) An individual with a validated substantiated finding of adult abuse, neglect, or exploitation shall:

(a) Remain on the caregiver misconduct registry for a period of at least seven (7) years; and

(b) Be removed from the caregiver misconduct registry:

1. In accordance with the error resolution process described in Section ~~6~~⁵ of this administrative regulation if an error is confirmed; or

2. After a period of seven (7) years if:

a. No additional validated substantiated finding of adult abuse, neglect, or exploitation has occurred since the last finding for which the individual's name was placed on the caregiver misconduct registry; and

b. Cabinet records indicate that the incident for which the individual's name was placed on the caregiver misconduct registry did not relate to:

~~(i) an adult fatality or near fatality related to adult abuse or neglect;~~

~~(ii) A criminal conviction related to the incident for which the individual's name was placed on the caregiver misconduct registry; or~~

~~(iii) A civil judicial determination related to adult abuse, neglect, or exploitation.~~

(3) The caregiver misconduct registry shall be available for a web-based query using a secure methodology by:

(a) A vulnerable adult services provider in accordance with KRS 209.032(2); and

(b) An individual in accordance with KRS 209.032(3).

(4) The caregiver misconduct registry shall be accessible through:

(a) The department's main webpage; or

(b) Another cabinet system, such as the Kentucky Applicant Registry and Employment Screening (KARES) Program established in accordance with 906 KAR 1:190.

(5) If an individual or a vulnerable adult service provider described in KRS 209.032(1)(c)11 does not have access to the internet, the individual or provider shall submit a signed and completed DPP-246, Caregiver Misconduct Registry Self-Query, to conduct a self-query in accordance with KRS 209.032(2) or (3).

Section 3. Notification of Finding. (1) If the cabinet finds that an employee or a person acting with the expectation of compensation has committed adult abuse, neglect, or exploitation in accordance with 922 KAR 5:070, the cabinet shall:

~~(a) send notice of the finding to the perpetrator by certified mail to the perpetrator's last known address; or~~

~~(b) Give notice of the finding to the perpetrator, in person, with a witness signature to document that the perpetrator received the notice.~~

(2) The cabinet's notice of a finding of adult abuse, neglect, or exploitation to an employee or a person acting with the expectation of compensation shall include:

(a) The factual basis for the finding of adult abuse, neglect, or exploitation;

(b) The results of the investigation;

(c) The perpetrator's right to appeal the substantiated finding~~[Due process requirements]~~ in accordance with ~~KRS Chapter 13B and~~ KRS 209.032 and this administrative regulation;

(d) A statement that a finding shall become a validated substantiated finding of adult abuse, neglect, or exploitation in accordance with KRS 209.032 and Section 5 of this administrative regulation; and

(e) A statement that a perpetrator of~~[the individual subject to]~~ a validated substantiated finding of adult abuse, neglect, or exploitation shall be added to the caregiver misconduct registry.

(3)(a) The cabinet shall reserve the right, in its sole discretion, to amend, modify, or reverse its investigative finding of adult abuse, neglect, or exploitation at any time if the finding appears to be improper based upon:

1. ~~(a)~~ A review of the cabinet's records; or

2. ~~(b)~~ Subsequent discovery of additional information.

(b) If amendment, modification, or reversal of an investigative finding results in a substantiated finding of abuse or neglect of an adult, the cabinet shall act in accordance with Section 3(1) and/3(2) of this administrative regulation.

Section 4. Request for Appeal~~[Appeals]~~. (1) In accordance with KRS 209.032, if the cabinet makes a finding that~~[an individual providing care to an adult as]~~ an employee or a person acting with the expectation of compensation has committed adult abuse,

neglect, or exploitation, the individual shall have the right to appeal the substantiated finding through~~[be afforded an opportunity for]~~ an administrative hearing.

(2) A request for appeal shall:

(a) Be submitted:

1. In writing by the appellant, with the assistance of the cabinet if the appellant is unable to comply without assistance; and

2. To the cabinet no later than thirty (30) calendar days from the individual's receipt of the notice in accordance with Section 3(1) of this administrative regulation;

(b) Describe the nature of the investigative finding;

(c) Specify the reason the individual disputes the cabinet's substantiated finding; and

(d) Include a copy of the notice of a substantiated finding in accordance with Section 3 of this administrative regulation, if available.

(3) The cabinet shall not dismiss a request for appeal as untimely if an appellant demonstrates good cause.

(4) A final administrative decision made by the cabinet or cabinet's designee as a result of a previous appeal on the same issue or an unsubstantiated finding of adult abuse, neglect, or exploitation shall not be subject to review through an administrative hearing.

Section 5. Administrative Hearing. (1) An administrative hearing conducted by the cabinet or its designee shall be in accordance with KRS Chapter 13B and 209.032.

(2) The cabinet's investigative finding shall become a validated substantiated finding of adult abuse, neglect, or exploitation if the~~[perpetrator]~~:

(a) Perpetrator does not request an administrative hearing in accordance with Section 4 of this administrative regulation:~~[or]~~

(b) Perpetrator fails to:

1. Participate in any stage of the proceedings after requesting an appeal in accordance with Section 4 of this administrative regulation; and

2. Demonstrate good cause; or

(c) Cabinet's substantiated finding is upheld through the administrative hearing process.

(3) The secretary or designee shall issue the final order in accordance with KRS 13B.120 and 209.032.

(4) A party aggrieved by the secretary's decision shall have the right to pursue judicial review in accordance with KRS 13B.140, 13B.150, and 209.032(1)(b).

(5) The proceedings of the administrative hearing shall be disclosed only in accordance with KRS 194A.060, 205.140, 42 U.S.C. 1320d-1320d-9, 42 U.S.C. 1397-1397e, 1397m-1, 920 KAR 1:060, and 922 KAR 1:510~~[by the authority of state or federal law].~~

(6) If the matter is not subject to the requirements of this section, the cabinet shall inform the person that the matter may be pursued through:

(a) A service complaint process described in 920 KAR 1:030 or 922 KAR 1:320; or

(b) The error resolution process in accordance with Section 6[5] of this administrative regulation.

Section 6[5]. Error Resolution. (1) In accordance with KRS 209.032(5)(a), an individual seeking error resolution shall:

(a) Submit a written request for record correction to the Commissioner of the Department for Community Based Services, 275 East Main Street (3W-A), Frankfort, Kentucky 40621;

(b) Specify the:

1. Date of the caregiver misconduct registry query which resulted in the error being identified; and

2. Error contained in the caregiver misconduct registry query results; and

(c) Provide documentation that verifies the error, if available.

(2) Within thirty (30) days of receipt of a request in accordance with subsection (1) of this section, the commissioner or designee shall:

(a) Determine whether an error exists; and

(b)1. If the cabinet confirms an error:

a. Correct the records; and

b. Notify the requesting individual that the records have been corrected; or

2. If the cabinet cannot confirm an error:

a. Notify the individual that an error cannot be confirmed based upon the information and documentation submitted with the request; and

b. Outline information or documentation that may verify an error pursuant to the individual's request, if any.

Section 7[6]. Incorporation by Reference. (1) The "DPP-246, Caregiver Misconduct Registry Self-Query", 11/14, is incorporated by reference.

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

ADRIA JOHNSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 8, 2017

FILED WITH LRC: March 9, 2017 at 3 p.m.

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

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

GENERAL GOVERNMENT CABINET Board of Medical Imaging and Radiation Therapy (Amended After Comments)

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

RELATES TO: KRS 311B.020, 311B.050,~~[311B.080,]~~
311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.080,
311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist.~~[KRS 311B.080 requires the board to recognize and enforce national practice standards and scopes of practice. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.]~~

Section 1.~~[Applicability. This administrative regulation shall apply to individuals who perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision of a licensed practitioner of the healing arts as specified by practice standards, by scope of practice, and in the ACR-AAPM Technical Standard For The Management Of The Use Of Radiation In Fluoroscopic Procedures as listed in Section 12]~~~~[41][of this administrative regulation.~~

Section 2.] Eligibility for an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist License. A[No] person shall not be eligible for a license pursuant to this administrative regulation for diagnostic imaging or therapeutic purposes unless the person has:

(1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board examination; and

(2) Satisfactorily completed a program in radiography, nuclear medicine technology, radiation therapy, or advanced imaging practice that has achieved and maintained programmatic accreditation recognized by the board as described in 201 KAR 46:030.

Section 2.~~[3.]~~ Application for Initial License. (1) An applicant shall submit:

(a) A completed and signed application KBMIRT Form 1;

(b) A non-refundable initial application and license fee as established by 201 KAR 46:020, Section 1;

(c) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(d) A copy of a government-issued photo ID;

(e) Documentation of active registration or certification with the ARRT or NMTCB; and

(f) Verification of graduation from a program accredited by the Joint Review Committee on Education in Radiologic Technology or the Joint Review Committee on Educational Programs in Nuclear Medicine Technology.

(2) Notwithstanding subsection (1)(f) of this section, if a student

enters a program not under probation, and the majority of the education program is completed under the accreditation required under 201 KAR 46:030, then the board may waive the accreditation standard as long as the graduate passes the American Registry of Radiologic Technologists (ARRT) examination on the first attempt.

Section 3.~~[4.]~~ Applicant for an Unaccredited Educational Program.~~[41]~~ If an applicant **qualifies for licensure under KRS 311B.100, Section 3(1), the applicant shall submit and satisfy the requirements of Section 3(1)(a) through (e) of this administrative regulation and shall also submit proof [does not graduate from an accredited educational program as required in Section 2(2), Section 3(1)(f), or Section 3(2) of this administrative regulation, the licensing requirements for the accredited educational program requirement may be waived for an applicant if]:**

(1) Of[(a) The applicant holds] an active valid license or certificate from another jurisdiction's regulatory board to practice as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist and is in good standing;

(2) Proof of certification or licensure[(b) The other jurisdiction grants the same privileges to licensees of Kentucky as Kentucky grants to a licensee or certificate holder of that other jurisdiction];

(c) The licensing requirements of the other jurisdiction are determined by the board to be substantially similar to the requirements of KRS Chapter 311B and the administrative regulations in 201 KAR Chapter 46;

(d) The applicant is certified or licensed] by a national organization recognized by the board;

(3) That[(e)] the applicant has not been disciplined as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist by any jurisdiction or national organization that has issued a license or certificate to the applicant; and

(4)[(f) The applicant has provided the board with evidence] Of a minimum of five (5) years of work experience as a certified or licensed advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist. [(2) An applicant for reciprocity under this section shall submit and satisfy the requirements of Section 3(1)(a) through (e) of this administrative regulation.]

Section 4.~~[5.]~~ The issued license shall identify the licensee as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, or a nuclear medicine technologist. The medical imaging technologist license shall also identify any ARRT or NMTCB disciplines awarded to the licensee.

Section 5.~~[6.]~~~~[5.]~~ The license shall expire annually on the last day of the licensee's birth month.

Section 6.~~[7.]~~~~[6.]~~ Renewal of License. To renew a license, the licensee shall submit:

(1) KBMIRT Form 2;

(2) Verification of current active status with the ARRT or NMTCB; and

(3) The renewal license fee as established by 201 KAR 46:020, Section 2.

Section 7.~~[8.]~~~~[7.]~~ Reinstatement of Lapsed License. (1) A licensee who has allowed the license to lapse for more than one (1) month but less than twelve (12) months shall be~~is~~ eligible to be reinstated upon:

(a) Submission of KBMIRT Form 2;

(b) Submission of~~[.]~~ documentation of twenty-four (24) hours of approved continuing education biennially~~[.]~~ and

(c) The payment of reinstatement, late, and renewal fees as

established by 201 KAR 46:020, Sections 2, [and] 7, and 14.

(2) A licensee whose license has lapsed for more than twelve (12) months shall submit:

(a) Verification of current active status with the ARRT or NMTCB;

(b) KBMIRT Form 1;

(c) Continuing education KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, that documents twenty-four (24) hours of approved continuing education;

(d) The non-refundable initial application and license fee as established by 201 KAR 46:020, Section 1;

(e) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and

(f) A copy of a government-issued photo ID.

Section ~~8.[9.]~~[8.] Temporary License. The board may, upon completion of Form KBMIRT 3, as incorporated by reference in 201 KAR 46:045, and payment of the fee established in 201 KAR 46:020, Section 3, issue a temporary license to an applicant who has successfully completed an approved course of study in radiography, nuclear medicine technology, radiation therapy, or an advanced imaging profession and meets the other requirements of 201 KAR 46:045 other than having taken the required examination. A temporary license[licenses] shall be effective for one (1) year only and shall[are] not be renewable.

Section ~~9.[10.]~~[9.] Continuing Education Audit Process. (1) The board shall select a sample of licensees to audit for continuing education compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall provide the board with a copy of his or her certificate or records of completion.

(5) Failure to comply with an audit may result in non-renewal, suspension, or revocation of license.

Section ~~10.[11.]~~[10.] Contrast Procedures. Only individuals holding a license pursuant to this administrative regulation shall perform diagnostic imaging or radiation therapy procedures regulated by KRS Chapter 311B at facilities where contrast studies are performed.

Section ~~11.[12.]~~[11.] ~~Practice Standards. Individuals licensed pursuant to this administrative regulation shall perform according to practice standards of the discipline for which they hold credentials, as established by the American Society of Radiologic Technologists (ASRT), the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM), and the Society of Nuclear Medicine and Molecular Imaging (SNMMI) and incorporated by reference. These standards include the:~~

~~(1) Radiography Practice Standards;~~

~~(2) Nuclear Medicine Technologist Scope of Practice and Performance Standards;~~

~~(3) Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards;~~

~~(4) Scope of Practice for the Nuclear Medicine Advanced Associate;~~

~~(5) Radiation Therapy Practice Standards;~~

~~(6) Bone Densitometry Practice Standards;~~

~~(7) Cardiac[Cardiovascular] Interventional and Vascular Interventional Technology Practice Standards;~~

~~(8) Computed Tomography Practice Standards;~~

~~(9) Limited X-ray Machine Operator Practice Standards;~~

~~(10) Mammography Practice Standards;~~

~~(11) Radiologist Assistant Practice Standards;~~

~~(12) ACR ASRT Joint Policy Statement-Radiologist~~

~~Assistant: Roles and Responsibilities; and~~

~~(13) ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures.~~

Section ~~13.[14.]~~[12.] CT Training for Nuclear Medicine Technologists and Radiation Therapists. Individuals who are licensed in the primary discipline of nuclear medicine or radiation therapy, are certified by the ARRT or NMTCB, and are seeking post-primary certification in computed tomography (CT) may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in CT shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section ~~12.[14.]~~[13.] PET Training for Radiographers and Radiation Therapists. Individuals who are licensed in the primary discipline of radiography or radiation therapy, are certified by the ARRT, and are seeking post-primary certification in positron emission tomography (PET) may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section ~~13.[15.]~~[14.] Applications for licensure shall be filed with the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601.

Section ~~14.[16.]~~[15.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) ~~"Radiography Practice Standards", revised June 26, 2016~~[16, 2013];

(b) ~~"Nuclear Medicine Technologist Scope of Practice and Performance Standards", revised June 7, 2013;~~

(c) ~~"Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards", revised January 26, 2013;~~

(d) ~~"Scope of Practice for the Nuclear Medicine Advanced Associate", created 2009;~~

(e) ~~"Radiation Therapy Practice Standards", revised June 26, 2016~~[19, 2014];

(f) ~~"Bone Densitometry Practice Standards", revised June 26, 2016~~[19, 2014];

(g) ~~"Cardiac[Cardiovascular] Interventional and Vascular Interventional Technology Practice Standards", revised June 26, 2016~~[16, 2013];

(h) ~~"Computed Tomography Practice Standards", revised June 26, 2016~~[16, 2013];

(i) ~~"Limited X-ray Machine Operator Practice Standards", revised June 26, 2016~~[16, 2013];

(j) ~~"Mammography Practice Standards", revised June 26, 2016~~[July 1, 2012];

(k) ~~"Radiologist Assistant Practice Standards", revised June 26, 2016~~[July 29, 2014];

(l) ~~"ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", May 2003;~~

(m) ~~"ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures", revised 2013 (Resolution 44);~~

(n) KBMIRT Form 1, "License Application-Medical Imaging or Radiation Therapy", February 2017[March 2015]; and

(b)[(e)] KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy", February 2017[March 2015].

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

(a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, <http://www.asrt.org/main/standards-regulations/practice-standards>;

(b) Society for Nuclear Medicine and Molecular Imaging,

~~1850 Samuel Morse Drive Reston, Virginia 20190,~~
~~http://www.snmml.org; or~~

(e)] the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.]

AMY ADKINS, Chair

APPROVED BY AGENCY: April 14, 2017

FILED WITH LRC: April 14, 2017 at 9 a.m.

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for eligibility for licensure, and the initial and renewal application process.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards and process for application and renewal of license issued by the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedures for the board to issue and renew the licenses of duly qualified 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 would allow individuals who has established they are competency; update forms; and update standards of practice.

(b) The necessity of the amendment to this administrative regulation: The amendment allows the Board to update its standards of practice; and provide for licensure for individuals who did not graduate from an unaccredited educational program.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will update the renewal application; and provide for qualified applicants, who graduated for an unaccredited educational program, to be licensed in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 8,000 licensees.

(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: Individuals who seek to be licensed or have an issued license to be renewed must submit an application setting forth the individual's qualifications.

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

amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Qualified individuals will be able to be licensed and maintain previously issued licenses.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending this administrative regulation.

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.

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

(9) TIERING: Is tiering applied?: Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.: KRS 311B.050, 311B.080, 311B.100(2), 311B.110.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? There is no cost associated with administering this regulation.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Division of Epidemiology and Health Planning (Amended After Comments)

902 KAR 2:060. Immunization schedules for attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools.

RELATES TO: KRS 158.035, 211.090, 211.220, 214.032-214.036

STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 211.180(1)(a), (e), 214.034(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050 requires the secretary for the Cabinet for Health and

Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.190(3) requires the secretary to promulgate administrative regulations necessary to regulate and control all matters set forth in KRS 211.180. KRS 214.034(1) requires the cabinet to promulgate administrative regulations to establish immunization schedules. This administrative regulation establishes the mandatory immunization schedule for attendance at child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools.

Section 1. Definitions. (1) "Advanced practice registered nurse" or "APRN" means a nurse designated to engage in advanced registered nursing as defined in KRS 314.011.

(2) "Advisory Committee on Immunization Practices" or "ACIP" [or Advisory Committee on Immunization Practices]" means the United States Department of Health and Human Services (HHS) Committee that makes national immunization recommendations to the Secretary of the HHS, the Assistant Secretary for Health, and the Director of the Centers for Disease Control and Prevention or CDC.

(3) "Child" means a person less than eighteen (18) years of age.

(4) "Commonwealth of Kentucky Parent or Guardian's Declination on Religious Grounds to Required Immunizations" means an original, written, sworn, and notarized statement of a parent or guardian's objection to medical immunization against disease of a child on religious grounds.

(5) ~~(2) "Advanced Practice Registered Nurse" or "APRN" (APRN) means a nurse designated to engage in advanced registered nursing practice as defined in KRS 314.011.~~

(3) "Dose" means a measured quantity of vaccine, specified in the package insert provided by the manufacturer.

(6) ~~(4) "DT" means diphtheria and tetanus toxoids [combined].~~

(7) ~~(5) "DTaP" means diphtheria and tetanus toxoids and [combined with] acellular pertussis vaccine.~~

(8) ~~(6) "DTP" means diphtheria and tetanus toxoids and [combined with] pertussis vaccine.~~

(9) ~~(7) "Healthcare provider" means a person licensed under KRS 311.530 to 311.620, 311.840 to 311.862, and a nurse designated to engage in advanced practice registered nursing as defined in KRS 314.011 and 314.042.~~

(10) "HepA" means hepatitis A vaccine.

(11) ~~(8) "HepB" means hepatitis B vaccine.~~

(12) ~~(9) "Hib" means Haemophilus influenzae type b conjugate vaccine.~~

(13) ~~(10) "IPV" means inactivated poliovirus [polio-virus] vaccine.~~

(14) ~~(11) "MenACWY [MCV]" means serogroups A, C, W, and Y meningococcal conjugate vaccine.~~

(15) ~~(12) "MMR" means measles, mumps, and rubella virus vaccine [vaccines combined].~~ 24)

(16) ~~(13) ["MPSV" means meningococcal polysaccharide vaccine.~~

(17) ~~(14) "OPV" means trivalent oral poliovirus vaccine [Sabin].~~

(18) ~~(15) "PCV" means pneumococcal conjugate vaccine.~~

(19) ~~(16) "Pharmacist" means a person licensed under KRS 315.002 to 315.050.~~

(20) ~~(17) "Physician [Physicians] assistant" means a person licensed under KRS 311.840 to 311.862.~~

(21) ~~(18) "Td" means [combined] tetanus and diphtheria toxoids for [adult use type].~~

(22) ~~(19) "Tdap" means tetanus toxoid, [and] reduced diphtheria toxoid, and [combined with] acellular pertussis vaccine [vaccines].~~

(23) ~~(20) "Varicella" means varicella [or chickenpox] vaccine.~~

(24) "Varicella immunity (non-vaccine)" means:

(a) Diagnosis of varicella disease by a healthcare provider;

(b) Verification of a history of varicella disease by a healthcare

provider;

(c) Diagnosis of herpes zoster by a healthcare provider; or

(d) Verification of a history of herpes zoster by a healthcare provider.

Section 2. Immunization Schedules. **Except as provided in Section 3 of this administrative regulation:**

(1) A current Commonwealth of Kentucky Certificate of Immunization Status [child three (3) months of age or older, without a current immunization certificate,] shall be required to [not] attend a:

(a) [A] Child day care center, beginning at age three (3) months;

(b) Certified family child care home, beginning at age three (3) months;

(c) [Other] Licensed facility [that] [which] cares for children, beginning at age three (3) months;

(d) Preschool program; or

(e) Public or private primary or secondary school.

(2) A current Commonwealth of Kentucky Certificate of Immunization Status shall be required for a child that is otherwise homeschooled in order [before they are permitted] to attend one (1) or more in-school classes or to participate in sports or any school-sponsored extra-curricular activities.

(3) **[Except as provided in Section 3 of this administrative regulation,]** A Commonwealth of Kentucky Certificate of Immunization Status [the immunization certificate] of a child shall be considered current for age-appropriate vaccines if the child is:

(a) At least aged three (3) months and less than five (5) months [of age] and has received at least:

1. One (1) dose of DTaP or DTP;

2. One (1) dose of IPV or OPV;

3. One (1) dose of Hib;

4. One (1) dose of HepB; and

5. One (1) dose of PCV;

(b) At least aged five (5) months and less than seven (7) months [of age] and has received at least:

1. Two (2) doses of DTaP or DTP or combinations of the two (2) vaccines;

2. Two (2) doses of IPV or OPV or combinations of the two (2) vaccines;

3. Two (2) doses of Hib;

4. Two (2) doses of HepB; and

5. Two (2) doses of PCV;

(c) At least aged seven (7) months and less than twelve (12) months [of age] and has received at least:

1. Three (3) doses of DTaP or DTP or combinations of the two (2) vaccines;

2. Two (2) doses of IPV or OPV or combinations of the two (2) vaccines;

3. Two (2) doses of Hib;

4. Two (2) doses of HepB; and

5. a. Three (3) doses of PCV; or

b. Two (2) doses [does] of PCV if [a child received] the first dose was received when aged [of PCV between] seven (7) months through [to] eleven (11) months [of age]; [and]

(d) At least aged twelve (12) months and less than sixteen (16) months [of age] and has received at least:

1. Three (3) doses of DTaP or DTP or combinations of the two (2) vaccines;

2. Two (2) doses of IPV or OPV or combinations of the two (2) vaccines;

3. a. Three (3) doses of Hib; [or]

b. Two (2) doses of Hib if the first dose was received when aged seven (7) months through eleven (11) months;

c. One (1) dose of Hib if the first dose was received when aged [between] twelve (12) months through fourteen (14) [and fifteen (15)] months [of age]; or

d. One (1) dose of Hib if the first dose was received when aged fifteen (15) months;

4. One (1) dose of HepA;

5. [4.] Two (2) doses of HepB; and

6. [5.] a. Four (4) doses of PCV with one (1) dose when aged [on

or after] twelve (12) months through fifteen (15) months[~~of age~~];

b. Three (3) doses of PCV if the first dose was received when aged[a child received the first dose of PCV between] seven (7) months through[~~to~~] eleven (11) months[~~of age~~], with at least one (1) dose received when aged[~~on or after~~] twelve (12) months through fifteen (15) months[~~of age~~]; or

c. Two (2) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] twelve (12) months through[~~to~~] fifteen (15) months[~~of age~~];

(e) At least aged sixteen (16) months and less than nineteen (19) months[~~of age~~] and has received at least:

1. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines;

2. Two (2) doses of IPV or OPV or combinations of the two (2) vaccines;

3.a. Four (4) doses of Hib;

b. Three (3) doses of Hib if the first dose was received before aged twelve (12) months, and the second dose was received when younger than aged fifteen (15) months;

c. Two (2) doses of Hib if the first dose was received when aged twelve (12) months through fourteen (14) months; or

d. One (1) dose of Hib if the first dose was received when aged fifteen (15) months through eighteen (18) months;

4. One (1) dose of HepA;

5.[4.] Two (2) doses of HepB;

6.[5.]a. Four (4) doses of PCV with one (1) dose when aged[~~on or after~~] twelve (12) months through eighteen (18) months[~~of age~~];

b. Three (3) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] seven (7) months through[~~to~~] eleven (11) months[~~of age~~], with at least one dose when aged[~~on or after~~] twelve (12) months through eighteen (18) months[~~of age~~]; or

c. Two (2) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] twelve (12) months through eighteen (18)[~~to fifteen (15)~~] months[~~of age~~];

7.[6.] One (1) dose of MMR; and

8.a.[7.] One (1) dose of Varicella; or

b.[, unless] A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine)[states that the child has had a diagnosis of typical varicella disease or verification of a history of varicella disease by a healthcare provider or a diagnosis of herpes zoster disease or verification of a history of herpes zoster disease by a healthcare provider]**;

(f) At least aged nineteen (19) months and less than forty-eight (48) months[~~of age~~] and has received at least:

1. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines;

2. Three (3) doses of IPV or OPV or combinations of the two (2) vaccines;

3.a. Four (4) doses of Hib;

b. Three (3) doses of Hib if the first dose was received before aged twelve (12) months, and the second dose was received when younger than aged fifteen (15) months;

c. Two (2) doses of Hib if the first dose was received when aged twelve (12) months through fourteen (14) months; or

d. One (1) dose of Hib if the first dose was received when aged fifteen (15) months through forty-seven (47) months;

4. Two (2) doses of HepA;

5.[4.] Three (3) doses of HepB; and

6.[5.]a. Four (4) doses of PCV with one (1) dose when aged[~~on or after~~] twelve (12) months through fifteen (15) months[~~of age~~];

b. Three (3) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] seven (7) months through[~~to~~] eleven (11) months[~~of age~~], with at least one (1) dose when aged[~~on or after~~] twelve (12) months through forty-seven (47) months[~~of age~~];

c. Two (2) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] twelve (12) months through twenty-three (23)[~~to fifteen (15)~~] months[~~of age~~]; or

d. One (1) dose of PCV if a child received] the first dose was received when aged[~~of PCV at~~] twenty-four (24) months through forty-seven (47) months[~~of age or older~~];

7.[6.] One (1) dose of MMR; and

8.a.[7.] One (1) dose of Varicella; or

b.[, unless] A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine)[states that the child has had a diagnosis of typical varicella disease or verification of a history of varicella disease by a healthcare provider or a diagnosis of herpes zoster disease or verification of a history of herpes zoster disease by a healthcare provider]**;

(g) At least aged forty-eight (48) months and less than five (5) years[~~of age~~] and has received at least:

1. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines;

2. Three (3) doses of IPV or OPV or combinations of the two (2) vaccines;

3.a. Four (4) doses of Hib;

b. Three (3) doses of Hib if the first dose was received before aged twelve (12) months, and the second dose was received when younger than aged fifteen (15) months;

c. Two (2) doses of Hib if the first dose was received when aged twelve (12) months through fourteen (14) months; or

d. One (1) dose of Hib if the first dose was received when aged fifteen (15) months through fifty-nine (59) months;

4. Two (2) doses of HepA;

5.[4.] Three (3) doses of HepB;

6.[5.]a. Four (4) doses of PCV with one (1) dose when aged[~~on or after~~] twelve (12) months through fifteen (15) months[~~of age~~];

b. Three (3) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] seven (7) months through[~~to~~] eleven (11) months[~~of age~~], with at least one (1) dose when aged[~~on or after~~] twelve (12) months through fifty-nine (59) months[~~of age~~];

c. Two (2) doses of PCV if a child received] the first dose was received when aged[~~of PCV between~~] twelve (12) months through[~~to~~] twenty-three (23) months[~~of age~~]; or

d. One (1) dose of PCV if a child received] the first dose was received when aged[~~of PCV at~~] twenty-four (24) months through fifty-nine (59) months[~~or older~~];

7.[6.] Two (2) doses of MMR; and

8.a.[7.] Two (2) doses of Varicella; or

b.[, unless] A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine)[states that the child has had a diagnosis of typical varicella disease or verification of a history of varicella disease by a healthcare provider or a diagnosis of herpes zoster disease or verification of a history of herpes zoster disease by a healthcare provider]**;

(h) At least aged five (5) years and less than seven (7) years[~~of age~~] and has received at least:

1.a. Five (5) doses of DTaP or DTP or combinations of the two (2) vaccines; or

b. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines if the fourth dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

2.a. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines with the fourth dose received when aged four (4) years [on or after the fourth birthday] through[age] six (6) years and at least six (6) months after the previous dose;

b. Four (4) or more doses of IPV or OPV or combinations of the two (2) vaccines received before age four (4) years and an additional dose received when aged four (4) years through six (6) years and at least six (6) months after the previous dose; or

c. Three (3) doses of IPV or OPV or combinations of the two (2) vaccines if the third dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

3. Two (2) doses of HepA;

4.[3.] Three (3) doses of HepB;

5.[4.] Two (2) doses of MMR; and

6.[5.]a. Two (2) doses of Varicella; or

b.[, unless] A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine)[states that the child**

has had a diagnosis of typical varicella disease or verification of a history of varicella disease by a healthcare provider or a diagnosis of herpes zoster disease or verification of a history of herpes zoster disease by a healthcare provider];

(i) At least aged seven (7) years[of age] and less than eleven (11) years[of age] and has received at least:

1.a. Five (5) doses of DTaP or DTP or combinations of the two (2) vaccines;[or]

b. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines if the fourth dose was received when aged four (4) years or older and at least six (6) months after the previous dose;
or

c. A dose of Td that was preceded by two (2) doses of DTaP, DTP, [DTaP,] DT, or Td or combinations of the four (4) vaccines;

2.a. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines with the fourth dose received when aged four (4) years or older and at least six (6) months after the previous dose;[or]

b. **Four (4) or more doses of IPV or OPV or combinations of the two (2) vaccines received before age four (4) years and an additional dose received when aged four (4) years or older and at least six (6) months after the previous dose;**

c. **Four (4) doses of IPV or OPV or combinations of the two (2) vaccines if the fourth dose was received before August 7, 2009, with all doses separated by at least four (4) weeks; or**

d. Three (3) doses of IPV or OPV or combinations of the two (2) vaccines if the third dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

3. Two (2) doses of HepA;

4.[3.] Three (3) doses of HepB;

5.[4.] Two (2) doses of MMR; and

6.a.[5.] Two (2) doses of Varicella;or

b.[, unless] A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine)[states that the child has had a diagnosis of typical varicella disease or verification of a history of varicella disease by a healthcare provider or a diagnosis of herpes zoster disease or verification of a history of herpes zoster disease by a healthcare provider];**

(j) At least aged eleven (11) years and less than thirteen (13) years **and has**[(3) For sixth-grade entry, age eleven (11) or twelve (12) years or older][, **a child shall have**] received at least:

1.[(a)] One (1) dose of Tdap;

2.a. Five (5) doses of DTaP or DTP or combinations of the two (2) vaccines;

b. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines if the fourth dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

c. A dose of Td that was preceded by two (2) doses of DTaP, DTP, DT, or Td or combinations of the four (4) vaccines;or

d. Two (2) doses of Td after the dose of Tdap;

3.a.[(b)] Four (4) doses of IPV or OPV or combinations of the two (2) vaccines with the fourth dose received when aged four (4) years or older and at least six (6) months after the previous dose;

b. **Four (4) or more doses of IPV or OPV or combinations of the two (2) vaccines received before age four (4) years and an additional dose received when aged four (4) years or older and at least six (6) months after the previous dose;**

c. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines if the fourth dose was received before August 7, 2009, with all doses separated by at least four (4) weeks;or

d.[c.] Three (3) doses of IPV or OPV or combinations of the two (2) vaccines if the third dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

4. Two (2) doses of HepA;

5.a.[(c)1-] Three (3) doses of HepB;or

b.[2.] Two (2) doses of adult HepB approved by the FDA to be used for an alternative schedule for adolescents aged eleven (11) years through fifteen (15) years[of age];

6.[(d)] Two (2) doses of MMR;

7.a.[(e)] Two (2) doses of Varicella;or

b.[, unless] A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that]**

the child has varicella immunity (non-vaccine)[states that the child has had a diagnosis of typical varicella disease or verification of a history of varicella disease by a healthcare provider or a diagnosis of herpes zoster disease or verification of a history of herpes zoster disease by a healthcare provider]; and

8.[(f)] One (1) dose of **MenACWY[MCV or MPSV];**

(k) At least aged thirteen (13) years and less than sixteen (16) years **and has**[, **a child shall have**] received at least:

1. One (1) dose of Tdap;

2.a. Five (5) doses of DTaP or DTP or combinations of the two (2) vaccines;

b. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines if the fourth dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

c. A dose of Td that was preceded by two (2) doses of DTaP, DTP, DT, or Td or combinations of the four (4) vaccines;or

d. Two (2) doses of Td after the dose of Tdap;

3.a. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines with the fourth dose received when aged four (4) years or older and at least six (6) months after the previous dose;

b. **Four (4) or more doses of IPV or OPV or combinations of the two (2) vaccines received before age four (4) years and an additional dose received when aged four (4) years or older and at least six (6) months after the previous dose;**

c. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines if the fourth dose was received before August 7, 2009, with all doses separated by at least four (4) weeks;or

d.[c.] Three (3) doses of IPV or OPV or combinations of the two (2) vaccines if the third dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

4. Two (2) doses of HepA;

5.a. Three (3) doses of HepB;or

b. Two (2) doses of adult HepB approved by the FDA to be used for an alternative schedule for adolescents aged eleven (11) through fifteen (15) years;

6. Two (2) doses of MMR;

7.a. Two (2) doses of Varicella;or

b. A **diagnosis or verification from a healthcare provider that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine); and**

8. One (1) dose of **MenACWY[MCV or MPSV];**

(l) At least aged sixteen (16) years or older **and has**[, **a child shall have**] received at least:

1. One (1) dose of Tdap;

2.a. Five (5) doses of DTaP or DTP or combinations of the two (2) vaccines;

b. Four (4) doses of DTaP or DTP or combinations of the two (2) vaccines if the fourth dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

c. A dose of Td that was preceded by two (2) doses of DTaP, DTP, DT, or Td or combinations of the four (4) vaccines;or

d. Two (2) doses of Td after the dose of Tdap;

3.a. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines with the fourth dose received when aged four (4) years or older and at least six (6) months after the previous dose;

b. **Four (4) or more doses of IPV or OPV or combinations of the two (2) vaccines received before age four (4) years and an additional dose received when aged four (4) years or older and at least six (6) months after the previous dose;**

c. Four (4) doses of IPV or OPV or combinations of the two (2) vaccines if the fourth dose was received before August 7, 2009, with all doses separated by at least four (4) weeks;or

d.[c.] Three (3) doses of IPV or OPV or combinations of the two (2) vaccines if the third dose was received when aged four (4) years or older and at least six (6) months after the previous dose;

4. Two (2) doses of HepA;

5.a. Three (3) doses of HepB;or

b. Two (2) doses of adult HepB approved by the FDA to be used for an alternative schedule for adolescents aged eleven (11) years through fifteen (15) years;

6. Two (2) doses of MMR;

7.a. Two (2) doses of Varicella;or

b. A **diagnosis or verification from a healthcare provider**

~~that[healthcare provider diagnosed or verified that] the child has varicella immunity (non-vaccine); and~~

~~8.a. Two (2) doses of MenACWY; or~~

~~b. One (1) dose of MenACWY if that dose was received at age sixteen (16) years or older[MCV or MPSV].~~

(4) Immunizations shall be received in accordance with [administered at least at] the minimum ages and intervals between doses recommended by the ACIP. Partial, split, half, or fractionated doses or quantities shall not be administered and shall not be counted as a valid dose.

Section 3. Exceptions and Exemptions to the Required Immunization Schedules in Section 2. (1) If the first two (2) doses of Hib vaccine[required in Section 2(2) of this administrative regulation] were meningococcal group B outer membrane protein (PRP-OMP) vaccines, the third dose may be omitted.

(2)[If one (1) dose of Hib vaccine has been administered to a child who is at least fifteen (15) and less than sixty (60) months of age, the child shall:

(a) Not be required to receive further doses of Hib; and

(b) Be considered to have received the Hib doses required by this administrative regulation.

(3) A child with a medical contraindication to pertussis vaccine may be given DT in lieu of DTaP or Td in lieu of Tdap[required in Section 2 of this administrative regulation].

(3)(a) If both IPV and ~~for~~ OPV were administered as part of a series, a total of four (4) doses shall be administered [, regardless of the child's current age].

(b) If only OPV was administered, and all doses were received prior to four (4) years of age, one (1) dose of IPV shall be administered when aged four (4) years or older and at least four (4) weeks after the last OPV dose.

(4) A child aged seven (7) years or older may receive one (1) dose of Tdap in the catch-up series if the child is not fully immunized with DTaP vaccine.

(5) A Commonwealth of Kentucky Certificate of Immunization Status marked to designate a medical exemption shall be issued for a child with a temporary or permanent medical contraindication to receiving a vaccine[If the fourth dose of DT, DTP, or DTaP was administered on or after the fourth birthday, the fifth dose shall not be required].

(6)[(5)]If the third dose of IPV or OPV was administered on or after the fourth birthday and at least six (6) months following the previous dose, the fourth dose shall not be required.

(6) If one (1) dose of PCV has been administered to a child who is at least age twenty-four (24) months and less than sixty (60) months of age, the child shall:

(a) Not be required to receive further doses of PCV; and

(b) Be considered to have received the PCV doses required by this administrative regulation.

(7) A child with a medical contraindication to receiving a vaccine may obtain, from the child's healthcare provider, a "Certificate of Medical Exemption" from the requirements of Section 2 of this administrative regulation, in compliance with KRS 214.036.

(8)(a) If an immunization is administered but another is objected to on religious grounds, a healthcare provider, pharmacist, local health department, or other licensed healthcare facility administering immunizations [shall,], upon receipt of a [written sworn] [statement of objection to immunizations from a] [the] [parent or guardian of a child, shall].

1. May request that a parent or guardian complete the Commonwealth of Kentucky Parent or Guardian's Declination on Religious Grounds to Required Immunizations form to be submitted upon enrollment in a child care facility or school[as to the objection to medical immunization for some or all required vaccines];

2. Shall issue a Commonwealth of Kentucky Certificate of Immunization Status marked to designate "religious objection" to the [issue a "Certificate of Religious Exemption" from the requirements of Section 2 of this administrative regulation, in compliance with KRS 214.036.

(b) A "Certificate of Religious Exemption" shall only be valid for

all] requirements of Section 2 of this administrative regulation, in compliance with KRS 214.036; and

3. Shall list administered[any previously received] immunizations on the Commonwealth of Kentucky Certificate of Immunization Status.

(b) An EPID 230A form,[A] Commonwealth of Kentucky Parent or Guardian's Declination on Religious Grounds to Required Immunizations, shall:

1. Be valid for the[all] requirements of Section 2 of this administrative regulation;

2. List the immunizations that a parent or guardian objects to being administered to a child based on religious grounds;

3. Be an original document written, sworn, and signed before a notary public; and

4. Be submitted at the time of enrollment in a child care facility or school; and

5. Not be required to be separately submitted to a child care facility or school if a parent or guardian submits a Commonwealth of Kentucky Certificate of Immunization Status marked to designate "religious objection" to a child care facility or school].

(7)[(6)] A Commonwealth of Kentucky Certificate of Immunization Status marked to designate "Provisional Status" shall:

(a) Be issued for a child who is behind in required immunizations listed in Section 2 of this administrative regulation;

(b) Be issued for a child who has received at least one (1) dose of each of the required vaccines but has not completed all

the[(9)(a) A provisional immunization certificate shall be issued for an otherwise-qualified child, who is behind in] required immunizations;

(c)[, and:

1. Who has not yet reached the required minimum age; or

2. For whom the time interval between doses has not elapsed.

(b) A provisional immunization certificate shall:

4.] Permit a child to attend a child day care center, certified family child care home,[other] licensed facility which cares for children, preschool program, or primary or secondary school until the child reaches the appropriate age[, or upon passage of the time interval between required doses;

(d)[2.] Expire;

1. Fourteen (14) days from the date the next dose is required to be given for school use; or

2. Thirty (30) days from the date the next dose is required to be given for use in a day care center, certified family child-care home, or other licensed facility which cares for children; and

(e)[3.] Not be valid for more than one (1) year.

Section 4. Commonwealth of Kentucky Certificate of Immunization Status [Immunization Certificates]. (1) A Commonwealth of Kentucky Certificate of Immunization Status shall[An immunization certificate may] be issued by:

(a) A physician licensed in any state;

(b) An advanced practice registered nurse licensed in any state;

(c) A physician[physician's] assistant licensed in Kentucky;

(d) A pharmacist licensed in Kentucky;

(e) A local health department in Kentucky; [or]

(f) A[Other] licensed healthcare facility administering immunizations in Kentucky; or

(g) An authorized user of the Kentucky Immunization Registry.

(2) Signatures on the Commonwealth of Kentucky Certificate of Immunization Status shall[An immunization certificate may be signed by:

(a) Contain the printed name;

(b) Be in ink or an electronic signature;

(c) Be dated; and

(d) Be that of:

1. A physician;

2. [(b)] An advanced practice registered nurse;

3. [(e)] A physician[physician's] assistant;

4. [(d)] A pharmacist;

5. The ~~(e)~~ local health department administrator; or
 6. ~~(f)~~ A registered nurse or licensed practical nurse designee of a physician, local health department administrator, or other licensed healthcare facility.

(3) A Commonwealth of Kentucky Certificate of Immunization Status printed from the Kentucky Immunization Registry shall not require a signature.

(4) ~~(a)~~ A ~~local health department,~~ healthcare provider, pharmacist, ~~local health department,~~ or other licensed healthcare facility administering immunizations may obtain a blank hard copy of the following ~~immunization certificates~~ from the Cabinet for Health and Family Services:

~~(a)~~ ~~1.~~ ~~(a)~~ Commonwealth of Kentucky ~~Immunization~~ Certificate of Immunization Status; and

~~(b)~~ ~~2.~~ ~~(b)~~ Commonwealth of Kentucky Parent or Guardian's Declination on Religious Grounds to Required Immunizations.

(b) A blank hard copy of the Commonwealth of Kentucky Certificate of Immunization Status shall not be made available on or after July 1, 2018.

(5) The Commonwealth of Kentucky Certificate of Immunization Status ~~Provisional Immunization Certificate;~~

(c) Commonwealth of Kentucky Certificate of Medical Exemption; or

(d) Commonwealth of Kentucky Certificate of Religious Exemption.

(4) If an immunization certificate that was not provided by the Cabinet for Health and Family Services is issued to a child, it shall:

(a) Be on a hard copy provided by the Cabinet for Health and Family Services; or

(b) Be a copy ~~(an)~~ electronically ~~(-)~~ produced in the size, orientation, and format printed by:

1. A Kentucky medical provider's electronic medical record system;

2. A local health department's electronic medical record system;

3. A Kentucky licensed healthcare facility administering immunizations electronic medical record system; or

4. The Kentucky Immunization Registry.

(6) An electronically produced copy of a Commonwealth of Kentucky Certificate of Immunization Status shall ~~(copy; (b) Be in the same size and format as a certificate provided by the Cabinet for Health and Family Services; and~~

(e) contain at least the following information:

(a) ~~1.~~ The name of the child;

(b) ~~2.~~ The birthdate of the child;

(c) ~~3.~~ The name of the parent or guardian of the child;

(d) ~~4.~~ The address of the child, including street, city, state, and ZIP Code;

(e) ~~5.~~ The type(s) of vaccine(s) administered to the child;

(f) ~~6.~~ The date that each dose of each vaccine was administered;

(g) ~~7.~~ Certification that the child is current for immunizations until a specified date, including a statement that the certificate shall not be valid after the specified date;

(h) The printed name, ink or electronic signature, and date as described in subsection (2) of this section; and

(i) The name, address, and telephone number of the healthcare provider practice, pharmacy, local health department, or licensed health care facility issuing the certificate.

(7) A signed certificate or a certificate printed from the **Kentucky Immunization Registry** may be faxed from a medical office to a:

(a) Medical office;

(b) Healthcare facility;

(c) Child care facility; ~~(or)~~

(d) School; or

(e) State or local health department.

(8) All immunizations required by Section 2 of this administrative regulation and received by a child shall be included on the Commonwealth of Kentucky Certificate of Immunization Status.

(9) All ACIP recommended immunizations a child has received in addition to the immunizations required by Section 2 of this

administrative regulation may be included on the Commonwealth of Kentucky Certificate of Immunization Status.

~~(10)~~ ~~8.~~ The signature and the date of the signature of:

a. A physician;

b. An advanced practice registered nurse;

c. A physician's assistant;

d. A pharmacist;

e. Local health department administrator; or

f. A registered nurse designee of a physician, local health department administrator, or other licensed healthcare facility; and

9. The name of the healthcare provider practice, pharmacy, local health department, or licensed health care facility.

10. Immunizations included on the certificate shall only be those immunizations required for attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private elementary or secondary schools as outlined in Section 2 of this administrative regulation. The certificate issued may have a separately titled additional page for all immunizations administered but not otherwise required for attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, public and private elementary, and secondary schools.

(5) A completed Commonwealth of Kentucky Certificate of Immunization Status ~~immunization certificate~~ shall:

(a) be;

(a) On file for a child:

1. ~~Enrolled in a public or private primary or secondary school or preschool program; or~~

2. ~~Cared for in a:~~

a. ~~A~~ Child day care center;

b. ~~A~~ Certified family child care home; or

c. ~~Other~~ Licensed facility that cares for children; or

2. Enrolled in a:

a. Preschool program;

b. Public or private primary or secondary school; or

c. Preschool program or a public or private primary or secondary school for all in-school classes or to participate in sports or any school sponsored extra-curricular activities if the child is otherwise homeschooled; and

(b) ~~be~~ Available for inspection and review by a representative of the Cabinet for Health and Family Services or a representative of a local health department.

Section 5. Out-of-State Certificate of Immunization Status (1)
An Out-of-State Certificate of Immunization Status shall be accepted when completed by an out-of-state physician or advanced practice registered nurse.

(2) The out-of-state certificate shall contain at least the following information:

(a) The name of the child;

(b) The birthdate of the child;

(c) The name of the parent or guardian of the child;

(d) The address of the child, including street, city, state, and ZIP Code;

(e) The type(s) of vaccine(s) administered to the child;

(f) The date that each dose of each vaccine was administered;

(g) All age appropriate immunizations required in Kentucky as identified in Section 2(3) of this administrative regulation;

(h) Certification that the child is current for immunizations until a specified date, including a statement that the certificate shall not be valid after the specified date;

(i) A printed name, ink or electronic signature, and date as described in Section 4(2) of this administrative regulation; and

(j) The name, address, and telephone number of the healthcare provider practice, local health department, or licensed health care facility issuing the certificate.

(3) The Out-of-State Certificate of Immunization Status may be in the size, orientation, and format required by another state.

(4) Immunizations documented on an out-of-state certificate shall be transferred to a hard copy of a Commonwealth of Kentucky Certificate of Immunization Status or shall be documented on an electronically produced Commonwealth of

Kentucky Certificate of Immunization Status when one (1) or more immunizations are administered in Kentucky.

Section 6. Review of Immunization Status. (1) A current Commonwealth of Kentucky Certificate of Immunization Status or an Out-of-State Certificate of Immunization Status for a child shall be provided by a parent or guardian:

(a) Upon enrollment in a:

1. Child day care center;
2. Certified family child care home;
3. Licensed facility that cares for a child; or
4. School at:

a. Kindergarten entry;

b. Seventh grade entry;

c. Eleventh grade entry;

d. Twelfth grade entry for the first twelve (12) months this administrative regulation is effective; and

e. New enrollment at any grade resulting from a transfer to:

- (i) Kentucky from another state;
- (ii) Kentucky from a country outside the United States; or
- (iii) A school from another school within Kentucky;

(b) Upon legal name change; or

(c) At a school required examination pursuant to 702 KAR 1:160.

(2) Upon review of a Commonwealth of Kentucky Certificate of Immunization Status or an Out-of-State Certificate of Immunization Status:

(a) A child whose certificate has exceeded the date for the certificate to be valid shall be recommended to visit the child's medical provider or local health department to receive immunizations required by this administrative regulation; and

(b) An updated and current certificate shall be provided to the;

1. Day care center, certified family child care home, or other licensed facility that cares for children by a parent or guardian within thirty (30) days from when the certificate was found to be invalid; [.] or

2. School by a parent or guardian within fourteen (14) days from when the[that] certificate was found to be invalid.

(3) A Commonwealth of Kentucky Certificate of Immunization Status or an Out-of-State Certificate of Immunization Status for a child or group of children shall be reviewed upon request of a local health department as part of controlling an outbreak of a vaccine preventable disease.

Section 7. Effective Date. For all child day cares, certified family child care homes, other licensed facilities which care for children, preschool programs, and public or private primary and secondary schools:

(1) This administrative regulation, except for Section 2, shall become effective for the school year beginning on or after July 1, 2017[2011]; and[for all child day cares, certified family child care homes, other licensed facilities which care for children, preschool programs, public and private primary, and secondary schools.]

(2) Section 2 of this administrative regulation shall become effective for the school year beginning on or after July 1, 2018[Effective July 1, 2018, a Commonwealth of Kentucky Certificate of Immunization Status shall be official only when printed from the Kentucky Immunization Registry].

Section 8[6]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form "EPID 230, Commonwealth of Kentucky Certificate of Immunization Status", 1/2017[Commonwealth of Kentucky Immunization Certificate (EPID 230)], revised 08/2010; and

(b) Form "EPID 230A, Commonwealth of Kentucky Parent or Guardian's Declination on Religious Grounds to Required Immunizations", 1/2017[Commonwealth of Kentucky Provisional Immunization Certificate (EPID 230A)], revised 08/2010;

(c) "Commonwealth of Kentucky Certificate of Medical Exemption (EPID 230B)", revised 08/2010; and

(d) "Commonwealth of Kentucky Certificate of Religious Exemption (EPID 230C)", revised 08/2010].

(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 C. POLK, JR., MD, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 14, 2017 at 10 a.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, Laura.Begin@ky.gov, phone 502-564-3970, ext. 4066, and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires all children attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools to have a current immunization certificate. This regulation also contains the schedule for required immunizations and the process to obtain an exemption from required immunizations.

(b) The necessity of this administrative regulation: This regulation is necessary to fulfill Kentucky law, which requires immunization. KRS 214.034 states that all children should be immunized against specific diseases in accordance with testing and immunization schedules established by regulations of the Cabinet for Health and Family Services (CHFS). All public or private primary or secondary schools, preschools, day-care centers, certified family child care homes, and any other licensed facility require a current immunization certificate as provided by regulation of CHFS. KRS 211.180 tasks CHFS with the detection, prevention, and control of communicable diseases and the protection and improvement of the health of infants, preschool, and school-age children.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the secretary of the cabinet to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 214.034 states that all children should be immunized against specific diseases in accordance with testing and immunization schedules established by regulations of CHFS. All public or private primary or secondary schools, preschools, day-care centers, certified family child care homes, and any other licensed facility require a current immunization certificate as provided by regulation of CHFS. KRS 158.035 requires a child to present an immunization certificate in order to enroll as a student in an elementary or secondary school. KRS 211.180 tasks CHFS with the detection, prevention, and control of communicable diseases and the protection and improvement of the health of infants, preschool, and school-age children. This administrative regulation identifies the discrepancy in the provisional status of immunization certificates submitted to child care facilities and schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The statutes require immunization; this regulation clarifies the ages to be immunized, the vaccines to receive, exceptions to the requirements in special instances, and how the immunization certificate is to be used.

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

(a) How the amendment will change this existing administrative regulation: This administrative regulation is being further amended in response to comments received and for compliance with KRS Chapter 13A. Amendments made in response to comments received include accounting for a situation in which a child received

four doses of IPV or OPV prior to age four and a child in the age range of seven to eleven years old who obtained four doses of IPV or OPV prior to 2009, replacing "MCV or MPSV" with the current terminology "MenACWY," a statement that only one dose of MenACWY is required if it was received at age sixteen or older, a slight amendment and clarifications regarding completing and submitting a declination on religious grounds form, identifying the statutory discrepancy between the provisional status of certificates submitted to child care facilities and schools, and deleting the required use of the Kentucky Immunization Registry. The effective date of the administrative regulation contained in Section 7 will remain July 1, 2017, but the additional required immunizations will be effective July 1, 2018, in order to give students more time to receive newly-required immunizations.

(b) The necessity of the amendment to this administrative regulation: Comments received notified the promulgating agency of some situations not addressed in the administrative regulation, updated terminology, confusion regarding the process of completing and submitting a declination on religious grounds form, a longer provisional status allowed by statute for child care facilities, and the burden of requiring health care providers to use an electronic registry for which they may not yet possess the required technology.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 214.036 states that statutes requiring immunization shall not be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. This administrative regulation is being amended to clarify the process of completing and submitting a declination on religious grounds form, consistent with Kentucky law. Through the public comment process, it was realized that KRS 314.034 contains discrepancies in the provisional certificate status between child care facilities and schools. The administrative regulation is being amended to reflect this discrepancy.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the process of completing and submitting a declination on religious grounds form, which is consistent with statute and does not require the approval of a medical provider. If there is an objection to all immunizations on religious grounds, a parent or guardian shall complete a declination on religious grounds form and submit that to the school upon enrollment (no healthcare provider involvement required). If some immunizations are received, those will be administered by a healthcare provider listed in this administrative regulation. Those immunizations will be documented on a certificate of immunization status. However, if there are also immunizations objected to on religious grounds, the certificate will also be marked to show that there was a religious objection. It is the parent or guardian's responsibility to complete a declination on religious grounds form (marking the specific immunizations for which there is a religious objection) and submit it to the school upon enrollment. A healthcare provider is not authorized or required by this administrative regulation amendment to oversee the use of the declination on religious grounds form. In this scenario, both forms should be submitted to the school so that records are complete.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the Kentucky Immunization Program in the Department for Public Health; the Kentucky Department of Education; local school boards; local health departments; private and public medical offices; child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools; and the children that enroll in or participate at these facilities.

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

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: Through the public comment process, the cabinet became aware that the required use of the Kentucky Immunization Registry (KYIR) would be burdensome to some providers who do not currently possess the technology necessary to access the registry. Although the cabinet encourages use of the registry for efficiency and accuracy, the requirement has been eliminated through amendments to the administrative regulation. Therefore, there will be less impact to healthcare facilities. Also through the public comment process, the cabinet became aware that the proposed administrative regulation needed to be clarified in regards to children who receive one or more immunizations, but whose parent or guardian objects to one or more other immunizations on religious grounds. The administrative regulation is being further amended to clarify that a declination on religious grounds does not require the approval of a healthcare provider, which means there is less impact to those with objections to all immunizations on religious grounds who thought they would need to obtain notarization and the approval of a provider. It was also recognized that the provisional status of a certificate of immunization status is allowed by KRS 214.034 to be in effect longer in a childcare facility than a school.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this amendment will not have a cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Burdensome requirements have been eliminated or clarified in this amendment.

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

(a) Initially: There are no costs to the administrative body associated with this amendment.

(b) On a continuing basis: There are no costs to the administrative body associated with this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Immunization Program is almost entirely funded by federal grants. The program receives about \$200,000 in state funds annually, spent solely on purchasing vaccines.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: No increase in fees or funding is associated with this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. No fees are associated with this amendment.

(9) TIERING: Is tiering applied? No. All children attending a child-care facility, preschool, or public or private school are required by statute to be immunized.

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? Local health departments, Kentucky Department for Public Health, Kentucky Department of Education, school districts, and local school boards are affected by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 214.034 states that all children should be immunized against specific diseases in accordance with testing and immunization schedules established by regulations of CHFS. All public or private primary or secondary schools, preschools, day-care centers, certified family child care homes, and any other licensed facility require a current immunization certificate as provided by regulation of CHFS. KRS 158.035 requires a child to present an immunization certificate in order to enroll as a student in an elementary or secondary school.

KRS 211.180 tasks CHFS with the detection, prevention, and control of communicable diseases and the protection and improvement of the health of infants, preschool, and school-age children. KRS 214.036 grants exemptions to immunizations based on medical or religious grounds.

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 of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Kentucky Immunization Program operates almost solely on federal grant 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? The Kentucky Immunization Program operates almost solely on federal grant funding.

(c) How much will it cost to administer this program for the first year? Vaccines are provided by the federal government and the cost of the Kentucky Immunization Program is funded almost entirely by federal funding. The program receives about \$200,000 in state funds annually, spent solely on purchasing additional vaccines.

(d) How much will it cost to administer this program for subsequent years? Vaccines are provided by the federal government and the cost of the Kentucky Immunization Program is funded almost entirely by federal funding. The program receives about \$200,000 in state funds annually, spent solely on purchasing additional vaccines.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(Amended After Comments)

907 KAR 1:065. Payments for price-based nursing facility services.

RELATES TO: KRS 142.361, 142.363, 216.380, 42 C.F.R. Parts 430, 431, 432, 433, 435, 440, 441, 442, 447, 455, 456, 482.58, 483.10[(f)], 42 U.S.C. 1395tt, 1396, 1396a, 1396b, 1396c, 1396d, 1396g, 1396l, 1396n, 1396o, 1396p, 1396r, 1396r-2, 1396r-5

STATUTORY AUTHORITY: KRS 142.361(5), 142.363(3), 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining amounts payable by the Medicaid Program for services provided by a price-based nursing facility.

Section 1. Definitions. (1) "Ancillary service" means a direct service for which a charge is customarily billed separately from the per diem rate including:

(a) Ancillary services pursuant to 907 KAR 1:023; or[and]

(b) If ordered by a physician:

1. Laboratory procedures; or[and]

2. X-rays.

(2) "Appraisal" means an evaluation of a price-based nursing

facility building, excluding equipment and land, conducted by the department in accordance with Section 4 of this administrative regulation for the purpose of calculating the depreciated replacement cost of a price-based nursing facility.

(3) "Appraisal base year" means a year in which the department shall conduct an appraisal of each price-based NF.

~~(4) ["Appraisal period" means a five (5) year period beginning with an appraisal base year. For example, the appraisal period corresponding to appraisal base year 2014 is January 1, 2014, through December 31, 2018, and thereafter.]~~ [2000 is January 1, 2000 through December 31, 2004] [

~~(5)]~~ "Auxiliary building" means a roofed and walled structure:

(a) Served by electricity, heating, and cooling;

(b) Independent of an NF;

(c) Used for administrative or business purposes related to an NF; and

(d) Constructed on the same tract of ground as an NF.

~~(5) [(6)]~~ "Capital rate component" means a calculated per diem amount for an NF based on:

(a) The NF's appraised depreciated replacement cost;

(b) A value for land;

(c) A value for equipment;

(d) A rate of return;

(e) A risk factor;

(f) The number of calendar days in the NF's cost report year;

(g) The number of licensed NF beds in the NF; and

(h) The NF's bed occupancy percentage.

~~(6) [(7)]~~ "Case-mix" means the time-weighted average price-based NF acuity for Medicaid-eligible and dual-eligible Medicare and Medicaid residents under a Medicare Part A reimbursed stay in a price-based nursing facility, and is based on Minimum Data Set (MDS) 3.0[2.0] data classified through the RUG III, M3 p1, (version 5.20[5.42B]) thirty-four (34) group model resident classification system or equivalent.

~~(7) [(8)]~~ "Core based statistical area" or "CBSA" means the designation of metropolitan and micropolitan population centers based on the national census, as published by the Federal Office of Management and Budget.

~~(8) [(9)]~~ "Department" means the Department for Medicaid Services or its designee.

~~(9) [(10)] [(9)]~~ "Equipment" means a depreciable tangible asset, other than land or a building, which is used in the provision of care for a resident by an NF staff person.

~~(10) [(14)] [(40)]~~ "Governmental entity" means a unit of government for the purposes of 42 U.S.C. 1396b(w)(6)(A).

~~(11) [(12)] [(44)]~~ "Hospital-based NF" means an NF that:

(a) Is separately identifiable as a distinct part of the hospital;

and

(b) If separated into multiple but distinct parts of a single hospital, is[are] combined under one (1) provider number.

~~(12) [(13)] [(42)]~~ "Land" means a surveyed tract or tracts of ground that[which] share a common boundary:

(a) As recorded in a county government office;

(b) Upon which a building licensed as an NF is constructed; and

(c) Including site preparation and improvements.

~~(13) [(14)] [(43)]~~ "Local unit of government" means a city, county, special purpose district, or other governmental unit in the state. ~~[(14) "Metropolitan Statistical Area" or "MSA" means the designation of urban population centers based on the national census and updated on a yearly basis, as published by the Federal Office of Management and Budget.]~~

~~(14) [(15)]~~ "NF" or "nursing facility" means:

(a) A facility:

1. To which the state survey agency has granted an NF license;

2. For which the state survey agency has recommended to the department certification as a Medicaid provider; and

3. To which the department has granted certification for Medicaid participation; or

(b) A hospital swing bed that provides services in accordance with 42 U.S.C. 1395tt and 1396l, if the swing bed is certified to the department as meeting requirements for the provision of swing bed

services in accordance with 42 U.S.C. 1396r(b), (c), (d), 42 C.F.R. 447.280, and ~~482.58~~**482.66**.

~~(15)~~**(16)** "NF building" means a roofed and walled structure serviced by electricity, heating, and cooling ~~and that~~**[which]** is also an NF.

~~(16)~~**(17)** "Nursing facility with an intellectual disability specialty" or "NF-ID" means an NF in which at least fifty-five ~~(55) percent of the patients have demonstrated special needs relating to the diagnosis of an intellectual disability as determined by the department.~~

~~(18)~~ "Nursing facility with Medicaid waiver" or "NF-W" means an NF to which the state survey agency has granted a waiver of the nursing staff requirement.

~~(17)~~**(19)** "Provider assessment" means the assessment imposed by KRS 142.361 and 142.363.

~~(18)~~**(20)** "Routine services" means the services covered by the Medicaid Program pursuant to 42 C.F.R. ~~483.10(f)(11)(i)~~**483.10(c)(8)(i)**.

~~(19)~~**(21)** "Site improvement" means a depreciable asset element, other than an NF building or auxiliary building, on NF land extending beyond an NF's foundation if used for NF-related purposes.

~~(20)~~**(22)** "Standard price" means a facility-specific reimbursement that includes a case-mix adjusted component, noncase-mix adjusted component including an allowance to offset a provider assessment, noncapital-facility related component, and capital rate component.

~~(21)~~**(23)** "State survey agency" means the Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care~~[Facilities and Services]~~.

~~(22)~~**(24)** "Time-weighted" means a method of calculating case-mix by determining the number of days that a minimum data set (MDS) record is active over a calendar quarter rather than captured from a single day during the calendar quarter.

Section 2. NF Reimbursement Classifications and Criteria. (1) An NF ~~or,~~ a hospital-based NF, ~~or an NF-ID~~**[MRS]** shall be reimbursed as a price-based NF pursuant to this administrative regulation if:

- (a) It provides NF services to an individual who:
 1. Is a Medicaid recipient;
 2. Meets the NF patient status~~[level-of-care]~~ criteria pursuant to 907 KAR 1:022; and
 3. Occupies a Medicaid-certified bed; and
- (b) 1. It has more than ten (10) NF beds and the greater of:
 - a. Ten (10) of its Medicaid-certified beds participate in the Medicare Program; or
 - b. Twenty (20) percent of its Medicaid certified beds participate in the Medicare Program; or
2. It has less than ten (10) NF beds and all of its NF beds participate in the Medicare Program.

(2) An NF-W shall be reimbursed as a price-based NF pursuant to this administrative regulation if it meets the criteria established in subsection (1)(a) of this section.

(3) The following shall not be reimbursed as a price-based NF and shall be reimbursed pursuant to 907 KAR 1:025:

- (a) An NF with a certified brain injury unit;
- (b) An NF with a distinct part ventilator unit;
- (c) An NF designated as an institution for mental disease;
- (d) A dually-licensed pediatric facility; or
- (e) An intermediate care facility for~~an individual with~~ individuals with an intellectual disability.

Section 3. Reimbursement for Federally-Defined Swing Beds and for Skilled Nursing Facility Services in~~[a]~~ Critical Access Hospital Swing Beds. (1) The reimbursement rate for a federally-defined swing bed shall be:

- (a) The average rate per patient day paid to freestanding price-based ~~NFs~~**[NF's]** for routine services furnished during the preceding calendar year, excluding any payment made pursuant to Section 14 of this administrative regulation; and
 - (b) Established effective January 1 of each year.
- (2)(a) The department shall reimburse a critical access hospital

for skilled nursing facility services in a swing bed at the same rate as established by the Centers for Medicare and Medicaid Services for Medicare.

(b) The department shall pay an interim per diem rate as established by CMS for the Medicare Program.

(c) The effective date of a rate shall be the same as used by the Medicare Program.

(d) A critical access hospital's final reimbursement for skilled nursing facility services in a swing bed shall reflect any adjustment made by the Centers for Medicare and Medicaid Services.

(e) Total payments made to a critical access hospital for skilled nursing facility services provided in a swing bed under this section shall be subject to the payment limitation established in 42 C.F.R. 447.271.

(f) The provisions established in this subsection shall apply to a critical access hospital ~~that~~**[which]** complies with all requirements established in KRS 216.380.

Section 4. Price-based NF Appraisal. (1) The department shall appraise a price-based NF to determine the facility specific capital component in 2009, and every fifth year, in order to calculate the NF's depreciated replacement cost.

(2) The department shall not appraise equipment or land. A provider shall be given the following values for land and equipment:

(a) Ten (10) percent of an NF's average licensed bed value for land; and

(b) \$2,000 per licensed NF bed for equipment.

(3) The department shall utilize the following variables and fields of the nursing home or convalescent center ~~#5200 model of the Marshall & Swift Boeckh Building Valuation System (BVS)~~**(#503 model of the E.H. Boeckh Commercial Building Valuation System)** to appraise an NF identified in Section 2(1) of this administrative regulation:

- (a) Provider number;
- (b) Property owner - NF name;
- (c) Address;
- (d) Zip code;
- (e) Section number - the lowest number shall be assigned to the oldest section and a basement, appraised as a separate section, immediately follows the section it is beneath;
- (f) Occupancy code - nursing home or substructure;
- (g) Average story height;
- (h) Construction type;
- (i) Number of stories;
- (j) Gross floor area (which shall be the determination of the exterior dimensions of all interior areas including stairwells of each floor, specifically excluding outdoor patios, covered walkways, carports, and similar areas). In addition, interior square footage measurements shall be reported for:
 1. A non-NF area;
 2. A shared service area by type of service; and
 3. A revenue-generating area;
- (k) Gross perimeter (common walls between sections shall be excluded from both sections);
- (l) Construction quality;
- (m) Year built;
- (n) Building effective age;
- (o) Building condition;
- (p) Depreciation percent;
- (q) Exterior wall material;
- (r) Roof covering material and roof pitch;
- (s) Heating system;
- (t) Cooling system;
- (u) Floor finish;
- (v) Ceiling finish;
- (w) Partition wall structure and finish;
- (x) Passenger and freight elevators - actual number;
- (y) Fire protection system (sprinklers, manual fire alarms, and automatic fire detection) - percent of gross area served. If both the floor and attic areas are protected by a sprinkler system or automatic detection, the percent of gross area served shall be twice the floor area; and

(z) Miscellaneous additional features, which shall be limited to:

1. Canopies;
2. Entry foyers (sheltered entry ways):
 - a. The glass and aluminum standard allowance shall be thirty (30)[twenty (20)] dollars per square foot;
 - b. Bulkhead standard allowance shall be:
 - (i) Seven (7)[five (five)] dollars per square foot for a wood frame;
 - (ii) Eight (8) dollars per square foot for a steel frame; or
 - (iii) Twenty (20) dollars per square foot for brick masonry;
3. Loading docks;
4. ~~Bay windows, if not included in the perimeter calculation~~ shall be valued at \$1,500 each[;];
5. Code alerts, Wanderguards, or other special electronically-secured doorways, except for a door with a sound detector or sensing unit, (the standard allowance shall be \$1,500 for each fully-functioning door at the time of appraisal);
- 5.~~6.~~ A door with a sound detector or sensing unit shall have a standard allowance of \$500 per door;
- 6.~~7.~~ Automatic sliding doors (the standard allowance shall be \$17,000[\$2,700] per doorway);
- 7.~~8.~~ An automatic door opener shall have a standard allowance of \$6,500 per door;
- 8.~~9.~~[7.] Detached garages or storage sheds (which shall have an attached reinforced concrete floor and a minimum of 200 square feet);
- 9.~~10.~~[8.] Modular buildings or trailers, if the structure has a minimum of 200 square feet, electrical service, and heating or cooling services (the standard allowance shall be fifty-six (56) dollars[thirty-eight (38) dollars and fifty (50) cents] per square foot);
- 10.~~11.~~[9.] Walk-in coolers or freezers;
- 11.~~12.~~[10.] Laundry chutes (the standard allowance shall be \$2,100[\$1,000] per floor serviced);
- 12.~~13.~~[11.] Dumb waiters (which shall have a minimum speed of fifty (50) feet per minute. The standard allowance shall be \$8,000[\$4,500] for initial two (2) stops for a manual door or \$21,000 for the initial two (2) stops for an electric door and \$7,000[; \$2,400] per additional stop);
- 13.~~14.~~[12.] Skylights (the standard allowance shall be forty (40)[twenty-six (26)] dollars per square foot);
- 14.~~15.~~[13.] Operable built-in oxygen delivery systems (valued at \$300[\$250] per serviced bed);[and]
- 15.~~16.~~[14.] Carpeted wainscoting (the standard allowance shall be sixty (60) dollars per licensed bed[three (3) dollars and fifty (50) cents per linear foot]);
- 16.~~17.~~ Balconies;
- 17.~~18.~~ Ceiling fans for which the standard allowance shall be \$250 for each ceiling fan without a light and \$400 for each ceiling fan with a light;
- 18.~~19.~~ Cupolas for which the standard allowance shall be \$720 each;
- 19.~~20.~~ Fireplaces;
- 20.~~21.~~ Concrete-lined utility tunnels for which the standard allowance shall be twenty-five (25) dollars per cubic foot; and
- 21.~~22.~~ Mechanical penthouses.

(4) An item listed in subsection (3)(z) of this section shall be subject to the Marshall & Swift Boeckh BVS model #5200[Boeckh model #503] monetary limit unless a monetary limit is provided for that item in subsection (3)(z) of this section.

(5) The department shall use the corresponding Marshall & Swift Boeckh BVS[E.H. Boeckh System] default value for any variable listed in subsection (3) of this section if no other value is stated for that variable in subsection (3) of this section.

(6)(a) Values from the most recent Marshall & Swift Boeckh BVS tables[E.H. Boeckh tables, as of July 1 of the year prior to the appraisal base year,] shall be used during an appraisal.

(b) An adjustment calculation shall be performed if the most recent Marshall & Swift Boeckh BVS tables do not correspond to an appraisal base year[For example, values from the most recent 1999 E.H. Boeckh tables, as of July 1, 1999, shall be used for an appraisal conducted during the appraisal period beginning January 1, 2000].

(7) In addition to an appraisal cited in subsection (1) of this section, the department shall appraise an NF identified in Section

2(1) of this administrative regulation if:

- (a) The NF submits written proof of construction costs to the department; and
- (b)1. The NF undergoes renovations or additions costing a minimum of \$150,000 and the NF has more than sixty (60) licensed beds; or
2. The NF undergoes renovations or additions costing a minimum of \$75,000 and the NF has sixty (60) or fewer licensed beds.

(8) An auxiliary building shall be:

- (a) Appraised if it rests on land, as defined in Section 1(13)[1(42)] of this administrative regulation; and
- (b) Appraised separately from an NF building.

(9) To appraise an auxiliary building, the department shall utilize a Marshall & Swift Boeckh BVS[an E.H. Boeckh building] model other than the nursing home or convalescent center #5200[(#503)] model, if the model better fits the auxiliary building's use and type.

(10) If an NF building has beds licensed for non-NF purposes or a provider conducts business activities not related to the NF, the appraisal shall be adjusted between NF and non-NF activity. The appraiser shall determine if the adjustment shall be made by dividing the number of licensed NF beds by the total number of beds, or through the use of an adjustment factor determined in accordance with appraisal industry standards by the appraiser, [in the Marshall & Swift Boeckh BVS] regardless of the occupancy factor[the appraisal shall be apportioned between NF and non-NF by dividing the number of licensed NF beds by the total number of beds, regardless of the occupancy factors]. For example, an adjustment factor may be used to apportion the appraisal by the percent of NF square footage relative to the square footage on non-NF-related business activities.

(11)[If, in an NF building, a provider conducts business activities not related to the NF, the appraisal shall be apportioned by the percent of NF square footage relative to the square footage of non-NF-related business activities.

(12) Cost of an appraisal shall be the responsibility of the NF being appraised.

(12)(13) A building held for investment, future expansion, or speculation shall not be considered for appraisal purposes.

(13)(14) The department shall not consider the following location factors in rendering an appraisal:

- (a) Climate;
- (b) High-wind zone;
- (c) Degree of slope;
- (d) Position;
- (e) Accessibility; or
- (f) Soil condition.

Section 5. Standard Price Overview. (1) Rates shall reflect the differential in wages, property values, and cost of doing business in rural and urban designated areas.

(2) On July 1 of each year, the department shall utilize [every four (4) years] the most recent Federal Office of Management and Budget's core based statistical area (CBSA) designations to classify an NF as being in an urban or rural area, with metropolitan areas always being classified as urban. The urban and rural designations shall be based on the location of the NF under the CBSA designation [the Federal Office of Management and Budget's Metropolitan Statistical Area (MSA) urban and rural designations, in effect on January 1, 2003, to classify an NF as being in an urban or rural area].

(3) The department shall utilize an analysis of fair-market pricing and historical cost for the following data:

- (a) Staffing ratios;
- (b) Wage rates;
- (c) Cost of administration, food, professional support, consultation, and nonpersonnel operating expenses as a percentage of total cost;
- (d) Fringe benefit levels;
- (e) Capital rate component; and
- (f) Noncapital facility-related component.

(4) The following components shall comprise the case-mix

adjustable portion of an NF's standard price:

- (a) The personnel cost of:
 1. A director of nursing;
 2. A registered nurse (RN);
 3. A licensed practical nurse (LPN);
 4. A nurse ~~aid~~aid;
 5. An activities staff person; and
 6. A medical records staff person; and
- (b) Nonpersonnel operating cost including:
 1. Medical supplies; and
 2. Activity supplies.

(5) The following components shall comprise the noncase-mix adjustable portion of an NF's standard price:

- (a) Administration to include an allowance to offset a provider assessment;
- (b) Nondirect care personnel;
- (c) Food;
- (d) Professional support; and
- (e) Consultation.

(6) The following components shall comprise the facility and capital component of an NF's standard price:

- (a) The noncapital facility-related component, which shall be a fixed, uniform amount for all price-based ~~NFs~~NF's; and
- (b) The NF's capital rate component, which shall be facility specific.

(7) ~~Excluding noncapital facility-related and~~ capital rate components, the following is an example of an urban and a rural price-based NF's standard price based on rebased wages at the ~~2008~~2004 level:

CBSA [MSA] Designation	Case-Mix Adjustable Portion of Standard Price	Noncase-Mix Adjustable Portion of Standard Price without Capital Cost Rate Component	Total Standard Price Excluding Noncapital Facility Related and Capital Rate Components
Urban	\$88.05 [\$78.24]	\$62.80 [\$58.84]	\$150.85 [\$137.08]
Rural	\$74.62 [\$64.58]	\$55.63 [\$52.24]	\$130.25 [\$116.82]

(8) A price-based NF's standard price shall be adjusted for inflation every July 1 and rebased in 2008.

(9) Effective July 1, 2004, an NF shall not receive a rate less than its standard price.

(10) The department shall adjust an NF's standard price if:

- (a) A governmental entity imposes a mandatory minimum wage or staffing ratio increase and the increase was not included in the inflation adjustment; or
- (b) A new licensure requirement or new interpretation of an existing requirement by the state survey agency results in changes that affect all facilities within the class. The provider shall document that a cost increase occurred as a result of a licensure requirement or policy interpretation.

Section 6. Standard Price Calculation. (1) Based on the classification of urban or rural, the department shall calculate an individual NF's standard price to be the sum of:

(a) The case-mix adjustable portion of the NF's standard price, adjusted by the NF's current case-mix index pursuant to Section 7 of this administrative regulation;

(b) The noncase-mix adjustable portion of the NF's standard price, which shall include an allowance to offset a provider assessment;

(c) The noncapital facility-related component; and

(d) Pursuant to subsection (2) of this section, the capital rate component.

(2) An NF's capital rate component shall be calculated as follows:

- (a) The department shall add the total of:
 1. The NF's average licensed bed value, which shall:

a. Be determined by dividing the NF's depreciated replacement cost, as determined from an appraisal conducted in accordance with Section 4 of this administrative regulation, by the NF's total licensed NF beds; and

b. Not exceed ~~\$56,003 effective July 1, 2016, which shall be adjusted every July 1 thereafter by the same factor applied to~~value as the NF's depreciated replacement cost~~[\$40,000]~~;

2. A value for land, which shall be ten (10) percent of the NF's average licensed NF bed value, established in accordance with subparagraph 1, of this paragraph; and

3. A value for equipment, which shall be \$2,000 per licensed NF bed;

(b) The department shall multiply the sum of paragraph (a) of this subsection by a rate of return factor, which shall:

1. Be equal to the sum of:

a. The yield on a twenty (20) year treasury bond as of the first business day on or after May 31 of the most recent year; and

b. A risk factor of two (2) percent; and

2. Not be less than nine (9) percent nor exceed twelve (12) percent;

(c) The department shall determine the NF's capital cost-per-bed day by:

1. Dividing the NF's total patient days by the NF's available bed days to determine the NF's occupancy percentage;

2. If the NF's occupancy percentage is less than ninety (90) percent, multiplying ninety (90) percent by 365 days; and

3. If the NF's occupancy percentage exceeds ninety (90) percent, multiplying the NF's occupancy percentage by 365 days; and

(d) The department shall divide the sum of paragraphs (a) and (b) of this subsection by the NF's capital cost-per-bed day established in paragraph (c) of this subsection to determine an NF's capital rate component.

(3) If a change of ownership occurs pursuant to 42 C.F.R. 447.253(d), the new owner shall:

(a) Receive the capital cost rate of the previous owner unless the NF is eligible for a reappraisal pursuant to Section 4(7) of this administrative regulation; and

(b) File an updated provider application with the Medicaid Program pursuant to ~~Section 3(4) of~~ 907 KAR 1:672, Section 3(4).

(4) A new facility shall be:

(a) Classified as a new facility if the facility does not have a July 1, of the current state fiscal year, Medicaid rate;

(b) Determined to be urban or rural; and

(c) Reimbursed at its standard price, which shall:

1. Be based on a case-mix of 1.0;

2. Be adjusted prospectively based upon no less than one (1) complete calendar quarter of available MDS ~~3.0~~2.0 data following the facility's Medicaid certification;

3. Utilize ~~\$56,003 effective July 1, 2016, as adjusted through the current state fiscal year~~\$40,000 as the facility's average licensed NF bed value until the facility is appraised in accordance with Section 4 of this administrative regulation; and

4. Be adjusted, if necessary, following the facility's appraisal if the appraisal determines the facility's average licensed NF bed value to be less than ~~\$56,003 effective July 1, 2016, as adjusted through the current state fiscal year~~\$40,000.

(5) The amounts calculated pursuant to subsection (4)(c)4. and 5. of this section~~5. Subparagraphs 3. and 4. of this paragraph~~ shall be adjusted annually consistent with the adjustments made to the depreciated replacement cost, as described in subsection (2)(a)1.b. of this section for the capital component calculation.

Section 7. Minimum Data Set (MDS) ~~3.0~~2.0, Resource Utilization Group (RUG) III, and Validation. (1) A price-based NF's Medicaid MDS data shall be utilized to determine its case-mix index each quarter.

(2) A price-based NF's case-mix index shall be applied to its case-mix adjustable portion of its standard price.

(3) To determine a price-based NF's case-mix index, the department shall:

(a) Calculate case-mix on a time-weighted basis using MDS data:

1. Extracted on the last date of each calendar quarter from the NF's MDS item sets:

a. Included in Minimum Data Set (MDS) - Version 3.0, Resident Assessment and Care Screening[Incorporated by reference into 907 KAR 1:755]; and

b. Transmitted by the NF to the Centers for Medicare and Medicaid Services; and

2. Which, if revised, shall be revised[;] no later than the last date of the quarter following the date on which MDS data was extracted. For example, MDS data submitted after September 30, 2016, for the purpose of revision to MDS data extracted June 30, 2016, shall not be utilized[Extract the required MDS data from the NF's MDS form:

1. Incorporated by reference in 907 KAR 1:755;

2. Transmitted by the NF to the Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care Facilities and Services; and

3. On the last date of each calendar quarter and revised no later than the data revision cut-off date established in subsection (7)(b) of this section];

(b) Classify the data cited in paragraph (a) of this subsection through the RUG III, (M3 p1), version five point twenty (5.20)[twelve B (5.12B)] thirty-four (34) group or equivalent model resident classification system; and

(c) Validate the data cited in paragraph (a) of this subsection as follows:

1. The department shall generate a stratified random sample of twenty-five (25) percent of the Medicaid residents in a price-based NF[price-based NF's Medicaid MDS assessments];

2. The department shall review one (1) MDS assessment from each resident in the sample referenced in subparagraph 1. of this paragraph;

3. The department shall review medical records corresponding to the individuals included in the sample identified in subparagraphs [subparagraph] 1. and 2. of this paragraph to determine if the medical records accurately support the MDS assessments submitted for the sample residents; and

4.[3.] If a review of records cited in subparagraph 3.[2] of this paragraph reveals that the price-based NF fails to meet the minimum accuracy threshold, the department shall determine if the NF fails to meet the minimum accuracy threshold by reviewing 100 percent of the price-based NF's Medicaid MDS assessments;

a. Extracted in accordance with paragraph (a) of this subsection; and

b. Selecting one (1) MDS assessment per resident[review 100 percent of the price-based NF's Medicaid MDS assessments extracted in accordance with paragraph (a)3 of this subsection to determine whether the NF fails to meet the minimum accuracy threshold].

(4) If the department's review, in accordance with subsection (3)(c)3. and 4.[2 and 3] of this section, of a price-based NF's MDS assessment data reveals that the NF fails to meet the MDS data minimum accuracy threshold, the department shall conduct another review of the same data utilizing an individual or individuals not involved in the initial validation process if the price-based NF requests a reconsideration[rereview] within ten (10) business days of being notified of the findings of the review cited in subsection (3)(c)4.[3] of this section.

(5) Only MDS data extracted in accordance with subsection (3)(a)2.[3] of this section shall be allowed during a review or reconsideration[rereview].

(6) If a reconsideration[rereview] of a price-based NF's MDS assessment data, in accordance with subsection (4) of this section, confirms that the NF fails to meet the minimum accuracy threshold, the department shall:

(a) Conduct a conference with the NF to review preliminary findings of the reconsideration[rereview]; and

(b) Send the final results of the reconsideration[rereview] to the NF within ten (10) business days of the conference.

(7) In performing validation reviews on MDS data, the department shall:

(a) Notify the NF at the time of the MDS assessment review of any assessment that is not validated and allow the NF to provide supporting documentation that had been utilized to support the assessment;

(b) Consider all MDS supporting documentation provided by the[an] NF prior to the exit conference; and

(c)[(b)] Not consider MDS supporting documentation provided by the NF after the exit conference has occurred.

(8)(a) Reconsideration of a price-based NF's MDS assessment data validation shall be provided if the NF:

1. Requests a reconsideration and clearly identifies each specific resident's review and MDS elements that are being disputed;

2. States the basis on which the department's decision on each issue is believed to be erroneous; and

3. Provides a summary supporting the NF's position.

(b) After a reconsideration of a price-based NF's MDS assessment data has been completed, the NF may appeal the department decision regarding the data in accordance with 907 KAR 1:671, Section 9.

(9)(a) The department shall refer any suspected intentional alteration of clinical documentation or creation of documentation after an MDS assessment has been transmitted to the Office of Inspector General (OIG) for investigation of possible fraud.

(b) A fraud investigation may result in a felony or misdemeanor criminal conviction.

(10) An NF's rate shall be effective beginning on the first date of the second quarter following the MDS extraction date.

(11) An MDS validation review, if conducted, shall be initiated in the month containing the corresponding rate effective date.

(12) A rate sanction shall be applied on the rate effective date following the validation review initiation date.

(13) The following establishes the MDS assessment accuracy thresholds and corresponding rate sanctions:

(a) If a price-based NF's percentage of accurate MDS assessments is between sixty-five (65) and seventy-nine (79) percent, the price-based NF's rate shall be sanctioned by fifty (50) cents per patient day;

(b) If a price-based NF's percentage of accurate MDS assessments is between forty (40) and sixty-four (64) percent, the price-based NF's rate shall be sanctioned by sixty (60) cents per patient day; and

(c) If a price-based NF's percentage of accurate MDS assessments is below forty (40) percent, the price-based NF's rate shall be sanctioned by seventy (70) cents per patient day.[Following is a chart establishing:

(a) That an MDS extraction date shall be the last date of each quarter;

(b) That a final MDS assessment data revision cut-off date shall be the last date of the quarter following the date on which MDS data was extracted. For example, MDS data or revisions to MDS data extracted December 31, 2000 shall not be accepted after March 31, 2001;

(c) That a rate effective date shall be the first date of the second quarter following the MDS extraction date;

(d) That MDS audits shall be initiated in the same month containing the corresponding rate effective date;

(e) MDS assessment accuracy thresholds and corresponding rate sanctions. For example if a price-based NF's percentage of accurate MDS assessments is below fifty (50) percent for MDS data extracted March 31, 2002, then effective October 1, 2002, the price-based NF's rate shall be sanctioned by fifteen (15) cents per patient day; and

(f) Rate sanction effective dates:

MDS Data Extraction Date	MDS Data Revision Cut-Off Date	Rate Effective Date	Audits Initiated	Required MDS Accuracy Threshold	Rate Sanction	Sanction Effective Date
6/30/01	9/30/01	10/1/01	10/20/01	40%	\$0.10 per	1/1/02

VOLUME 43, NUMBER 11 – MAY 1, 2017

					patient day (ppd)	
9/30/01	12/31/01	1/1/02	1/2002	40%	\$0.10 ppd	4/1/02
12/31/01	3/31/02	4/1/02	4/2002	50%	\$0.15 ppd	7/1/02
3/31/02	6/30/02	7/1/02	7/2002	50%	\$0.15 ppd	10/1/02
6/30/02	9/30/02	10/1/02	10/2002	65%	\$0.20 ppd	1/1/03
9/30/02	12/31/02	1/1/03	1/2003	65%	\$0.20 ppd	4/1/03
12/31/02 and forward	3/31/03 and forward	4/1/03 and forward	4/2003 and forward	65-79% 40-64% Below 40%	\$0.50 ppd \$0.60 ppd \$0.70 ppd	7/1/03 and forward

Section 8. Limitation on Charges to Residents. (1) Except for applicable deductible and coinsurance amounts, an NF that receives reimbursement for a resident pursuant to Section 6 of this administrative regulation shall not charge a resident or his representative for the cost of routine or ancillary services.

(2) An NF may charge a resident or his representative for an item pursuant to 42 C.F.R. ~~483.10(f)(11)(i)~~ ~~483.10(e)(8)(ii)~~ if:

(a) The item is requested by the resident;

(b) The NF informs the resident in writing that there will be a charge; and

(c) Medicare, Medicaid, or another third party does not pay for the item.

(3) An NF shall:

(a) Not require a resident, or responsible representative of the resident, to request any item or services as a condition of admission or continued stay; and

(b) Inform a resident, or responsible representative of the resident, requesting an item or service for which a charge will be made in writing that there will be a charge and the amount of the charge.

(4) Reserved bed days, per resident, for an NF or an NF-W shall be:

(a) ~~Reimbursed~~ ~~Covered~~ for a maximum of fourteen (14) days per calendar year due to hospitalization. Accumulated bed reserve days shall follow a resident if the resident relocates to another facility within a calendar year rather than starting over at zero due to relocation;

(b) ~~Reimbursed~~ ~~Covered~~ for a maximum of ten (10) days during a calendar year for leaves of absence other than hospitalization. Accumulated bed reserve days shall follow a resident if the resident relocates to another facility within a calendar year rather than starting over at zero due to the relocation;

(c) Reimbursed at seventy-five (75) percent of a facility's rate if the facility's occupancy percent is ninety-five (95) percent or greater for the calendar quarter preceding the bed reserve day; and

(d) Reimbursed at fifty (50) percent of a facility's rate if the facility's occupancy percent is less than ninety-five (95) percent for the calendar quarter preceding the bed reserve day.

(5) Except for oxygen therapy, durable medical equipment (DME) and supplies shall:

(a) Be furnished by an NF; and

(b) Not be billed to the department under a separate DMS claim pursuant to 907 KAR 1:479, Section 6(3).

(6) Dentures, lenses, frames, or hearing aids shall be paid for through the resident's patient liability or spend down amounts and limited to one (1) replacement per item per calendar year.

Section 9. Reimbursement for Required Services Under the

Preadmission Screening Resident Review (PASRR). (1) Prior to an admission of an individual, a price-based NF shall conduct a level I PASRR in accordance with 907 KAR 1:755, Section 4.

(2) The department shall reimburse an NF for services delivered to an individual if the NF complies with the requirements of 907 KAR 1:755.

(3) Failure to comply with 907 KAR 1:755 may be grounds for termination of the NF's participation in the Medicaid Program.

Section 10. Price-Based NF Protection Period and Budget Constraints. (1) A county-owned hospital-based nursing facility shall not receive a rate that is less than the rate that was in effect on June 30, 2002.

(2) For each year of the biennium, a price-based NF shall:

(a) Receive an ~~adjustment~~ ~~increase~~ pursuant to Section 5(8) and ~~(10)(9)~~ of this administrative regulation; or

(b) Except for a county-owned hospital-based nursing facility pursuant to subsection (1) of this section, not receive an increase if the price-based NF's rate is greater than its standard price.

Section 11. Cost Report. (1) A Medicare cost report and the Supplemental Medicaid Schedules shall be submitted pursuant to time frames established in the CMS(HCFA) Provider Reimbursement Manual - Part 2 (Pub. 15-2) Sections 15-11 Section 102, 102.1, 102.3, and 104, using the instructions for Completing the Medicaid Supplemental Schedules, [incorporated by reference into this administrative regulation; and]

(2) A copy of a price-based NF's Medicare cost report shall be submitted for the most recent fiscal year end.

Section 12. Ancillary Services. (1) Except for oxygen therapy and for ancillary services provided to an individual in a critical access hospital swing bed, the department shall reimburse for an ancillary service that meets the criteria established in 907 KAR 1:023 utilizing the corresponding outpatient procedure code rate listed in the Medicaid Physician Fee Schedule established in 907 KAR 3:010, Section 3. ~~;~~

(2) The department shall reimburse for an oxygen therapy utilizing the Medicaid DME Program fee schedule established in 907 KAR 1:479. ~~;~~ ~~and~~

(3) Respiratory therapy and respiratory therapy supplies shall be a routine service.

(4) Reimbursement for ancillary services provided to an individual in a critical access hospital swing bed shall be included in the critical access hospital swing bed reimbursement established in Section 3(2) of this administrative regulation.

Section 13. Appeal Rights. A price-based NF may appeal a department decision as to the application of this administrative regulation in accordance with 907 KAR 1:671.

Section 14. Supplemental Payments to Nonstate Government-Owned or Operated Nursing Facilities. (1) Beginning July 1, 2001, subject to state funding made available for this provision by a transfer of funds from a governmental entity, the department shall make a supplemental payment to a qualified nursing facility.

(2) To qualify for a supplemental payment under this section, a nursing facility shall:

(a) Be owned or operated by a local unit of government pursuant to 42 C.F.R. 447.272(a)(2);

(b) Have at least 140 or more Medicaid-certified beds; and

(c) Have a Medicaid occupancy rate at or above seventy-five (75) percent.

(3) For each state fiscal year, the department shall calculate the maximum supplemental payment that it may make to qualifying nursing facilities in accordance with 42 C.F.R. 447.272.

(4) Using the data reported by a nursing facility on a Schedule NF-7 submitted to the department as of December 31, 2000, the department shall identify each nursing facility that meets the criteria established in subsection (2) of this section.

(5) The department shall determine a supplemental payment factor for a qualifying nursing facility by dividing the qualifying

nursing facility's total Medicaid days by the total Medicaid days for all qualifying nursing facilities.

(6) The department shall determine a supplemental payment for a qualifying nursing facility by applying the supplemental payment factor established in subsection (5) of this section to the total amount available for funding under this section.

(7) Total payments made under this section shall not exceed the amount determined in subsection (3) of this section.

(8) Payments made under this section shall:

- (a) Apply to services provided on or after April 1, 2001; and
- (b) Be made on a quarterly basis.

Section 15. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Medicare Provider Reimbursement Manual - Part 2 (Pub. ~~15-2, Sections 102, 102.1, 102.3, and 104~~~~[15-11] Chapter 1, Cost Reporting - General (15-2-102) 102 and 104. Cost Reporting Period]~~", October 2007~~[- April 2000 Edition]~~];

(b) The "Instructions for Completing the Medicaid Supplemental Schedules", April 2015~~[November 2003 Edition]~~; ~~and~~

(c) The "Supplemental Medicaid Schedules", April 2015; ~~and~~

(d) "Minimum Data Set (MDS) - Version 3.0, Resident Assessment and Care Screening", 10/1/2016~~[November 2003 Edition]~~; and

~~(d) The "Schedule J Request for Reimbursement, November 2003 Edition"]~~.

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

STEPHEN P. MILLER, Commissioner
VICKIE YATES BROWN GLISSON, Secretary
APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Donna Little, (502) 564-4321, extension 2015, donna.little@ky.gov, or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation revises reimbursement for nursing facilities participating in Kentucky Department for Medicaid Services for all non-managed care recipients.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish price-based nursing facility reimbursement provisions.

(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 price-based nursing facility reimbursement provisions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing updated reimbursement rates for nursing facilities providing care to Kentucky Medicaid recipients.

(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 changes the determination of how nursing facilities are classified as urban or rural in the reimbursement methodology. The existing administrative regulation uses designations determined in 2003 and this amendment uses current designations, and establishes a method to update the designations in future years. Changes reflected in this amendment also incorporate CMS' requirement to use MDS 3.0 and additional current practices. The Amended After Comments changes include substantive changes made to Section 4(3) and Sections 4, 5, 6, and 7, and minor drafting changes to comply with KRS Chapter 13A that were made to Sections 1 to 8, 10, 11, 12, and 13. The AAC amendment in Section 4(3) changed the miscellaneous calculations to delete a reference to bay windows, as current appraisal industry standards now include them in the perimeter calculations. The AAC also amends Section 4 to further clarify appraisal adjustment factors. The AAC amends Section 5 to require the department to utilize the current core based statistical area (CSBA) designations on July 1 of each year, rather than every four (4) years. The AAC amends Section 6 to clarify that the average licensed bed value shall be calculated using the same factor, rather than the same value as, applied to the NF's depreciated replacement cost. The AAC amends Section 7 to require that the department notify the NF at the time of the MDS assessment review of any assessment that is not validated and allow the NF to provide supporting documentation that had been utilized to support the assessment.

(b) The necessity of the amendment to this administrative regulation: This amendment updates for current requirements and methodologies. The AAC changes were necessary after consideration of the public comments by the Department and to comply with the drafting and formatting requirements of KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing price-based nursing facility reimbursement provisions.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing updated reimbursement rates for nursing facilities providing care to Kentucky Medicaid recipients.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All nursing facilities participating with Medicaid 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: Nursing facilities will not have to take any actions 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 will be no cost to the entities to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Many entities will receive a higher reimbursement from Medicaid.

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

(a) Initially: DMS anticipates that it will cost approximately \$9 million annually in state and federal dollars to administer the changes of the administrative regulation.

(b) On a continuing basis: DMS anticipates that it will cost approximately \$9 million annually in state and federal dollars to administer the changes of the administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds

authorized under Title XIX and Title XXI of the Social Security Act and state matching funds of general and agency appropriations.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fee.

(9) Tiering: Is tiering applied? Overall, tiering was not applied in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it. However, nursing facilities are classified as either rural or urban based on the Federal Office of Management and Budget's core based statistical area (CBSA) designations. That classification impacts the amount of the payments for price-based nursing facility services.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Department for Medicaid Services (DMS) anticipates no revenue for state or local government will result from the amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS anticipates no revenue for state or local government will result from the amendment.

(c) How much will it cost to administer this program for the first year? DMS anticipates that it will cost approximately \$9 million annually in state and federal dollars to administer the changes of the administrative regulation in the first year.

(d) How much will it cost to administer this program for subsequent years? The response in (c) also applies here. DMS anticipates that it will cost approximately \$9 million in state and federal dollars to administer the changes of the 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:

PROPOSED AMENDMENTS

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
(Amendment)

16 KAR 2:020. Occupation-based career and technical education certification.

RELATES TO: KRS 156.095, 158.070, 158.816, 160.380, 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. This administrative regulation establishes the qualifications for teachers of occupation-based career and technical education and implements the testing and internship requirements of KRS 161.030.

Section 1. (1) The Education Professional Standards Board (EPSB) shall issue and reissue certificates for occupation-based career and technical teachers[education established in this administrative regulation shall be issued and renewed for occupation-based career and technical education teachers] employed by the public schools, the Kentucky Community and Technical College System, or the Kentucky Department of Education Office of Career and Technical Education (KDE).

(2) The EPSB may issue certificates[may be issued] for any information technology, industrial education, public service, health science, or human services occupation area for which programs may be offered under the required Kentucky Academic Standards established in 704 KAR 3:303.(3) The EPSB shall issue certificates for occupation-based career and technical teachers[education] established in this administrative regulation to[shall]:

(a) Teacher [Be initially issued to teacher] candidates who are employed based upon required occupational experience in the occupation[subject] area to be taught; and

(b) The EPSB shall not require a college degree for initial issuance.

Section 2. Issuance and Renewal of One (1) Year Provisional Certificates. (1) Initial issuance. The EPSB shall issue a provisional[internship] certificate to[for teaching] occupation-based career and technical teacher candidates[education, valid for teaching only the subject or subjects stated on the face of the certificate, shall be issued to an applicant who has submitted a completed CA-3] for a duration period of one (1) year. The EPSB shall only issue the provisional certificate after the KDE and, if applicable, an accredited provider of an occupation-based educator preparation program recommends the teacher candidate for certification and the teacher candidate completes the requirements set forth in this section.[upon completion of the following requirements:]

(a) For those teacher candidates who do not hold at least an associate degree in the occupation area in which the teacher candidate is seeking certification, the teacher candidate shall:[A minimum of a high school diploma or its equivalent determined by evidence of an acceptable score on the general education development test administered by an approved testing center:]

1. Demonstrate that he or she has at least a high school diploma or its equivalent;

2. Demonstrate that he or she has four (4) years of successful and appropriate occupational experience in the occupation area in which certification is sought along with:

a. At least two (2) years of the occupational experience completed within the last five (5) years. A maximum of one (1) year of the required work experience may be satisfied by completion of an occupation-based educator preparation program for the occupation to be taught; and

b. Proof that KDE confirmed the occupational experience;

3. Demonstrate that he or she meets the assessment requirements set forth in 16 KAR 6:020;

4. Answer "no" to the EPSB's background disclosure questions set forth in Section 4; and

5. Demonstrate that a local school district, the KDE, or the Kentucky Community and Technical College System has made an offer of employment.

(b) For those teacher candidates who hold either an occupation-based degree in the occupation area in which certification is sought or a degree from an approved occupation-based educator program, the teacher candidates shall provide proof of that degree to the EPSB.[Four (4) years of successful and appropriate occupational experience in the area to be taught, with:

1. At least two (2) years of the occupational experience completed within the last five (5) years. A maximum of one (1) year of the required work experience may be satisfied by completion of an accredited occupational preparation program for the occupation to be taught; and

2. The occupational experience confirmed by the Kentucky Department of Education Office of Career and Technical Education;]

(c) For those teacher candidates who answer "yes" to the EPSB's background disclosure questions set forth in Section 4, the EPSB may issue provisional certificates to those teacher candidates, but the board shall retain final authority to deny the request for a certificate if the board so chooses.[The testing provisions established in 16 KAR 6:020;

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

(e) An offer of employment from a local school district, the Kentucky Department of Education, the Department of Workforce Investment, or the Kentucky Community and Technical College System;]

(2) First renewal of one (1) year provisional certificates. The EPSB shall issue the first renewal of the one (1) year provisional certificate to a requesting teacher candidate only after the KDE and, if applicable, an accredited provider of an occupation-based educator preparation degree recommends the renewal of the provisional certificate and the teacher candidate meets the requirements set forth in subsection (2)(b).[shall require the successful completion of:]

(a) The KDE or the accredited provider of an occupation-based educator preparation degree program shall only recommend renewal of the first provisional certificate for a teacher candidate who does not hold an occupation-based degree in the area in which certification is sought after that teacher candidate:[Kentucky Teacher Internship Program established in 16 KAR 7:010; and]

1. Completes three (3) semester hours of credit in laboratory or classroom management. The teacher candidate may meet this requirement by successfully completing professional learning through the New Teacher Institute (NTI) sponsored by the KDE;

2. Completes professional learning through the NTI;

3. Receives a recommendation by the KDE or an accredited provider of an occupation-based educator preparation program for enrollment in the Kentucky Teacher Internship Program (KTIP);

(b) The teacher candidate answers "no" to the EPSB's background disclosure questions set forth in Section 4. If the teacher candidate answers "yes" to the questions set forth in Section 4, the EPSB may renew the provisional certificates for those teacher candidates, but the board shall retain final authority to deny a request for certification if the board so chooses.[Three (3) semester hours of credit in occupation-based career and technical education laboratory/classroom management. This requirement may be met by successfully completing the New Teacher Institute sponsored by the Kentucky Department of Education Office of Career and Technical Education;]

(3) Subsequent renewal of one (1) year provisional certificate. The EPSB shall issue any subsequent renewal of the one (1) year provisional certificate to a requesting teacher candidate only after the KDE or the provider of an approved occupational preparation

program recommends to the EPSB that the EPSB renew the one (1) year provisional certificate. The KDE or an approved occupation-based preparation program shall ensure that the teacher candidate meets the following requirements before recommending renewal [an applicant who has submitted a completed CA-3 after the successful completion of the internship shall require]:

(a) The completion of a minimum of six (6) semester hours of college credit for each renewal selected from the approved degree program; [sixty-four (64) semester hour planned program for the preparation of teachers in information technology, industrial education, public service, health science, or human services occupations established in Section 4 of this administrative regulation; and]

(b) Documentation of completion of four (4) days of professional development as required by KRS 156.095 and 158.070; and [-]

(c) Answers "no" to the EPSB's background disclosure questions set forth in Section 4. If the teacher candidate answers "yes" to the questions set forth in Section 4, the EPSB may renew the provisional certificates for those teacher candidates, but the board shall retain final authority to deny a request for certification if the board so chooses.

(4) The one (1) year provisional certificate shall be limited to five (5), one (1) year renewals for a total validity period of six (6) years which do not need to be consecutive. [Credit granted by a regionally- or nationally-accredited postsecondary institution for occupational proficiency based upon past relevant experience or credit by examination shall not be applied toward the provisional certificate renewal requirements.]

(5) The one (1) year provisional certificate shall be limited to nine (9), one (1) year renewals for a total validity period of ten (10) years, which do not need to be consecutive.

(6) Upon completion of the sixty-four (64) hour planned program established in Section 4 of this administrative regulation, the teacher shall:

(a) receive the professional certificate established in Section 3 of this administrative regulation; and

(b) Adhere to the subsequent renewal requirements established in Section 3(3) of this administrative regulation.]

Section 3. Issuance and Renewal of the Professional Certificate. (1) [Initial] Issuance. The EPSB shall issue a professional certificate pursuant to this administrative regulation [for teaching occupation-based career and technical education, valid for teaching only the subject or subjects stated on the face of the certificate, shall be issued] for a duration period of five (5) years [one (1) year] to a requesting teacher candidate only after the KDE and, if applicable, a provider of an approved occupation-based preparation program recommends that the EPSB issue the professional certificate. Neither the KDE nor the provider of the approved occupation-based preparation program shall recommend issuance of the professional certificate until the teacher candidate has met [an applicant who has submitted a completed CA-3 upon completion of] the following requirements:

(a) The teacher candidate receives an occupation-based degree or an occupation-based educator preparation degree; [Compliance with Section 2(1) of this administrative regulation; and]

(b) The teacher candidate completes the two (2) years professional learning through NTI sponsored by KDE; and [The completion of a planned program consisting of a minimum of sixty-four (64) semester hours of college credit established in Section 4 of this administrative regulation.]

(c) The teacher candidate successfully completes KTIP.

(2) [First] Renewal. The EPSB shall renew the professional certificate in accordance with 16 KAR 4:060. [(a) The first renewal shall require the successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010.

(b) Upon meeting the requirements established in paragraph (a) of this subsection, the teacher shall receive the professional certificate valid for an additional four (4) years.

(c) An occupation-based career and technical education teacher who has successfully completed the Kentucky Teacher

Internship Program prior to issuance of the initial professional certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the professional certificate.

(3) Subsequent renewal. The professional certificate shall be renewed for subsequent five (5) year periods upon completion of:

(a) Three (3) years of teaching or occupational experience in the occupational specialty; or

(b) Six (6) semester hours of college credit related to the certification area.]

Section 4. Disclosure of Background Information. [The planned program for occupation-based career and technical education teachers shall:]

(1) Teachers and teacher candidates shall disclose certain background information to the EPSB whenever those teachers and teacher candidates apply for the issuance and renewal of the provisional certificate and the professional certificate by answering the following questions: [Include a minimum of sixty-four (64) semester hours of college credit with at least twenty-four (24) semester hours in academic and professional education preparation during the first four (4) years of certificate validity;]

(a) Have you ever had a professional certificate, license, credential, or any document issued for practice denied, suspended, revoked, or voluntarily surrendered? If you have had a professional certificate, license, credential, or any other document issued for practice initially denied by a licensing body, but later issued, you must answer "yes."

(b) Have you ever been suspended or discharged from any employment or military service because of allegations of misconduct?

(c) Have you ever resigned, entered into a settlement agreement, or otherwise left employment as a result of allegations of misconduct?

(d) Is any action now pending against you for alleged misconduct in any school district, court, or before any educator licensing agency?

(e) Have you ever been convicted of or entered a guilty plea, an "Alford" plea, or a plea of nolo contendere (no contest) to a felony or misdemeanor, even if adjudication of the sentence was withheld in Kentucky or any other state? Minor traffic violations should not be reported. Convictions for driving while intoxicated (DWI) or driving under the influence of alcohol or other drugs (DUI) must be reported.

(f) Do you have any criminal charges pending against you?

(g) If you answered affirmatively to any of the questions in this section, has the EPSB previously reviewed the information?

(2) The EPSB shall provide teachers and teacher candidates with the opportunity to submit a narrative to the board to consider before the board approves the request for issuance or renewal of a provisional certificate or a professional certificate. The teacher or teacher candidate may include in their narrative any dates, locations, school systems, court records, or any other information the teacher or teacher candidate would like the board to consider. [Utilize the proficiency evaluation established in 16 KAR 5:030;

(3) Be based upon the experienced teacher standards established in 16 KAR 1:010;

(4) Meet the specialty program association standards established in 16 KAR 5:010; and

(5) Be accredited by the Education Professional Standards Board using the applicable standards and procedures established in 16 KAR 5:010.]

Section 5. Effective August 1, 2018, the EPSB shall not issue provisional or professional certificates to those teacher candidates who do not have at least an associate degree in the area in which the teacher candidate is seeking certification, and who have not completed the two (2) year professional learning through NTI sponsored by KDE, [Information Technology Teachers. (1) A teacher shall possess one (1) of the following credentials to instruct in the field of information technology:

~~(a) Provisional certificate established in Section 2 of this administrative regulation;~~
~~(b) Professional certificate established in Section 3 of this administrative regulation;~~
~~(c) Computer information systems certificate established in 16 KAR 2:010;~~
~~(d) Computer science endorsement established in 16 KAR 2:010; or~~
~~(e) Instructional computer technology endorsement established in 16 KAR 2:010.~~

~~(2) If a qualified teacher is not available for the position of information technology teacher, as attested to by the local school superintendent or the Associate Commissioner of the Kentucky Department of Education Office of Career and Technical Education, a one (1) year probationary certificate may be issued under the requirements established in 16 KAR 2:010.~~

~~Section 6. Incorporation by Reference. (1) "CA-3", 3/15, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.]~~

DAVID WHALEY, Board Chair

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2017 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 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 May 31, 2017. 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, phone (502) 564-4606, fax (502) 564-7080, email LisaK.Lang@ky.gov.

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 qualifications for teachers of occupation-based career and technical education and implements the assessment and internship requirements of KRS 161.030.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to make applicants aware of the qualifications and procedures for occupation-based career and technical education certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020 provides that no person shall be eligible to hold the position of a teacher for which a certificate may be issued, or receive a salary for services rendered in the position, unless he or she holds a certificate of legal qualifications for the position. KRS 161.028 provides the EPSB with the authority and responsibility to establish standards and requirements for obtaining and maintaining a teaching certificate; it also provides the EPSB with the authority and responsibility to set standards for and approve programs for the preparation of teachers. KRS 161.030 provides that the EPSB alone has the authority to certify all teachers in public schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the qualifications for occupation-based career and technical education and establishes the procedures by which an applicant may apply for teaching certification in certain career and technical education areas.

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

(a) How the amendment will change this existing administrative regulation: This amendment will require that all teacher candidates seeking certification in occupation-based career and technical education obtain the minimum of an associate degree. This amendment will reduce the amount of time teacher candidates seeking certification in occupation-based career and technical education may take to complete the required degree from ten years to six years. This amendment require all teacher candidates seeking certification in occupation-based career and technical education to complete the internship in their second year rather than their first year of teaching. This amendment will increase the support provided to all new teacher candidates seeking certification in occupation-based career and technical education by a professional development program sponsored by Kentucky Department of Education (New Teacher Institute) over a two year time period rather than delivering it in a two week time period. This amendment will no longer incorporate an application form by reference. This amendment will incorporate the character and fitness questions from the application into the regulation. This amendment will eliminate the specific reference to one type of certification (information technology teachers). This amendment will eliminate the requirement that all degree programs leading to certification for teacher candidates seeking certification in occupation-based career and technical education be approved by the Education Professional Standards Board using the applicable standards and procedures established in 16 KAR 5:010.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to retain teachers of occupation-based career and technical education by improving the support they receive in the initial years of teaching. This amendment is necessary to ensure that teachers of occupation-based career and technical education are completing their degrees sooner thereby making them available to teach dual-credit courses sooner.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.020, 161.028, and 161.020 require that teachers hold legal qualifications for their respective positions to be issued upon completion of programs prescribed by the EPSB.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides the criteria necessary for certification of teachers of occupation-based career and technical education.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact the Kentucky Department of Education; it will impact 173 public school districts; it will impact at least five (5) educator preparation programs; it will impact teacher candidates seeking certification in occupation-based career and technical education areas not covered by 16 KAR 2:010; it will affect those students enrolled in 173 public school districts interested in enrolling in dual-credit courses.

(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: KDE and educator preparation providers will be responsible for supporting teacher candidates as teacher candidates work to complete their programs necessary for certification in a shorter time period. Educator preparation providers will need to evaluate their programs to determine whether the programs will still be viable options for teacher candidates seeking certification in specific occupation-based

career and technical areas. Kentucky school districts will need to support teacher candidates seeking certification in occupation-based career and technical education in a shorter 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 may be a loss of revenue of some educator preparation providers who previously provided 64 credit programs that did not result in the issuance of a degree, but did result in a teaching certification.

(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 recruit and retain quality teachers of occupation-based career and technical education that are on a path to achieving credentials necessary to teach dual credit.

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

(a) Initially: There will be no cost to the EPSB to implement this administrative regulation.

(b) On a continuing basis: There will be no cost to the EPSB 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: Funds appropriated by the General Assembly to the Education Professional Standards Board.

(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 EPSB does not anticipate an additional fee or funding increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees directly nor does it indirectly increase fees.

(9) TIERING: Is tiering applied? No, tiering will not apply because all applicants for certification are required to meet the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Education Professional Standards Board, the KDE, institutions of higher education, Kentucky public school districts, and occupation-based career and technical education teacher candidates.

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? There will be no additional cost to administer this regulation.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer

this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Education Professional Standards Board (Amendment)

16 KAR 5:020. Standards for admission to educator preparation.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.048(7)

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1)(b) requires that the Educational Professional Standards Board (EPSB)[~~to~~] promulgate administrative regulations setting standards for educator preparation programs[~~approval of an educator preparation institution that offers a preparation program corresponding to a particular certificate~~]. KRS 161.030(1) requires that the board[~~to~~] promulgate administrative regulations establishing requirements for issuance of a certificate authorized under KRS 161.010 to 161.126. This administrative regulation establishes the standards for admission to an educator preparation program that is required for certification.

Section 1. Selection and Admission to Educator Preparation Programs. (1) ~~Each~~[~~In addition to the National Council for Accreditation of Teacher Education standards incorporated by reference in 16 KAR 5:040, each~~] accredited provider of an approved program of educator preparation[~~educator preparation institution~~] shall develop minimum standards for admission to its[~~initial~~] certification educator preparation programs[~~including those~~][~~university-based alternative~~] programs established pursuant to KRS 161.048(7) in accordance with this section.

(2) Admission to an approved undergraduate initial certification preparation program including those programs established pursuant to KRS 161.048(1), KRS 161.048(2), KRS 161.048(5), KRS 161.048(7), and KRS 161.048(8) shall require the following:

(a) 1. A cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed; and

(b) Successful completion of the following pre-professional skills assessments of basic knowledge administered by the Educational Testing Service with the corresponding minimum score:

1. "Praxis Core Academic Skills for Educators (CASE): Reading (5712)" – 156;[~~Until August 31, 2014:~~

a.(i) "Pre-Professional Skills Test: Mathematics (0730)" – 174; or

(ii) "Computerized Pre-Professional Skills Test: Mathematics (5730)" – 174;

b.(i) "Pre-Professional Skills Test: Reading (0710)" – 176; or

(ii) "Computerized Pre-Professional Skills Test: Reading (5710)" – 176; and

c.(i) "Pre-Professional Skills Test: Writing (0720)" – 174; or

(ii) "Computerized Pre-Professional Skills Test: Writing (5720)" – 174.]

2.[~~Beginning September 1, 2014:~~

a."Praxis Core Academic Skills for Educators (CASE): Reading (5712)" – 156;

b."Praxis Core Academic Skills for Educators (CASE): Writing (5722)" – 162; and

3.[~~c.~~] "Praxis Core Academic Skills for Educators (CASE): Mathematics (5732)" – 150.

(3) Admission to an approved [a] graduate level initial certification educator preparation program[, including an educator preparation program established pursuant to KRS 161.048(7), shall

require the following]:

(a) 1. A bachelor's degree or advanced degree awarded by a regionally accredited college or university with a cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework; and

(b) 1. Successful completion of the pre-professional skills assessments in subsection (2)(b) of this section; or

2. Successful completion of the Graduate Record Exam (GRE) administered by the Education Testing Service with the following corresponding scores on the corresponding sections:

a. Verbal reasoning – 150[(i) Verbal Reasoning taken prior to August 1, 2011 – 450; or

(ii) Verbal Reasoning taken after August 1, 2011 – 150];

b. Quantitative Reasoning – 143[(i) Quantitative Reasoning taken prior to August 1, 2011 – 490; or

(ii) Quantitative Reasoning taken after August 1, 2011 – 143]; and

c. Analytical Writing – 4.0.

(4) Each accredited provider of an approved program of educator preparation[~~accredited educator preparation institution~~] shall have a formal application procedure for admission that[~~to an initial teacher preparation program, which~~] shall include the following:

(a) Documentation that the applicant demonstrates the following:

1. Critical thinking;
2. Communication;
3. Creativity; and
4. Collaboration;

(b) Evidence that the applicant has reviewed the[~~]~~:

1. ~~The~~ Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020[; and

2. ~~The character and fitness questionnaire contained in Section III of the TC-1 incorporated by reference in 16 KAR 2:010~~; and

(c) A method to allow the applicant to demonstrate that the applicant understands professional dispositions expected of professional educators.

(5) The educator preparation program[~~Undergraduate students~~] shall not enroll undergraduate students in any educator preparation program courses restricted to admitted candidates.

(6) The educator preparation program shall maintain electronic records that document that all students[~~admitted after September 1, 2012,~~] meet the requirements established in subsection (2) of this section.

Section 2. Selection and Admission to an Approved Educator Preparation Program for Occupation-Based Career and Technical Education. (1) Admission to an approved program of preparation for occupation-based career and technical education that results in certification pursuant to 16 KAR 2:020 shall require:

(a) A minimum of a high school diploma or equivalency exam.

(b) Four (4) years of successful and appropriate occupational experience in the area to be taught:

1. At least two (2) years of occupational experience completed within the last five (5) years. A maximum of one (1) year of the required work experience may be satisfied by completion of an approved program of preparation for the occupation to be taught; and

2. The occupational experience confirmed by the Kentucky Department of Education, Office of Career and Technical Education;

(c) The assessment provisions established in 16 KAR 6:020; and

(d) An offer of employment from a state or local technology center, or a school district.

(2) Each accredited provider of an approved program of educator preparation shall have a formal application procedure for admission that shall include the following:

(a) Evidence that the applicant has reviewed the Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020; and

(b) A method to allow the applicant to demonstrate that the

applicant understands professional dispositions expected of professional educators.

(3) The educator preparation provider shall not enroll undergraduate students in any educator preparation program courses restricted to admitted candidates.

(4) The educator preparation program shall maintain electronic records that document that all students meet the requirements established in subsection (2) of this section.

(5) A provider of approved educator preparation programs shall provide notice to the EPSB which candidates it has admitted to an approved program of educator preparation within six (6) months of the candidate's admission.

(6) Failure of an approved educator preparation provider to provide EPSB with notice of each candidate it admitted to an approved program of preparation in accordance with this section may result in action against the provider's accreditation status.

Section 3. Assessment Recency. A passing score on an assessment established at the time of admission shall be valid for the purpose of applying for admission for five (5) years from the assessment administration date.

Section 4. Annual Report. (1) Each educator preparation provider[~~unit~~] shall submit an electronic report annually to the EPSB[~~Education Professional Standards Board~~] that includes the following program data on each candidate admitted to educator preparation programs:

(a) ~~EPSB~~[~~Education Professional Standards Board~~] Person Identifier;

(b) Student School Identification number;

(c) Social Security number;

(d) Full name;

(e) Birth date;

(f) Reported ethnicity;

(g) Reported gender;

(h) Email address;

(i) Present home mailing address;

(j) Permanent home mailing address;

(k) Phone number;

(l) Admission date;

(m) Total number of credit hours prior to admission to the provider's[~~institution's~~] educator preparation program;

(n) Total number of credit hours in educator preparation courses completed prior to admission to the provider's[~~institution's~~] educator preparation program;

(o) Grade point average at admission;

(p) Current program enrollment status;

(q) Program completion date;

(r) Grade point average at program completion;

(s) Academic major at program completion; and

(t) Academic minor or minors at program completion, if applicable.

(2) The report shall be submitted in the following manner:

(a) The provider[~~institution~~] shall electronically submit all data identified in subsection (1) to the ~~EPSB~~[~~Education Professional Standards Board~~]; and

(b) By September 15 of each year, each institution shall provide written confirmation by electronic mail to the ~~EPSB~~[~~Director of the Division of Educator Preparation~~] that all required information has been entered.

(3) The preparation program shall exit any candidate who has not been enrolled in at least one (1) course required for program completion within the last twelve (12)[~~eighteen (18)~~] months.

(4) Failure to submit the annual report in accordance with this section may result in action against the program's accreditation status[~~pursuant to 16 KAR 5:010, Section 21~~].

DAVID WHALEY, Board Chair

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2017 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 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 May 31, 2017. 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, phone (502) 564-4606, fax (502) 564-7080, email LisaK.Lang@ky.gov.

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 admission standards that all educator preparation providers are to use when admitting educator candidates into educator preparation programs.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure that the educator candidates admitted to educator preparation programs are of high quality and have the professional dispositions expected of professional educators.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028(1)(b) provides that the Educational Professional Standards Board (EPSB) is responsible for promulgating administrative regulations that set standards for educator preparation providers. KRS 161.030(1) requires that the board promulgate administrative regulations establishing requirements for issuance of a certificate authorized under KRS 161.010 to 161.126.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the minimum requirements for admission into an educator preparation program that will lead to certification. This regulation applies to all traditional educator preparation programs, alternate education preparation programs, and educator preparation programs for occupation-based career and technical education.

(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 the admission requirements for educator candidates enrolling educator preparation programs for occupation-based career and technical education. This amendment will also align this regulation with the changes made to KRS 161.048 during the 2017 regular legislative session.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure the educator candidates admitted to educator preparation programs for occupation-based career and technical education are of high quality and have the professional dispositions expected of professional educators. The amendment is necessary to ensure that this regulation is not inconsistent with the admission requirements set forth in KRS 161.048.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028 requires that the EPSB set standards for educator preparation providers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment sets forth the admission requirements for both alternate educator preparation programs as well as educator preparation programs for occupation-based career and technical education.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will have an

impact on the EPSB as well as educator preparation providers of educator preparation programs of occupation-based career and technical education that have not previously complied with this regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The EPSB will have to update its Admission and Exit System to ensure that it is tracking all educator preparation programs for teachers of occupation-based career and technical education; educator preparation program providers that offer programs for occupation-based career and technical education will need to begin complying with this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Any cost would be de minimis.

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

(a) Initially: No cost is anticipated.

(b) On a continuing basis: No cost is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds appropriated by the General Assembly to the Education Professional Standards Board would be used for the 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: The EPSB does not anticipate an additional fee or funding increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees directly nor does it indirectly increase fees.

(9) TIERING: Is tiering applied? No, tiering will not apply because all educator preparation providers are required to meet the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Education Professional Standards Board and educator preparation providers.

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)(b) provides that the Educational Professional Standards Board (EPSB) is responsible for promulgating administrative regulations that set standards for educator preparation providers. KRS 161.030(1) requires that the board promulgate administrative regulations establishing requirements for issuance of a certificate authorized under KRS 161.010 to 161.126.

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? No cost is anticipated.

(d) How much will it cost to administer this program for subsequent years? No cost is anticipated.

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

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

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
(Amendment)**

16 KAR 8:040. Ranking of occupation-based career and technical education teachers.

RELATES TO: KRS 156.095, 161.020, 161.028, 161.030, 161.1211

STATUTORY AUTHORITY: KRS 161.1211

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.1211 requires the Education Professional Standards Board (EPSB) to rank teachers. KRS 161.1211 requires the EPSB to give consideration to apprenticeship training and industrial experience to occupation-based career and technical education teachers when defining rank change requirements [to determine equivalent qualifications for the salary ranks and directs that consideration be given to the apprenticeship and industrial experience of certain vocational and career and technical teachers]. This administrative regulation defines rank change requirements for occupation-based career and technical education teachers [equivalency for Rank III, Rank II, and Rank I classifications taking into account the factors of apprenticeship and industrial experience].

Section 1. (1) Equivalent ranking qualifications for occupation-based career and technical education teachers, as provided for in KRS 161.1211, shall be limited to those persons who are serving in positions identified as occupation-based career and technical education and who hold one (1) of the certificates established in 16 KAR 2:020.

(2) Occupation-based career and technical education teachers identified in subsection (1) of this section who achieve certification as principal, supervisor, or coordinator of career and technical education may retain the same rank, or advance to a higher rank, earned on the basis of the provisions of this administrative regulation.

Section 2. A Rank III Classification for an occupation-based career and technical education teacher identified in Section 1 of this administrative regulation shall require the following:

(1) A one (1) year provisional certificate for teaching occupation-based career and technical education issued [established] in accordance with 16 KAR 2:020;

(2)(a) High school graduation; or

(b) The equivalent determined by evidence of an acceptable score on the general education development test administered by an approved testing center; and

(3) Four (4) years of successful and appropriate occupational experience in the area to be taught, in accordance with 16 KAR 2:020[, Section 2(1)(b)].

Section 3. A Rank II classification for an occupation-based career and technical education teacher identified in Section 1 of this administrative regulation shall require one of the following:

(1) An occupation-based career and technical educator associate degree issued in accordance with 16 KAR 2:020. [Completion of a planned program consisting of a minimum of sixty-four (64) semester hours of approved college credit established in 16 KAR 2:020]; or

(2) An occupation-based associate degree within the specific technical field in which certification issued in accordance with 16 KAR 2:020. [Three (3) years of teaching experience as an occupation-based career and technical education teacher. The experience shall be further defined as follows:

(a) A full year of experience shall include at least 140 days of

employment performed within the academic year; and

(b) A half year of experience shall include at least seventy (70) days of employment performed within an academic semester;

(3) One (1) of the following certificates:

(a) Certificate for Vocational Education—Industrial Education, Ten (10) Year Certificate;

(b) Certificate for Vocational Education—Industrial Education, Five (5) Year Certificate;

(c) Any high school certification with an area of concentration in vocational industrial and technical education (certification code A77) or industrial education—preparation level (certification code A96);

(d) Certificate for Trades and Industrial Education; or

(e) A professional certificate for teaching occupation-based career and technical education established in 16 KAR 2:020.]

Section 4. A Rank I classification for an occupation-based career and technical education teacher identified in Section 1 of this administrative regulation shall require an occupation-based degree beyond an associate's degree within the technical field in which certification was issued in accordance with [the following:

(1) An approved bachelor's degree from a regionally accredited institution defined as follows:

(a) A bachelor's degree in technical education, industrial education, health occupations, health science, human services occupation, public service, information technology, personal services occupation or which has been planned with a teacher education institution and is specifically related to the occupation to be taught; or

(b) A bachelor's degree leading to a provisional high school certificate with an area of concentration identified in subsection (2)(c); (3)(c) of this section;

(2) Six (6) years of teaching experience identified as occupation-based career and technical education teacher. The experience shall be further defined as follows:

(a) A full year of experience shall include at least 140 days of employment performed within the academic year; and

(b) A half year of experience shall include at least seventy (70) days of employment performed within an academic semester;

(3) One (1) of the following certificates:

(a) Certificate for Vocational Education—Industrial Education, Ten (10) Year Certificate;

(b) Certificate for Vocational Education—Industrial Education, Five (5) Year Certificate;

(c) Any high school certification with an area of concentration in vocational industrial and technical education (certification code A77) or industrial education—preparation level (certification code A96);

(d) Certificate for Trades and Industrial Education; or

(e) A professional certificate for teaching occupation-based career and technical education established in] 16 KAR 2:020.

DAVID WHALEY, Board Chair

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall be held on May 22, 2017 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 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 May 31, 2017. 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, phone (502) 564-4606, fax (502) 564-7080, email LisaK.Lang@ky.gov.

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 requirements for achieving a Rank I and Rank II for occupation-based career and technical education teachers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to attract and retain occupation-based career and technical education teachers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.1211 provides that the Education Professional Standards Board shall rank teachers. When determining ranks, KRS 161.1211 provides that the EPSB shall consider apprenticeship training and industrial experience.

(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 KRS 161.1211 by defining rank change requirements for occupation-based career and technical education teachers.

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

(a) How the amendment will change this existing administrative regulation: This amendment will eliminate teaching experience as a requirement for occupation-based career and technical education teachers. The EPSB shall award a Rank II based on the relevant occupational experience of the occupation-based career and technical education teacher and the attainment of an associate degree; the EPSB shall award a Rank I based on the relevant occupational experience of the occupation-based career and technical education teacher and the attainment of a bachelor degree or higher.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to attract and retain teachers of occupation-based career and technical education by allowing them to be eligible for a rank change earlier in their teaching career.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.1211 provides that the Education Professional Standards Board shall rank teachers. When determining ranks, KRS 161.1211 provides that the EPSB shall consider apprenticeship training and industrial experience. The EPSB will be better able to satisfy the original intent of KRS 161.1211 by eliminating teaching experience as a requirement.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure that the prior occupational experience and education of an occupation-based career and technical education teacher are the sole considerations when determining rank.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact those entities that operate and manage Area Technology Centers, public school districts, and occupation-based career and technical education teachers.

(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: Occupation-based career and technical education teachers (OCTE teachers) will be eligible for rank changes earlier in their careers. Once occupation-based career and technical education teachers apply to the EPSB for their rank change, those public entities that employ those occupation-based career and technical education teachers will be required to pay those teachers more.

(b) In complying with this administrative regulation or

amendment, how much will it cost each of the entities identified in question (3): This amendment will result in OCTE teachers receiving a pay increase earlier in their career. By increasing the salaries of OCTE teachers, it will assist the public entities retain OCTE teachers. The impact on any public entity will depend on the number of OCTE teachers that the public entity employs.

(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 recruit and retain quality teachers of occupation-based career and technical education that are on a path to achieving credentials necessary to teach dual credit. This amendment may help entities recruit teacher candidates for occupation-based career and technical education.

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

(a) Initially: The public entities that employ OCTE teachers include, but are not limited to, the KDE and public school districts. The cost of implementation of this regulation for these public entities will vary depending on the public entity, the number of OCTE teachers employed by the public entity, and the salary schedule of the public entity. The KDE administers Area Technology Centers across the Commonwealth of Kentucky. OCTE teachers make up the majority of employees in these Area Technology Centers. The KDE anticipates that this amendment will result in numerous OCTE teachers applying for a rank change. Once the OCTE teachers receive a rank change, the KDE will be required to pay these OCTE teachers at a higher rate of pay. KDE estimates that this increased rate of pay will increase its personnel costs by \$150,000.00 per year. The EPSB also anticipates that this amendment will result in OCTE teachers employed by local school districts also applying for a rank change. These local school districts will also be required to pay their OCTE teachers at a higher rate of pay. The total increase in personnel cost will vary by local school district. KDE estimates that this increased rate of pay will cost an average of \$3,500 per school district.

(b) On a continuing basis: The KDE anticipates that it will cost the KDE a total of \$60,000.00 per year after the first year in increased personnel costs. The cost from year to year, however, will depend on the total number of OCTE teachers entering the teaching field as an occupation-based career and technical education teacher. As stated above, the cost for local school districts with local Area Technology Centers will vary by district.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds appropriated by the General Assembly to the Education Professional Standards Board.

(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 EPSB does not anticipate an additional fee or funding increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees directly nor does it indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is applied based on level of occupation-based experience and level of education.

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 those entities that employ occupation-based career and technical education teachers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.1211 provides that the Education Professional Standards Board shall rank teachers. When determining ranks, KRS 161.1211 provides that the EPSB shall consider apprenticeship training and industrial experience.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

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

(c) How much will it cost to administer this program for the first year? There is no additional cost for the EPSB to administer this program.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost for the EPSB to administer this program.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**OFFICE OF THE ATTORNEY GENERAL
Office of Consumer Protection
(Amendment)**

40 KAR 2:145. Funeral planning declaration form.

RELATES TO: KRS 367.93101, 367.93103, 367.93105, 367.93107, 367.93109, 367.93111, 367.93113, 367.93115, 367.93117, 367.93121, 367.97501, 367.97514, 367.97524, 367.97527

STATUTORY AUTHORITY: KRS 367.93101(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 367.93101(3) requires the Office of the Attorney General to promulgate administrative regulations to prescribe a funeral planning declaration form. This administrative regulation prescribes the funeral planning declaration form identified in KRS 367.93101(3) and described in KRS 367.93101 to 367.93121, by which an individual declarant may set forth the declarant's preferences regarding the manner of disposition of the declarant's remains.

Section 1. Funeral Planning Declaration. The Funeral Planning Declaration, Form FPD-1, required by KRS 367.93101(3), shall contain the following information:

- (1) The date the declaration is made;
- (2) The name of the declarant;
- (3) A statement providing that the declarant shall be at least eighteen (18) years of age and of sound mind;
- (4) A statement providing that the declarant willingly and voluntarily makes known the declarant's instructions concerning funeral services, funeral and cemetery merchandise, ceremonies, and the disposition of the declarant's remains after the declarant's death;
- (5) A statement that by executing the declaration any previous declaration is revoked;
- (6) Statements informing the declarant of the following concerning a designee:
 - (a) A designee is an individual designated and directed by the terms of the declaration to carry out the declarant's funeral plan or make arrangements concerning disposition of the declarant's remains, funeral services, cemetery merchandise, funeral merchandise, or ceremonies;
 - (b) If the declarant does not designate a designee in the declaration, the declarant shall provide instructions concerning funeral services, ceremonies, and the disposition of the declarant's remains;
 - (c) A person is not considered to be entitled to any part of the

declarant's estate solely by virtue of being designated in the declaration to serve as the declarant's designee;

(d) The declarant's designee shall not be a provider of funeral or cemetery services, or employed by ~~responsible for any aspect of disposition of the declarant's remains, or associated with~~ any entity responsible for providing funeral or cemetery services or disposing of the declarant's remains, unless the designee is related to the declarant by birth, marriage, or adoption;

(e) A designee shall not be a witness to the declaration; and

(f) If the designee or alternate designee fail to assume an obligation set forth in the Funeral Planning Declaration, Form FPD-1, within five (5) days of notification of the declarant's death, the authority to make arrangements shall devolve pursuant to the terms of the Funeral Planning Declaration, Form FPD-1, or KRS 367.93117;

(7) If the declarant elects, a statement identifying the name of a designee who shall carry out the instructions that are set forth in the declaration;

(8) If the declarant elects to name an alternate designee, a statement identifying the name of an alternate designee if the designee is unwilling or unable to act;

(9) If the declarant elects to not select a designee, a statement that the declarant elects to not select a designee and that the declarant directs that the instructions listed in the declaration for funeral services, ceremonies, and the disposition of the declarant's remains be followed;

(10) Instructions for actions to be taken after the declarant's death, indicating by initials or marks beside each instruction selected by the declarant, from the following:

(a) Concerning disposition of the declarant's body, one (1) of the following:

1. The declarant directs that the declarant's body be buried and, if so, where;

2. The declarant directs that the declarant's cremated remains be disposed of by one (1) of the following methods, or, if no method of disposition is selected, the declarant leaves the decision to the designee:

a. By placing the cremated remains in a grave, crypt, or niche and, if so, where;

b. By scattering them in a scattering area; or

c. On private property with the consent of the owner;

3. The declarant directs that the declarant's body be entombed and, if so, where;

4. The declarant directs that the declarant's body be donated as an anatomical gift pursuant to KRS 311.1911, et. seq., if the declarant has not selected another method for donation of the declarant's body; or

5. The declarant intentionally makes no decision concerning the disposition of the declarant's body and leaves the decision to the designee;

(b) Concerning arrangements, any of the following selected by the declarant:

1. The declarant directs that funeral services be obtained and, if so, from whom, or, if no person from whom to obtain funeral services is selected, then the designee may decide;

2. The declarant directs that funeral and ceremonial arrangements are to be made and, if so, providing instructions regarding the funeral and ceremonial arrangements;

3. The declarant directs the selection of a grave memorial, monument, or marker, and, if so, providing instructions regarding the grave memorial, monument, or marker;

4. The declarant directs the selection of funeral and cemetery merchandise and other property for the disposition of the declarant's remains, funeral, or other ceremonial arrangements, and, if so, providing instructions regarding the funeral and cemetery merchandise and other property for the disposition of the declarant's remains, funeral, or other ceremonial arrangements; or

5. The declarant directs that the designee make all arrangements concerning ceremonies and other funeral or burial services;

(c) Any additional instructions requested by the declarant; and

(d) A statement that the declarant directs that the declarant's designee make alternate arrangements to the best of the

designee's ability if it is impossible to make an arrangement specified in the Funeral Planning Declaration, Form FPD-1, because:

1. A funeral home or other service or merchandise provider is out of business, impossible to locate, or otherwise unable to provide the specified service; or

2. The specified arrangement is impossible, illegal, or exceeds the funds available or is inconsistent with the terms of the pre-arranged funeral or cemetery contract;

(11) A statement that it is the declarant's intention that the declarant's Funeral Planning Declaration, Form FPD-1, be honored by the declarant's family and others as the final expression of the declarant's intentions concerning the declarant's funeral and the disposition of the declarant's body after the declarant's death, and that the declarant understands the full import of this declaration;

(12) Concerning execution of the Funeral Planning Declaration, Form FPD-1:

(a) The signature of the declarant or another person in the declarant's presence and at the declarant's direction, the signature date, and the city, county, and state of the declarant's residence; and

(b) If applicable, the printed name of the person who signed at the declarant's direction;

(13) The signatures of two (2) witnesses, printed name, and date of signature of each witness, immediately following a statement that the witness believes the declarant to be of sound mind and to have willfully and voluntarily executed the Funeral Planning Declaration, Form FPD-1, that the witness did not sign the declarant's signature or at the direction of the declarant, that the witness is not a ~~parent, spouse, child, or~~ designee of the declarant, ~~that the witness is not entitled to any part of the declarant's estate,~~ that the declarant signed the declaration in the presence of the witness, and that the witness is competent and at least eighteen (18) years of age; and

(14) An acknowledgement before a notary public or other person authorized to administer oaths, including the signature and title of the notary public or other person authorized to administer oaths, and the date of the signature, immediately following a statement that the declarant appeared before the notary public or other person authorized to administer oaths and acknowledged that the declarant voluntarily dated and signed the Funeral Planning Declaration, Form FPD-1, or directed the Funeral Planning Declaration, Form FPD-1, to be signed and dated in the declarant's presence, and the date of the acknowledgement.

Section 2. Incorporation by Reference. (1) "Funeral Planning Declaration", Form FPD-1, 04-17[10/16], is incorporated by reference.

(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, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

ANDY BESHEAR, Attorney General

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2017, at 10:00 a.m., Eastern Time, at the Kentucky Attorney General's Office of Consumer Protection, 1024 Capital Center Drive, Suite 200, 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 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 11:59 p.m., Eastern Time, on May 31, 2017.

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: 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 the funeral planning declaration form by which a person may set forth his or her preferences regarding the manner of disposition of his or her remains and instructions regarding the related services, merchandise, and arrangements, which is authorized by KRS 367.93101(3) and governed by KRS 367.93101 to KRS 367.93121 as enacted by Senate Bill 103 (2016 Ky. Acts ch. 59) and amended by House Bill 208 from the 2017 Regular Session, effective June 29, 2017.

(b) The necessity of this administrative regulation: This regulation is necessary for the efficient and uniform application of the requirements of KRS 367.93101 to KRS 367.93121 regarding funeral planning declarations. KRS 367.93101(3) provides that a declaration is a funeral planning declaration setting forth a declarant's preferences regarding the manner of disposition of the declarant's remains and in a form prescribed by administrative regulation promulgated by the Office of the Attorney General.

(c) How this administrative regulation conforms to the content of the authorizing statutes: House Bill 208, amends the funeral planning declaration statutes in KRS 367.93101 to .93121 by deleting some restrictions on who may serve as a designee named in, or a witness to, the funeral planning declaration form. The amendments to this administrative regulation will make certain changes to the funeral planning declaration form to conform to the changes enacted by House Bill 208, and will make certain other technical changes. House Bill 208 also, among other things, alters the list of persons in order of authority for the right to control the final disposition of a decedent's body, which is addressed in an amendment to the cremation forms regulation, 40 KAR 2:150, filed simultaneously with this administrative regulation.

(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 367.93101 to .93121, by amending the funeral planning declaration form to conform to the changes enacted by House Bill 208 that removed some restrictions on who may serve as a designee named in, or a witness to, the funeral planning declaration form, and to make certain other technical changes.

(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 this administrative regulation will make certain changes to the funeral planning declaration form to conform to the changes enacted by House Bill 208 that removed some restrictions on who may serve as a designee named in, or a witness to, the funeral planning declaration form and to make certain other technical changes. The amendments will change statements regarding who may serve as a designee by removing the restriction against a person responsible for any aspect of disposition, and by changing the restriction against entities responsible for providing certain services to those employed by such entities instead of those associated with such entities. The amendments will change statements regarding who may serve as a witness by removing the restrictions against parents, spouses, children, and those entitled to any part of the decedent's estate.

(b) The necessity of the amendment to this administrative regulation: House Bill 208 changes, among other things, the restrictions on who may serve as a designee named in, or a witness to, the funeral planning declaration form. The amendments

to this administrative regulation will make certain changes to the funeral planning declaration form to conform to the changes enacted by House Bill 208, and will make certain other technical changes.

(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:

1. The amendments will change statements regarding who may serve as a designee by removing the restriction against a person responsible for any aspect of disposition, and by changing the restriction against entities responsible for providing certain services to those employed by such entities instead of those associated with such entities.

2. The amendments will change statements regarding who may serve as a witness by removing the restrictions against parents, spouses, children, and those entitled to any part of the decedent's estate.

(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 367.93101 to .93121, as enacted by Senate Bill 103 (2016) and amended by House Bill 208 (2017), by making certain changes to the funeral planning declaration form to conform to the changes enacted by House Bill 208, and will make certain other technical changes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects:

1. An unknown number of individuals who may desire to establish, before their deaths, their preferences regarding the disposition of their remains.

2. An unknown number of individuals who may be designated as a designee in a declaration.

3. An unknown number of persons or business entities that perform services related to the disposition of human remains, including funeral homes, crematories, and cemeteries. There are currently 33 crematory authorities licensed with the Attorney General, over 270 cemetery companies registered with the Attorney General, over 460 pre-need burial contract sellers licensed with the Attorney General, and over 510 licensed establishments with the Kentucky Board of Embalmers and Funeral Directors.

(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 administrative regulation:

Use the amended funeral planning declaration form if they provide services or assistance to a declarant in establishing the declarant's preferences and directions stated in a declaration.

(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 funeral planning declaration form is estimated to be \$0.30 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 using the amended funeral planning declaration form prescribed by this administrative regulation, an individual will be able to execute a funeral planning declaration form that sets forth his or her preferences regarding the disposition of his or her remains, and persons or business entities may provide services or assistance to a declarant in establishing the declarant's preferences and directions stated in a declaration. Additionally, a crematory authority, licensed funeral director, or cemetery acting pursuant to the terms of a declaration shall not be held liable for good-faith reliance on representations made in a valid declaration. Further, for cremations pre-authorized by a

declaration, a crematory authority will be able to conduct cremations and accept bodies for cremation based on the declaration.

(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: 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 regulated entity or other person 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 367.93101, .93101(3), .93103, .93105, .93107, .93109, .93111, .93113, .93115, and .93117.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (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:

OFFICE OF THE ATTORNEY GENERAL Office of Consumer Protection (Amendment)

40 KAR 2:150. Cremation forms and inspections.

RELATES TO: KRS 367.93103, 367.93105, 367.93115, 367.93117, 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524, 367.97527

STATUTORY AUTHORITY: KRS 367.97501, 367.97504, 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 forms related to cremation as required by KRS 367.97501, 367.97504, and 367.97514. This administrative regulation also identifies the records and information that shall be retained 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.

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 all necessary authorizations have been obtained, and all prerequisites to be performed by the state regarding the 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 declarant or decedent, and the place and date of death;
- (6) 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) Whether the declarant's or decedent's remains contain any devices, including mechanical, prosthetic, implants or materials, which may have been implanted in or attached to the declarant or decedent, or any other device that may become hazardous during the cremation process;
- (9) A description of any devices, including mechanical, prosthetic, implants, or materials, which may have been implanted in or attached to the declarant or decedent, or any other device that may become hazardous during the cremation process;
- (10) A statement informing the authorizing agent of the following concerning identification of the declarant or decedent:
 - (a) Kentucky law requires the individual'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) 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 decedent is the authorizing agent; and
 - (b) The right to control the disposition of the remains of a declarant or decedent devolves according to the order of authority of classes of authorizing agents listed in subsection (13) of this section;
- (13) The selection of the class of authorizing agents having the right to authorize the cremation of the declarant's or decedent's body, in the following order of authority:
 - (a) The individual executing 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, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3, 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;

(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;

(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;

(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;

(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; ~~and~~

(k) If none of the persons listed in paragraphs (a) through (j) of this subsection are available, one (1) of the following who attests~~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;

1. A person willing to act and arrange for the final disposition of the decedent; or

2. A funeral home that has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent's remains, if the funeral director makes the written attestation described in this subsection; and

(l) The district court in the county of the decedent's residence or the county in which the funeral home or the crematory is located;

(14) Statements informing the authorizing agent of the following regarding other rights and responsibilities concerning cremations:

(a) The declarant or authorizing agent shall carefully read and understand the statements described in this subsection before signing the authorization;

(b) The declarant or authorizing agent shall direct the crematory authority on the final disposition of the cremated remains;

(c) 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;

(d) The original form shall be attached to the Cremation Authorization, Form CR-1 if:

1. The cremation is being performed pursuant to a Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145; or

2. A Preneed Cremation Authorization, Form CR-3 that was completed and executed before July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3;

(e) 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) The consumer may choose cremation without choosing embalming services;

(g) 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) The crematory authority requires that the body of the declarant or decedent shall be delivered for cremation in a suitable, closed container that 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:

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;

(k) The crematory authority may inspect the casket or alternative container, including opening it if necessary, and the crematory authority shall not 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;

(l) The type of casket or cremation container selected for cremation;

(m) 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) 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) Cremated remains, to the extent possible, shall not be contaminated with foreign material;

(p) 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) 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) 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) 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 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 and, if so, to whom; or

(e) Picked up at the crematory office and, if so, by whom;

(16) The date the remains were received by the crematory authority, the cremation number, the date of cremation, and the name of the person performing the cremation;

(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;

(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) Signature of each authorizing agent granting consent to the cremation of the decedent;

(19) The name of each authorizing agent and the relationship of the authorizing agent to the declarant or decedent;

(20) The address of the authorizing agent, including the city, state, and zip code;

(21) The telephone number of the authorizing agent;

(22) 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) 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, shall not be completed or executed on or after July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3.

(2) A Preneed Cremation Authorization, Form CR-3, completed and executed prior to July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3, shall contain the following information:

(a) The name of the crematory authority;

(b) The address, including the city, state, and zip code;

(c) The telephone number of the crematory authority;

(d) The name of the authorizing agent;

(e) The address of the authorizing agent, including the city, state, and zip code;

(f) The home telephone number of the authorizing agent;

(g) The age and gender of the authorizing agent;

(h) Whether the decedent authorizing agent has any infectious or contagious disease and, if so, an explanation;

(i) Whether the decedent authorizing agent's body contains a pacemaker, prosthesis, radioactive implant, or any other device that could be explosive;

(j) 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) 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) 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) A statement informing the authorizing agent of the following:

1. The agent is not required to purchase a casket for the purpose of cremation;

2. 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. An alternative cremation container shall meet the following standards:

a. Be composed of readily-combustible materials suitable for cremation;

b. Be able to be closed to provide a complete covering for the human remains;

c. Be resistant to leakage or spillage; and

d. Be rigid enough to support the weight of the decedent;

(n) A statement informing the authorizing agent that the crematory may 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) The type of casket or alternative container selected for cremation;

(p) A statement informing the authorizing agent of the following:

1. 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. 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) A statement informing the authorizing agent of the following:

1. To the extent possible, cremated remains shall not be contaminated with foreign material;

2. 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. 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. 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) A statement informing the authorizing agent of the following:

1. 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. 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) 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) A statement informing the authorizing agent of the following:

1. 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. 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. 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;

(u) Instructions on the disposition of the cremated remains, indicating whether the cremated remains will be:

1. Interred and, if so, where;

2. Scattered in a scattering area or garden and, if so, where;

3. Scattered on private property with the permission of the owner and, if so, where;

4. Delivered either in person or by registered mail and, if so, to whom; or

5. Picked up at the crematory office and, if so, by whom;

(v) 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;

(w) The date and location where the authorizing agent signed the Preneed Cremation Authorization, Form CR-3;

(x) The signature of the funeral director or other individual as witness for the authorizing agent;

(y) The name of the funeral director or other individual acting as witness for the authorizing agent;

(z) The address of the funeral director or other individual acting as witness for the authorizing agent, including the city, state, and zip code; and

(aa) 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;

(3) The date of the application;

(4) The full legal name of the applicant;

(5) The crematory name, if different from the applicant;

(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) Individual; or

(e) 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, of every owner of the applicant, or if the applicant is a business entity, every member, officer, and director of the applicant;

(12) The name, address, including city, state, and zip code, and account number, if applicable, of one (1) financial reference. Suitable financial references shall include financial institutions and industry suppliers. Personal references shall not be acceptable;

(13) The name and address, including city, state, and zip code, of the financial institution at which the applicant has its business bank account;

(14) The account number of the business bank account;

(15) Whether the applicant intends to solicit preneed funeral contracts. If yes, a completed application for a preneed burial sellers license, Form CPN-6, incorporated by reference in 40 KAR 2:155, shall be attached;

(16) 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) A statement informing the applicant that by submitting the application, the applicant represents, agrees to, and states under penalty of law, the following:

(a) 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;

(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; and

(h) That the applicant is authorized to complete the application on behalf of the applicant crematory; and

(18) 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) For all cremations occurring within the last ten (10) years:

(a) 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, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization, Form CR-3; or

(b) The Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145;

(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 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 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 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;

(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, 04-17[40-46];

(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.

(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, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

ANDY BESHEAR, Attorney General

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2017, at 10:00 a.m., Eastern Time, at Kentucky Attorney General's Office of Consumer Protection, 1024 Capital Center Drive, Suite 200, 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 was 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 11:59 p.m., Eastern Time, on May 31, 2017. 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: 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. House Bill 208 from the 2017 Regular Session, effective June 29, 2017, makes changes to KRS 367.93103, .93115, .93117, and .93121 regarding funeral planning declarations that also affect cremations and crematory authorities, thereby affecting this administrative regulation and the cremation authorization form created by this administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: House Bill 208 alters the list of persons in order of authority for the right to control the final disposition of a decedent's body, including cremations. The amendments to this administrative regulation will make certain changes to the cremation authorization form to conform to the changes enacted by House Bill 208. House Bill 208 also amends the funeral planning declaration statutes in KRS 367.93101 to .93121 by deleting some restrictions on who may serve as a designee named in, or a witness to, the funeral planning declaration form, which is

addressed in an amendment to the cremation forms regulation, 40 KAR 2:145, filed simultaneously with this administrative regulation.

(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 cremation statutes in KRS 367.97501 to .97537 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, enacted in House Bill 208.

(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 the cremation authorization form to conform to the changes enacted by House Bill 208 that alter the list of persons in order of authority for the right to control the final disposition of a decedent's body, including cremations. The amendments will clarify that a person willing to act and arrange for the final disposition of the decedent's body, or a funeral home that has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent, may authorize the cremation in the absence of the relatives and persons having higher order of authority, provided they make the required written attestation of good-faith efforts to contact any such living relatives and persons having higher order of authority. The amendments will also include the District Court of proper venue at the end of the list of order of authority for the right to control the final disposition of a decedent's body, as having the least priority.

(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 the cremation statutes in KRS 367.97501 to .97537, and the funeral planning declaration statutes in KRS 367.93101 to .93121 as amended by House Bill 208. House Bill 208, among other things, alters the list of persons in order of authority for the right to control the final disposition of a decedent's body, including cremations. The amendments to this administrative regulation will make certain changes to the cremation authorization form to conform to the changes enacted by House Bill 208.

(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:

1. The amendments will clarify that a person willing to act and arrange for the final disposition of the decedent's body, or a funeral home that has a valid prepaid funeral plan that makes arrangements for the disposition of the decedent, may authorize the cremation in the absence of the relatives and persons having higher order of authority, provided they make the required written attestation of good-faith efforts to contact any such living relatives and persons having higher order of authority.

2. The amendments will also include the District Court of proper venue at the end of the list of order of authority for the right to control the final disposition of a decedent's body, as having the least priority.

(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 the cremation statutes in KRS 367.97501 to .97537, and the funeral planning declaration statutes in KRS 367.93101 to .93121, as amended by House Bill 208, by making certain conforming changes to the cremation authorization form.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects:

1. Approximately 33 crematory authorities that are currently licensed with the Attorney General.

2. 1 person has filed an application, which is currently pending, to obtain a crematory authority license from the Attorney General. (KRS 367.97504(1).)

3. 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:

1. Use the amended cremation authorization form in relation to cremations in Kentucky.

(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 licensed 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:

**GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Amendment)**

201 KAR 22:070. Requirements for foreign-educated physical therapists.

RELATES TO: KRS 327.050, 327.060

STATUTORY AUTHORITY: KRS 327.040(1), (11), 327.060(3) NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(11) authorizes the Board of Physical Therapy to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327. KRS 327.060(3) authorizes the board to approve services to provide an evaluation of a foreign-educated physical therapist applicant's educational credentials. This administrative regulation establishes the requirements a foreign-educated physical therapist shall satisfy to become credentialed in the state of Kentucky.

Section 1. A foreign-educated physical therapist applicant shall be credentialed if the applicant:

(1) Complies with the requirements of KRS 327.060(1)(b); and

(2) In accordance with KRS 327.060(1)(b), meets the following requirements:

(a) Furnishes the board a favorable educational credentials evaluation report from a credentialing agency that uses the appropriate edition of the "Coursework Evaluation Tool" (CWT) copyrighted by the Federation of State Boards of Physical Therapy (FSBPT). An academic deficiency in general education coursework identified by the CWT shall be satisfied by the applicant through submission of evidence identifying one (1) of the following:

1. Completion of appropriate coursework at a regionally accredited academic institution;

2. Continuing education in a course approved by the board; or

3. Submission of a portfolio including a detailed resume and description of relevant work experience approved by the board;

(b) Shows proof of English Language Proficiency:

1. A score of not less than fifty (50) on the Test of Spoken English (TSE);

2. Verification that the applicant has achieved the following minimum scores for each category of the Test of English as a Foreign Language, TOEFL Internet-based test (TOEFL iBT): Writing, twenty-two[~~four~~] (22)[~~24~~], Speaking, twenty-four[six] (24)[~~26~~], Listening, twenty-one (21)[~~eighteen~~] (18), Reading, twenty-two[one] (22)[~~24~~]; with an overall score of not less than eighty-nine (89); or

3. Verification that English is the native language of the country of origin.

(c) Submits a satisfactorily-completed application and appropriate fee as required by 201 KAR 22:135;

(d) Completes the Jurisprudence Exam;

(e) Obtains a passing score on the National Physical Therapy Examination (NPTE). The requirements of 201 KAR 22:020, Section 2(3) and (4) shall be applicable to examination candidates; and

(f) Has successfully completed a minimum of three (3) months and no more than six (6) months of practice under the on-site supervision of a physical therapist credentialed under KRS Chapter 327 at a Kentucky facility previously approved by the board which

satisfies the following requirements:

1. The supervised practice shall be a minimum of 390 hours in a three (3) month period, in a facility which is serving as a clinical education site for students enrolled in a program in physical therapist education accredited by the Commission for Accreditation of Physical Therapy Education (CAPTE);

2. The applicant shall furnish the board a favorable evaluation of on-site supervision performed by a clinical supervisor who utilizes the "Performance Evaluation Tool for Foreign Educated Therapists Completing a Supervised Clinical Practice in the United States" copyrighted by FSBPT[work only with on-site supervision until a minimum score of three and five-tenths (3.5) with no ones (1.0) or twos (2.0) on a four (4.0) point scale has been achieved utilizing the Evaluation Form to Assess Physical Therapy Skills of Foreign Educated Applicant for Credentialing]. The clinical supervisor shall submit the evaluation to the board after three (3) months practice, and if required, after the sixth month, when the required score denoting clinical competency shall have been reached;

3. The supervising physical therapist shall, within the three (3) years prior to serving as a supervisor, have previously acted as clinical supervisor for a physical therapist student as part of a CAPTE accredited program; and

4. The supervisor shall countersign all of the candidate's physical therapy records within fourteen (14) days.

Section 2. Temporary Permits for Foreign-educated Physical Therapist Applicants. (1) An applicant who has not satisfactorily completed three (3) months of supervised practice as a physical therapist shall be issued a temporary permit to complete Section 1(2)(f) of this administrative regulation if the applicant has:

(a) Completed the requirements of Section 1(2)(a) through (e) of this administrative regulation; and

(b) Submitted an approved "Supervisory Agreement for Physical Therapists Educated in a Foreign Country".

(2) The temporary permit shall be revoked if the applicant has not satisfactorily completed the supervised practice within a six (6) month period.

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

(a)[~~"Evaluation Form to Assess Physical Therapy Skills of Foreign Educated Applicant for Credentialing, 9/2/04"; and~~

(b)] "Supervisory Agreement for Physical Therapists Educated in a Foreign Country, 10/12/00".

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

SCOTT D. MAJORS, Executive Director

APPROVED BY AGENCY: April 7, 2017

FILED WITH LRC: April 12, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 30, 2017 at 4:00 p.m. E.T. at 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business, May 31, 2017. 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: 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; and Louis D. Kelly, Esq., General Counsel, Board of Physical Therapy, Adams, Stepler, Woltermann & Dusing, 40 W. Pike Street, P.O. Box 861, Covington, Kentucky 41012, phone (859) 394-6200, fax (859) 392-7239, email lkelly@aswdlaw.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Louis D. Kelly, Esq., General Counsel, (859) 394-6200, lkelly@aswdlaw.com. and Scott D. Majors

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements a foreign-educated physical therapist shall satisfy to become credentialed in the state of Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 327.060.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It provides the requirements and procedures for credentialing foreign-educated applicants.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the requirements and procedures for foreign-educated 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 adopts the Federation of State Boards of Physical Therapy's revised TOEFL standard as a measure of foreign language minimum proficiency for foreign-educated physical therapist applicants. The amendment also adopts the Performance Evaluation Tool for foreign-educated therapists completing a supervised clinical practice.

(b) The necessity of the amendment to this administrative regulation: To comply with the revised TOEFL standard and to utilize the Performance Evaluation Tool as a reliable measure of minimum competency for foreign-educated therapists.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment makes the regulation consistent with the requirements of KRS 327.050 and 327.060.

(d) How the amendment will assist in the effective administration of the statutes: By adopting the revised TOEFL standard as a measure of foreign language minimum proficiency for foreign-educated physical therapist applicants, and by incorporating the Performance Evaluation Tool for foreign-educated therapists completing a supervised clinical practice, the regulation will be consistent with the requirements of KRS 327.050 and 327.060.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 5500 physical therapists and physical therapist assistants.

(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: Foreign-educated applicants will be required to meet the revised TOEFL standard to demonstrate minimum English language proficiency and to have their supervised clinical practice evaluated by the Performance Evaluation Tool.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Foreign-educated applicants will be assured that their English language proficiency will be measured against the most recent TOEFL standard and that their supervised clinical practice will be evaluated in an objective and comprehensive manner to help prepare them for successful entry into the US workforce, to promote their clinical competence and the

delivery of safe and effective care, and to assist them in addressing cultural competence.

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

(a) Initially: No cost to the board.

(b) On a continuing basis: No cost to the board.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency Revenue 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: There will be no increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering was not used in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Foreign-educated applicants for physical therapy credentials.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 327.040, 327.050, 327.060.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No 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:

GENERAL GOVERNMENT CABINET Board of Licensure for Professional Art Therapists (Amendment)

201 KAR 34:020. Fees.

RELATES TO: KRS 309.133, 309.134, 309.1335, 309.138
STATUTORY AUTHORITY: KRS 309.1315(1), (4), (13), 309.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1), (4), and (13), and 309.135 require the board to promulgate an administrative regulation establishing fees for licensure, examination, renewal, and reinstatement of the license. This administrative regulation establishes those fees.

Section 1. Application Fee. (1)(a) The application fee for board review of the Application for Licensed Professional Art Therapist required by 201 KAR 34:025, Section 1(1), shall be \$100.

(b) The application fee for board review of the Application for

VOLUME 43, NUMBER 11 – MAY 1, 2017

License Professional Art Therapist Associate required by 201 KAR 34:025, Section 1(2), shall be fifty (50) dollars.

(2) The application fee shall be nonrefundable.

Section 2. Examination Fee. The applicant shall pay the national examination fee established by the National Art Therapy Credentials Board.

Section 3. Initial Licensure Fee. (1)(a) The initial licensure fee shall be \$100 for licensure as a licensed professional art therapist.

(b) The initial licensure fee shall be fifty (50) dollars for licensure as a licensed professional art therapist associate.

(2) If the applicant successfully completes all requirements for licensure, this fee shall cover licensure for the initial two (2) year period.

Section 4. Renewal Fee. (1) The renewal fee for licensed professional art therapist licensure shall be \$200 for a two (2) year period.

(2) The renewal fee for licensed professional art therapist associate licensure shall be \$100 for a two (2) year period.

Section 5. Late Fee. The late fee for a licensee who applies for renewal within the ninety (90) day grace period established in KRS 309.1335(2)[days of his or her original renewal deadline] shall be fifty (50) dollars, which shall be paid in addition to the renewal fee set out in Section 4 of this administrative regulation. Any license not renewed within the ninety (90) day grace period shall be suspended. A person shall not engage in the practice professional art therapy with a suspended license.

Section 6. Reinstatement Fee. (1) The reinstatement fee for a licensee who applies for reinstatement more than ninety (90) days but prior to 180 days after the original renewal deadline shall be:

(a) 1. \$100 for a licensed professional art therapist; or

2. Fifty (50) dollars for a licensed professional art therapist associate; and

(b) Paid in addition to the renewal fee set out in Section 4 of this administrative regulation.

(2)(a) A licensed professional art therapist who applies for reinstatement shall submit the LPAT Reinstatement Form.

(b) A licensed professional art therapist associate who applies for reinstatement shall submit the LPATA Reinstatement Form.

Section 7. Board Examination Fee. (1) The board examination fee for completing an examination offered by the board shall be ten (10) dollars per credit hour, but not more than thirty (30) dollars for each board examination. A board examination fee shall be paid for each board examination listed in regulation 201 KAR 34:030 section 3(3) that a license holder or board approved supervisor completes and submits to the board.

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

(a) "LPAT Reinstatement Form", 2010; and

(b) "LPATA Reinstatement Form", 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Professional Licensing[~~Division of Occupations and Professions~~], 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

MARYBETH ORTON, Board Chairman

APPROVED BY AGENCY: April 13, 2017

FILED WITH LRC: April 13, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, May 22, 2017, at 2:00 p.m., local time, at the Kentucky Board of Licensure for Professional Art Therapists, 911 Leewood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five

(5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Wednesday, May 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 696-3925, email marcus.jones@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the fee schedule for licenses, renewals, and examinations offered by the Board for licensed professional art therapist, licensed professional art therapist associates, and supervisors.

(a) What this administrative regulation does: This administrative regulation states the fee amounts for licensed professional art therapist, licensed professional art therapist associates, and supervisors. This administrative regulation states the examination fees for board examinations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to state the fees for licensure, renewal, and examinations offered by the Board to licensed professional art therapist, licensed professional art therapist associates, and supervisors. The range for fees is set by KRS 309.135 and the board is required to state the amount in administrative regulation.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 309.135 requires the board to state the fees and a payment schedule for licenses, renewals, and examinations offered by the Board to licensed professional art therapist and licensed professional art therapist associates and supervisors. KRS 309.135(3) requires the board to set an examination fee amount for examinations administered by the board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees of the fee amounts and schedule for licenses, renewals, and examinations offered by the Board. This administrative regulation informs licensees of the late renewal fee.

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

(a) How the amendment will change this existing administrative regulation: The amendment will state the examination fee assessed by the board for board examinations. The amendment will more clearly state the late renewal fees and grace period for licenses.

(b) The necessity of the amendment to this administrative regulation: The amendment is needed to place in administrative regulation the fee amount for the examinations offered by the board. The amendment is needed to clarify that licensees must pay a late renewal fee or the license automatically suspends. The amendment clearly states that licensees are not permitted to practice on suspended licenses.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.135(3) requires the board to assess an examination fee for licensees that submit to board examinations. KRS 309.1335(2) and (3) require the board to establish a late renewal fee that must be paid or the license automatically suspends.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will notify licensees of the fee for taking board examinations. The amendment will more

clearly notify licensees that practicing must cease when the license is suspended.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek licensure within the board in the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation will notify licensees and supervisors of the examination fees.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not anticipate that the administrative regulation will require any additional cost to licensees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees and supervisors will have the option of taking board examinations for credit. Licensees and supervisors will be notified more clearly of the late renewal fee assessed by the board.

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

(a) Initially: It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants for licensure as licensed professional art therapists, licensed professional art therapist associates, and supervisors.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees in this administrative regulation. Board examinations are voluntary and late renewal fees are only assessed upon a late renewal of a license. The fees are not increased.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No. The examination fee is established by KRS 309.135(3). The statute allows the board to assess a fee but only up to one hundred (\$100) dollars. The Board elected to only assess a fee of ten (\$10) dollars per credit hour. The late renewal fee is established by KRS 309.1335(2).

(9) Tiering: Is tiering applied? No. Tiering is not applied because the requirements in this administrative regulation apply equally to all licensees and applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

Kentucky Board of Licensure for Professional Art Therapists is an administrative body created by KRS 309.131.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.131, KRS 309.1335 and KRS 309.135.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The revenue generated will depend on the number of licensed professional art therapist associate supervisors that apply for license each year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of licensees and licensed professional art therapist associate supervisors that submit to the board examination each licensure year.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

GENERAL GOVERNMENT CABINET Board of Licensure for Professional Art Therapists (Amendment)

201 KAR 34:030. Continuing education requirements.

RELATES TO: KRS 309.133, 309.1335(1)(c), 309.134, 309.137

STATUTORY AUTHORITY: KRS 309.1315(1), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) and (9) require the board to promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399 and to establish the criteria for continuing education. KRS 309.1335(1)(c) authorizes the board to promulgate an administrative regulation requiring licensed professional art therapists and licensed professional art therapist associates to complete continuing education requirements as a condition of renewal of their license. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. (1) "Academic course" means a course offered by an accredited postsecondary institution that is an:

(a) Art therapy course, designated by an art therapy course title or content, beyond the undergraduate level; or

(b) Academic course, relevant to professional art therapy, beyond the undergraduate level.

(2) "Approved" means recognized by the Kentucky Board of Licensure for Professional Art Therapists.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or series.

(5) "Provider" means an individual or an organization that provides or sponsors continuing education programs and is approved by the board.

(6) "Relevant" means having content applicable to the practice of professional art therapy as evaluated by the board.

(7) "Successful completion" means that the license holder has:

(a) Satisfactorily met the specific requirements of the program; and

(b) Earned the continuing education hours; or

(c) Received a passing score from the board for completing a board examination.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of forty (40) continuing education hours shall be accrued by a licensed professional art therapist during the two (2) year licensure period for renewal.

(2) A minimum of eighteen (18) continuing education hours

shall be accrued by a licensed professional art therapy associate during the two (2) year licensure period for renewal.

(3) All hours shall be in or related to the field of professional art therapy.

(4) A licensee shall obtain three (3) hours of continuing education on ethics included within the hours required by subsection (1) and (2) of this section during the two (2) year licensure period for renewal.

(5) Continuing education activities shall be in the following content areas in order to be considered relevant:

- (a) Psychological and psychotherapeutic theories and practice;
- (b) Art therapy assessment;
- (c) Art therapy theory and practice;
- (d) Client populations;
- (e) Art theory and media; and
- (f) Professionalism and ethics.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the certificate shall be directly related to the professional growth and development of a professional art therapy practitioner. Hours may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. A program provided or approved by any of the following providers shall be relevant to the practice of professional art therapy and shall be approved without further review by the board:

- (a) The American Art Therapy Association, Inc. or any of its state affiliates;
- (b) The Art Therapy Credentials Board, Inc.;
- (c) The American Association of Marriage and Family Therapy and its state affiliates;
- (d) The National Association of Social Workers and its state affiliates;
- (e) The American Psychological Association and its state affiliates;
- (f) The American Counseling Association and its state affiliates;
- (g) The National Board of Certified Counselors and its state affiliates;
- (h) The Association for Addiction Professionals (NAADAC) and its state affiliates;
- (i) The Department for Behavioral Health, Developmental and Intellectual Disabilities;
- (j) The Employee Assistance Professionals Association; and
- (k) Academic courses as established in Section 1(1) of this administrative regulation. A general education course, elective, or course designated to meet degree requirements shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed by the board and evaluated whether it is relevant:

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

(b) A program or academic course presented by the license holder. A presenter of a relevant program or academic course shall earn two (2) continuing education hours for each contact hour of instruction. Credit shall not be issued for repeated instruction of the same course;

(c) A publication in a professionally recognized or juried publication. Continuing education hours shall be granted for a relevant publication as follows:

- 1. Five (5) continuing education hours for each published abstract or book review;
- 2. Ten (10) continuing education hours for each published article;
- 3. Twenty (20) continuing education hours for each book chapter or monograph; and
- 4. Forty (40) continuing education hours for each published book; and

(d) An exhibition in a juried art show. An exhibitor at a juried art

show shall earn ten (10) continuing education hours for an exhibition and is limited to one (1) exhibition per renewal cycle.

(3) Board examination. A license holder shall submit an Application for Examination Continuing Education Credit to receive continuing education credit for completing a board examination. Upon application, the board shall credit a license holder with three (3) continuing education credit hours for successfully completing a training examination offered by the board. A license holder may complete more than one board examination but shall be awarded no more than eighteen (18) continuing education credit hours for completing board examinations during a two (2) year licensure period. Three (3) credit hours shall be awarded for successfully completing each of the following board examinations:

- (a) Art therapy assessment examination;
- (b) Art therapy and client populations examination;
- (c) Art therapy theory and practice examination;
- (d) Art therapy theory and media examination;
- (e) Art therapy professionalism and ethics examination; and
- (f) Board-approved supervisor training examination.

(4) A license holder shall submit a written request to the board to repeat a continuing education program or board examination during the two (2) year licensure period. Preapproval shall be required for repeating a program or examination for credit toward the minimum continuing education requirement for renewal. The request to repeat a continuing education program or board examination shall be submitted to the board before repeating the program or examination. A board examination fee shall be paid for repeated examinations.

Section 4. Procedures for Preapproval of Continuing Education Programs. (1) Any entity seeking to obtain approval of a continuing education program shall submit a complete Application for Continuing Education Program Approval prior to its offering and shall apply to the board at least sixty (60) days in advance of the commencement of the program[; and shall provide the information required in Section 5 of this administrative regulation].

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

- (a) Is an organized program of learning;
- (b) Lists goals and objectives;
- (c) Pertains to subject matters which integrally relate to the practice of art therapy;
- (d) Contributes to the professional competency of the licensee; and
- (e) Is conducted by individuals who have educational training or experience acceptable to the board.

(3)(a) The board may approve a specific continuing education program that is not listed in Section 3(1) of this administrative regulation if the provider of the program:

- 1. Files a written request for approval;
- 2. Pays an annual processing fee of seventy-five (75) dollars; and
- 3. Provides the information on a continuing education program that it proposes to provide that meets the requirements established in this administrative regulation.

(b) The approval of a program pursuant to paragraph (a) of this subsection shall permit the provider to offer the program for a period of one (1) calendar year.

(4)(a) A license holder may request an individual review of a nonapproved continuing education activity completed during the earning period if, within thirty (30) days after the expiration of the immediate past license period, the license holder has:

- 1. Requested the review by applying for individual review; and
- 2. Paid a fee of twenty (20) dollars.

(b) The review shall be based on the standards established by this administrative regulation.

(c) Approval by the board of a nonapproved continuing education activity shall:

- 1. Qualify as if it has been obtained from an approved provider; and
- 2. Be limited to the particular offering upon which the request for individual review is based.

VOLUME 43, NUMBER 11 – MAY 1, 2017

Section 5. Procedures for Approval of Continuing Education Programs. (1) A course that has not been preapproved may be used for continuing education if approval is secured from the board.

(2) The applicant shall submit a complete Application for Continuing Education Program Approval that includes, but is not limited to, the following information and fees[following shall be submitted for board review of a program]:

- (a) A published course or seminar description;
- (b) The name and qualifications of the instructor including resume or vitae;
- (c) A copy of the program agenda indicating hours of education, coffee and lunch breaks;
- (d) Number of continuing education hours requested;
- (e) Official certificate of completion or college transcript from the provider or college;
- (f) Letter requesting continuing education credits approval;
- (g) The applicable fee identified in Section 4 of this administrative regulation; and
- (h) Program evaluation.

Section 6. Responsibilities and Reporting Requirements of License Holders. (1) During the license renewal period, the board shall require up to fifteen (15) percent of all license holders to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.

(2) A license holder shall:

- (a) Be responsible for obtaining required continuing education hours;
 - (b) Identify his or her continuing education needs and seek activities that meet those needs;
 - (c) Seek ways to integrate new knowledge, skills, and activities;
 - (d) Select board approved activities by which to earn continuing education hours;
 - (e) Submit to the board, if applicable, a request for approval for continuing education activities not otherwise approved by the board;
 - (f) Document attendance, participation in, and successful completion of continuing education activity for a period of two (2) years from the date of the renewal; and
 - (g) Maintain records of continuing education hours;
- (3) The following items may be used to document continuing education activity:
- (a) Transcript;
 - (b) Certificate;
 - (c) Affidavit signed by the instructor;
 - (d) Receipt for the fee paid to the provider; or
 - (e) Written summary of experiences that are not formally or officially documented otherwise.

(4) A license holder shall comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 309.137(1) and shall result in disciplinary action pursuant to that statutory provision.

Section 7. Carry-over of Continuing Education Hours, Prohibited. Continuing education hours earned in excess of those required under Section 2 of this administrative regulation shall not be carried over into the immediately following license renewal period.

Section 8. Board to Approve Continuing Education Hours; Appeal of Denial. (1) If an application for approval of continuing education hours is denied, in whole or in part, the person holding a license shall have the right to appeal the board's decision.

(2) An appeal shall be:

- (a) In writing;
- (b) Received by the board within thirty (30) days after the date the notification of the decision denying approval of continuing education hours is mailed; and
- (c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

- (a) Medical disability of the license holder;
 - (b) Illness of the license holder or an immediate family member; [or]
 - (c) Death or serious injury of an immediate family member; or
 - (d) Active duty military service or deployment.
- (2) A written request for waiver or extension of time[involving medical disability or illness] shall be:
- (a) Submitted by the person holding the license; and
 - (b) Accompanied by a verifying document signed by a licensed physician or an authority verifying the need for an extension of time or waiver: and

(c) Received by the board before the expiration of the two (2) year licensure period for renewal and before the beginning of the ninety (90) day grace period established by KRS 309.1335(2) for the license.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

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

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of professional art therapist licensure shall submit evidence of forty (40) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) If the board reinstates a professional art therapist license, the person shall obtain forty (40) hours of continuing education within six (6) months of the date on which licensure is reinstated.

(3) A person requesting reinstatement or reactivation of professional art therapist associate licensure shall submit evidence of eighteen (18) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(4) If the board reinstates a professional art therapist associate license, the person shall obtain eighteen (18) hours of continuing education within six (6) months of the date on which licensure is reinstated.

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

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

(a) "Application for Examination Continuing Education Credit", October 2016; and

(b) "Application for Continuing Education Program Approval", October 2016.

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

MARYBETH ORTON, Board Chairman

APPROVED BY AGENCY: April 13, 2017

FILED WITH LRC: April 13, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, May 22, 2017, at 2:00 p.m., local time, at the Kentucky Board of Licensure for Professional Art Therapists, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5)

workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Wednesday, May 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 696-3925, email marcus.jones@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the continuing education requirements for licensed professional art therapist, licensed professional art therapist associates, and supervisors.

(a) What this administrative regulation does: This administrative regulation establishes the continuing education requirements for licensed professional art therapist, licensed professional art therapist associates, and supervisors.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the continuing education requirements and credits for renewal licensed professional art therapist, licensed professional art therapist associates, and supervisors.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 309.1315(9) allows the board to establish criteria for continuing education due upon renewal of a license.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees of the continuing education requirements and credits for renewal for licenses offered by the Board. This administrative regulation informs licensees of the due dates for requests for extensions or waivers.

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

(a) How the amendment will change this existing administrative regulation: The amendment will allow up to eighteen (18) continuing education credits for successfully completing the board training examinations on Kentucky law governing the profession. This amendment will allow a waiver or extension of continuing education requirements for licensees serving an active duty deployment with the military. The amendment will require licensees to submit requests for waivers or extension of time before the license expiration date.

(b) The necessity of the amendment to this administrative regulation: The amendment is needed to award continuing education credit for successfully completing the board training examinations on Kentucky law governing the profession. This amendment is necessary to allow a waiver or extension of continuing education requirements for licensees serving an active duty deployment with the military. The amendment is necessary to require licensees to submit requests for extensions or waivers before their license expires.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.1315(9) allows the board to establish criteria for continuing education.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will award licensees continuing education credit for successfully completing examinations on Kentucky law governing the profession. This amendment will also allow a waiver or extension of continuing education requirements for licensees serving an active duty military

deployment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek licensure within the board in the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation will notify licensees and supervisors of the continuing education requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not anticipate that the administrative regulation will require any additional cost to licensees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees and supervisors will be able to obtain continuing education credit for completing Kentucky law updates. Licensees enlisted in the military will be able to obtain a waiver or extension of the due dates for continuing education.

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

(a) Initially: It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants for licensure as licensed professional art therapists, licensed professional art therapist associates, and supervisors.

(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 of twenty five (25) dollars for licensed professional art therapists, associates, and supervisors who elect to complete a board examination. The fee is necessary to pay the cost of administering the examination and maintaining the online examination option.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No. The examination fee is established by KRS 309.135(3). The board shall not assess license holders examination fees in excess of the one hundred (\$100) dollars allowed by KRS 309.135.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the requirements in this administrative regulation apply equally to all licensees and applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensure for Professional Art Therapists is an administrative body created by KRS 309.131.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.131, KRS 309.1315 and KRS 309.1335.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of licensed

professional art therapist associate supervisors that apply for license each year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of licensees and licensed professional art therapist associate supervisors that submit to the board examination each licensure year.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

**GENERAL GOVERNMENT CABINET
Board of Licensure for Professional Art Therapists
(Amendment)**

201 KAR 34:050. Complaint procedure.

RELATES TO: KRS 309.137

STATUTORY AUTHORITY: KRS 309.1315(1), (10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315 authorizes the board to promulgate administrative regulations establishing a procedure by which the board will institute actions against a licensee for violation of the provisions of KRS Chapter 309 and the administrative regulations of 201 KAR Chapter 34~~[KRS 309.137, and the administrative regulations promulgated thereto]~~ or for professional misconduct. This administrative regulation sets forth the procedure and process by which such complaints shall be reviewed by the board.

Section 1. Definitions. (1) "Act" means KRS 309.130 through 309.138.

(2) "Chairman" means the chair or vice-chair of the board.

(3) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of the KRS 309.130 through 309.138 or the administrative regulations of 201 KAR Chapter 34~~[promulgated thereunder]~~.

(4) "Complaint" means any written allegation of misconduct by an individual licensed by the board or other person which might constitute a violation of KRS 309.130 through 309.138 or the administrative regulations of 201 KAR Chapter 34~~[promulgated thereunder]~~.

(5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against an individual licensed by the board or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint.

Section 2. Receipt of Complaints. (1) A complaint:

(a) May be submitted to the board by an:

1. Individual;
2. Organization;~~[or]~~
3. Entity or
4. By the board.

(b) Shall be:

1. In writing; and
2. Signed by the person offering the complaint.

(c) May be filed by the board based upon information in its

possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant. The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the board shall consider the individual's response, complainant's reply to the response, and any other relevant material available and determine whether a formal investigation of the complaint is warranted.

(2) If the board determines that a formal investigation is not warranted and that the complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the board at the earliest opportunity.

Section 4. Result of Formal Investigation. (1) Upon completion of the formal investigation, the investigator~~[and the board attorney]~~ shall present a synopsis of the facts compiled in the investigation of the complaint to the board and a recommendation regarding the disposition of the complaint.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that probable cause exists that a violation of the Act or the administrative regulations promulgated in 201 KAR Chapter 34~~[thereunder]~~ has occurred, the board shall:

(a) Authorize the board attorney to prepare a formal complaint which states clearly the charge or charges to be considered at the hearing on the matter to be held pursuant to the requirements of KRS Chapter 13B; and

(b) Review the formal complaint which, if approved, shall be signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(4) If the board determines that a person may be in violation of KRS 309.1305(2), it shall:

~~(a) [Order the individual to cease and desist from further violations of KRS 309.1305(2); or~~

~~(b) [Forward information to the county attorney of the county of residence of the person allegedly violating KRS 309.1305(2) with a request that appropriate action be taken under KRS 309.1339; or~~

(b) Initiate action in Franklin Circuit Court to seek injunctive relief to stop the unauthorized practice of licensed professional art therapy.

Section 5. Settlement by Informal Proceedings. (1) The board through counsel and board member designated by the board may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairperson~~[chairman]~~.

(3) The board may employ mediation as a method of resolving the matter informally.

MARYBETH ORTON, Board Chairman

APPROVED BY AGENCY: April 13, 2017

FILED WITH LRC: April 13, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, May 22, 2017, at 2:00 p.m., local time, at the Kentucky Board of Licensure for Professional Art Therapists, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received in writing five (5) workdays prior to the hearing date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in writing five (5) workdays prior to the hearing. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day Wednesday, May 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: John Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5635, fax (502) 696-3925, email marcus.jones@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John Marcus Jones

(1) Provide a brief summary of: Establishes the complaint procedure for public complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309.

(a) What this administrative regulation does: This administrative regulation establishes the complaint procedure for public complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the complaint procedure for public complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309.

(c) How does this administrative regulation conform to the content of the authorizing statutes? KRS 309.1315 and KRS 309.135 require the board to carry out the provisions of KRS Chapter 309.130 to 309.1399.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees of the complaint procedure for public complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309.

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

(a) How the amendment will change this existing administrative regulation: The amendment will allow board initiated complaints. The amendment removes the regulation requiring sending cease and desist letters to unlicensed persons, pursuant to a U.S. Supreme Court decision.

(b) The necessity of the amendment to this administrative regulation: The amendment is needed to notify licensees of the appeal procedure and filing methods for complaints. The amendment is necessary to remove the regulation requiring sending cease and desist letters to unlicensed persons, pursuant to a U.S. Supreme Court decision.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.1315 and KRS 309.135 require the board to board to carry out the provisions of KRS Chapter 309.130 to 309.1399. KRS 309.137 requires the board to conduct hearings regarding disciplinary matters.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will notify the public

of the appeal procedure and filing methods for complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309. This amendment will bring the board regulations into compliance with a recent U.S. Supreme Court decision.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: An estimated 50 persons will seek licensure within the board in the next fiscal year, this regulation will also continue as new applicants seek licensure from the board.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation will notify licensed professional art therapist associate supervisors of the appeal procedure and filing methods for complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309. This amendment will bring the board regulations into compliance with a recent U.S. Supreme Court decision.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not anticipate that the administrative regulation will add any cost to the board or to licensees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will notify the public of the appeal procedure and filing methods for complaints against licensed professional art therapist, licensed professional art therapist associates, and persons violating KRS Chapter 309.

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

(a) Initially: It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants for licensure as licensed professional art therapists, licensed professional art therapist associates, and supervisors.

(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 board does not anticipate that the administrative regulation will add any cost to the board, to licensees, or to the Commonwealth.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The board does not anticipate that the administrative regulation will require an increase in fees or cost to the board.

(9) Tiering: Is tiering applied? No. Tiering is not applied because the requirements in this administrative regulation apply equally to all licensees and applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

Kentucky Board of Licensure for Professional Art Therapists is an administrative body created by KRS 309.131.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.1315, KRS 309.137 and KRS 309.1375.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not have any effect on the expenditures and revenues of state and local government.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The revenue generated will depend on the number of licensed professional art therapist associate supervisors that apply for license each year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The revenue will depend on the number of licensed professional art therapist associate supervisors that apply for license each year.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

GENERAL GOVERNMENT **Board of Orthotics, Prosthetics and Pedorthics** **(Amendment)**

201 KAR 44:090. Requirements for licensure as an orthotist, prosthetist, orthotist-prosthetist, pedorthist, or orthotic fitter on or after January 1, 2013.

RELATES TO: KRS 319B.010, 319B.030, 319B.110

STATUTORY AUTHORITY: KRS 319B.030(1), (2), 319B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.030(1) requires the board to establish licensure categories and issue licenses for persons who wish to practice in this state as a licensed orthotist, licensed prosthetist, licensed orthotist-prosthetist, licensed pedorthist, or licensed orthotic fitter. This administrative regulation establishes the procedure by which those applicants shall apply for a license pursuant to KRS 319B.030.

Section 1. Licensure of an Orthotist, Prosthetist or Orthotist-Prosthetist. An applicant for licensure as an orthotist, prosthetist, or orthotist-prosthetist shall submit:

(1) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure;

(2) A certified copy of the applicant's transcript from an accredited college or university showing a minimum of a baccalaureate degree awarded to the applicant;

(3) A certified copy of the applicant's education program in orthotics, prosthetics, or both from an educational program accredited by the Commission on Accreditation of Allied Health Education Program;

(4) Proof of completion of a residency program~~[meeting the standards]~~ established in KRS 319B.010(26) for the discipline for which the applicant has applied;

(5) Proof of the applicant's having obtained a passing score on the American Board of Certification (ABC) examination;

(6) The appropriate fee for licensure as required by 201 KAR 44:010; and

(7) Detailed work history, including scope of practice, covering the four (4) year period immediately prior to the date of application; and

(8) A copy of completed current Jurisprudence Examination.

Section 2. Licensure of a Pedorthist. An applicant for licensure as a pedorthist shall submit:

(1) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure;

(2) A certified copy of high school diploma or comparable credential;

(3) Proof of completion of an NCOPE-approved pedorthic

education program;

(4) Proof of passing the American Board of Certification (ABC) exam;

(5) Proof of a minimum of 1,000 hours of pedorthic patient care, 500 hours shall be completed after the NCOPE-approved education program;

(6) The appropriate fee for licensure as required by 201 KAR 44:010;and

(7) A detailed work history, including scope of practice, covering the four (4) year period prior to the date of application; and

(8) A copy of completed current Jurisprudence Examination.

Section 3. Licensure of an Orthotic Fitter. An applicant for licensure as an orthotic fitter shall submit:

(1) A completed Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure;

(2) A certified copy of high school diploma or comparable credential;

(3) Proof of completion of an NCOPE-approved orthotic fitter education program or a program approved by the American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC);

(4) Proof of passing the American Board of Certification (ABC) American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC) exam;

(5) Proof of a minimum of 1,000 hours of orthotic fitter patient care, 500 hours shall be completed after the NCOPE-approved education program or a program approved by the American Board of Certification (ABC) or the Board of Certification/Accreditation, International (BOC);

(6) The appropriate fee for licensure as required by 201 KAR 44:010;and

(7) A detailed work history, including scope of practice, covering the four (4) year period prior to the date of application; and

(8) A copy of completed current Jurisprudence Examination.

Section 4. Incorporation by Reference. (1) "Kentucky Board of Prosthetics, Orthotics and Pedorthics Application for Licensure", March, 2016, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5:00 p.m.

PAUL HATCHER, Chair

APPROVED BY AGENCY: February 15, 2017

FILED WITH LRC: March 17, 2017 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017, at 1:30 p.m., in the office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of day on May 31, 2017. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Nicole Sergent, counsel for the Kentucky Board of Prosthetics, Orthotics and Pedorthics, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-782-8807, fax 502-696-3853, email nicole.sergent@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nicole Sergent

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation requires the board establish requirements for licensure pursuant to KRS Chapter 319B.

(b) The necessity of this administrative regulation: This regulation is necessary to establish requirements for licensure pursuant to KRS Chapter 319B.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute requiring that the board establish requirements for licensure.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation will assist by establishing and clarifying requirements for licensure under KRS 319B.

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

(a) How the amendment will change this existing administrative regulation: This amendment requires a licensure applicant to provide a copy of their completed current Jurisprudence Examination with the applicant's licensure application.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify that licensure applicants are required to take this jurisprudence exam prior to licensure, rather than just upon renewal biennially.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 319B.030 and 319B.140 require the board to establish requirements for licensure.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides the licensee applicants with clear guidance regarding the licensure requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Board of Prosthetics, Orthotics and Pedorthics currently has approximately 160 licensees.

(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:

Initial Licensure Applicants will have completed the jurisprudence exam and submit proof of completion with their applications.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The board is identifying a licensure requirement.

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

(a) Initially: N/A

(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required to implement the changes made by this regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as this amendment applies to all licensure applicants.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Prosthetics, Orthotics and Pedorthics

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 319B.030, KRS 319B.140

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? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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

301 KAR 2:221. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions. (1) "Dark goose" means a Canada goose, white-fronted goose, or brant.

(2) "Light Goose" means a snow goose or Ross's goose.

(3) "Light Goose Conservation Order" is defined by 50 C.F.R. 21.60.

(4) "Waterfowl" is defined by KRS 150.010(40).

Section 2. (1) Except as established in 301 KAR 2:222, 2:225, or 2:226, a person shall not hunt waterfowl except during the seasons established in this administrative regulation.

(2) Hunting zones, special hunt areas and reporting areas are established in 301 KAR 2:224.

Section 3. Season Dates. (1) The duck, coot, and merganser season shall:

(a) Begin on Thanksgiving Day for four (4) consecutive days; and

(b) Be for fifty-six (56) consecutive days ending on the last Sunday in January of the following year.

(2) Canada goose.

(a) In the Eastern, Pennyrile, and Western Goose Zones, the season shall be from Thanksgiving Day through February 15.

(b) In the Northeast Goose Zone, the season shall be from the third Saturday in December through January 31.

(3) The white-fronted goose and brant season shall be from Thanksgiving Day through February 15.

(4) The light goose season shall be from Thanksgiving Day through February 15.

(5) The Light Goose Conservation Order season shall be from February 16 through March 31.

(6) A person shall not hunt a light or dark goose in:

(a) The areas of Laurel River Lake as posted by sign; or

(b) Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, US 60, and Highway 826.

Section 4. Ballard Zone. (1) In the Ballard Zone that is established in 301 KAR 2:224, a person hunting waterfowl shall:

(a) Hunt from a blind unless hunting in flooded, standing timber;

(b) Not hunt from or establish a blind:

1. Within 100 yards of another blind; or

2. Within fifty (50) yards of a property line; and

(c) Not possess more than one (1) shotgun while in a blind.

(2) The requirements of subsection (1) of this section shall not apply if the Light Goose Conservation Order, as established in 301 KAR 2:221, is the only waterfowl season open, excluding falconry seasons.

Section 5. Bag and Possession Limits. (1) Ducks. The daily limit shall be six (6), which shall not include more than:

(a) Four (4) mallards;

(b) Two (2) hen mallards;

(c) Three (3) wood ducks;

(d) ~~Two (2)~~~~(One (1))~~ black ducks~~[duck]~~;

(e) Two (2) redheads;

(f) ~~One (1) pintail~~~~[Two (2) pintails]~~;

(g) Three (3) scaup;

(h) One (1) mottled duck; or

(i) Two (2) canvasback.

(2) Coot. The daily limit shall be fifteen (15).

(3) Merganser. The daily limit shall be five (5), which shall not include more than two (2) hooded mergansers.

(4) Dark goose. The daily limit shall be five (5), which shall not include more than:

(a) Three (3) Canada geese;

(b) Two (2) white-fronted geese; or

(c) One (1) brant.

(5) Light goose. The daily limit shall be twenty (20), except that there shall not be a limit during the Light Goose Conservation Order season.

(6) The possession limit shall be triple the daily limit, except that there shall not be a light goose possession limit.

Section 6. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) Sunset, except as established in 301 KAR 2:222; or

(2) One-half (1/2) hour after sunset if hunting light goose during the Light Goose Conservation Order season.

Section 7. Falconry Waterfowl Season and Limits. (1) The light goose season shall be from Thanksgiving Day through February 15.

(2) The Light Goose Conservation Order season shall be from February 16 through March 31.

(3) The season for all other waterfowl shall be from Thanksgiving Day through February 15.

(4) The daily limit shall be three (3) waterfowl, except that there shall not be a limit on light goose during the Light Goose Conservation Order season.

(5) The possession limit shall be nine (9) waterfowl, except that there shall not be a possession limit on light goose during the Light Goose Conservation Order season.

Section 8. Permit for the Light Goose Conservation Order season. (1) A person hunting light goose during the Light Goose Conservation Order season shall first obtain a free permit by completing the online Snow Goose Conservation Order Permit process on the department's Web site at fw.ky.gov.

(2) A person hunting light goose during the Light Goose Conservation Order season shall submit a Snow Goose Conservation Order Permit Survey to the department by April 10.

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

(a) "Snow Goose Conservation Order Permit", January 2014; and

(b) "Snow Goose Conservation Order Permit Survey", January 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: April 10, 2017

FILED WITH LRC: April 14, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017 at 11 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes waterfowl seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS).

(b) The necessity of the administrative regulation: The necessity of this administrative regulation is to establish the 2017-2018 waterfowl hunting seasons in accordance with the USFWS.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing hunting season and bag limit requirements and providing reasonable hunting opportunity consistent with state, national, and international management requirements and goals.

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

(a) How the amendment will change the existing administrative regulation: This amendment will change the daily bag limit for the American Black Duck (increase from one (1) to two (2) birds daily) and Northern Pintails (decrease from two (2) to one (1) bird daily).

(b) The necessity of the amendment to this administrative regulation: Waterfowl seasons and limits are set on an annual basis following the establishment of federal frameworks by the U.S. Fish and Wildlife Service each year. It is the Department's responsibility to allow quality hunting opportunity within these federal frameworks. The changes in bag limit for these species represent the maximum allowable take prescribed in federal frameworks.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: There are approximately 20,000 waterfowl hunters in Kentucky that may be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The current changes in season dates and/or bag limits will be published in the fall waterfowl hunting guide and on the department's website. Hunters will need to follow all applicable amendments to the hunting bag limits.

(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 those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be an increased opportunity to hunt black ducks in the state.

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

(a) Initially: There will not be an additional cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish fund.

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

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

(9) TIERING: Is tiering applied? Tiering was not applied. The same guidelines and limits apply to all waterfowl hunters.

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's Wildlife Division and Law Enforcement Division.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of waterfowl within

reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(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 revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? No new costs will be incurred in the administration of this program for the first year.

(d) How much will it cost to administer this program for subsequent years? No new costs will be incurred in the administration of 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 (+/-):

Expenditures (+/-):

Other Explanation:

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

301 KAR 2:300. Black bear seasons and requirements.

RELATES TO: KRS 150.010, 150.092, 150.170, 150.175, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of bears in any manner contrary to any provisions of KRS Chapter 150 or Title 301 KAR. This administrative regulation establishes bear hunting and chasing seasons; bear hunting areas; legal methods of take; and permitting, checking, and recording requirements.

Section 1. Definitions. (1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(3) "Arrow" means the projectile fired from a bow or crossbow.

(4) "Baited area" means an area where feed, grains, or other substances capable of luring black bears have been placed.

(5) ~~"Barbed broadhead" means a point or portion of a blade projecting backward from a broadhead designed to hold an arrow within an animal.~~

(6) "Bear" means the species *Ursus americanus*. ~~(7) "Bear chase area" means a designated area within the Bear Zone where hunters may use dogs to chase bears.~~

(6) ~~(8)~~ "Bear chase permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to use dogs to chase a bear.

(7) ~~(9)~~ "Bear permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to harvest one (1) black bear of either sex.

(8) "Bear zone 1" means Bell, Harlan, and Letcher counties, and private land in McCreary County.

(9) "Bear zone 2" means Breathitt, Clay, Clinton, Floyd, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Leslie,

Magoffin, Martin, Owsley, Perry, Pike, Pulaski, Rockcastle, Russell, Wayne, and Whitley counties.

(10) "Bear zone 3" means Adair, Bath, Boyd, Carter, Casey, Clark, Cumberland, Elliot, Estill, Fleming, Garrard, Greenup, Lee, Lewis, Lincoln, Madison, Menifee, Montgomery, Morgan, Powell, Rowan, and Wolfe counties. ~~"Bear zone" means the following Kentucky counties: Bell, Clay, Floyd, Harlan, Knott, Knox, Laurel, Leslie, Letcher, Martin, McCreary, Perry, Pike, Pulaski, Wayne, and Whitley.~~

(11) "Chase-only season" means a designated season when a person may use dogs to chase a bear, without killing or intentionally injuring a bear.

(12) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(13) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(14) "~~Youth~~Junior bear chase permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows a youth to use dogs to chase a bear.

(15) "License year" means the period from March 1 through the following last day of February.

(16) "Modern gun" means a rifle, handgun, or shotgun loaded from the rear of the barrel.

(17) "~~Muzzleloader~~[\"muzzle-loading firearm\"]" means a rifle, shotgun, or handgun loaded from the discharging end of the barrel or discharging end of the receiver.

(18) "Youth" means a person under the age of sixteen (16) by the day of the hunt.

Section 2. Feeding Black Bears. A person shall not engage in any direct or indirect feeding of black bears.

Section 3. Bear Chase Requirements. (1) Unless exempted by KRS 150.170, a person, while using dogs to chase a bear, shall carry proof of purchase of a valid Kentucky hunting license and a valid:

(a) Bear chase permit; or

(b) Youth~~Junior~~ bear chase permit.

(2) A bear chase permit or youth~~junior~~ bear chase permit shall only be purchased by a resident of Kentucky.

(3) A bear chase permit shall be purchased on the department's Web site at fw.ky.gov from July 1 through December 31.

(4) A person shall not:

(a) Kill or intentionally injure a bear during a chase-only season;

(b) Chase a bear except during daylight hours while a chase season is open;

(c) Chase a bear from a baited area:

1. While bait is present; or

2. For thirty (30) days after the bait has been removed; or

(d) Disturb a bear in a den.

~~(5) Individual hunt groups shall include no more than five (5) people and eight (8) dogs, except a hunt party may total seven (7) people if two (2) additional youths accompany the party.~~

~~(6) Any dog transported in a motorized vehicle by members of a hunt group shall not be considered a member of that hunt group.~~

(7) The department shall supply a Bear Chase Survey to each person purchasing a bear chase permit.

~~(6)~~(8) A person who purchases a bear chase permit shall submit to the department a completed Bear Chase Survey by the last day of January following each bear season.

~~(7)~~(9) A person who fails to submit a Bear Chase Survey shall be ineligible to purchase a bear chase permit for the following year's chase seasons.

~~(8)~~(40) A person shall only use a dog to chase a bear on private land with permission of the landowner in bear zones 1, 2, and 3, except that it shall be prohibited to chase bears with dogs in McCreary County~~in the following designated areas:~~

(a) Eastern bear chase area;

(b) Central bear chase area; and

(c) Western bear chase area.

Section 4. Chasing Bears with Dogs. A person shall not use a dog to chase a bear except during the seasons established in subsections (1) and (2) of this section:

(1) The chase-only season, which shall be from:

(a) August 1 through August 31; and

(b) September 9 through September 30; and

(2) The bear quota hunt with dogs season pursuant to Section 8(1) of this administrative regulation.

Section 5. Bear Permit Requirements.~~[(1) Only a resident of Kentucky shall be allowed to purchase a bear permit.~~

~~(2)~~ Unless exempted by KRS 150.170, a person hunting a bear shall possess proof of purchase of a valid Kentucky hunting license and the appropriate valid bear permit or permits while hunting during the seasons established in Section 8(1) of this administrative regulation.

Section 6. Hunter Restrictions. (1) A person shall not:

(a) Harvest a bear except during daylight hours;

(b) Use a dog during the modern gun, archery - crossbow, or muzzleloader season for bears, except leashed tracking dogs may be used to recover a wounded or dead bear;

(c) Hunt bear on a baited area:

1. While bait is present; or

2. For thirty (30) days after the bait has been removed;

(d) Harvest:

1. A female bear that has a cub; or

2. A bear that weighs less than seventy-five (75) pounds;

(e) Harvest a bear that is swimming;

(f) Harvest a bear if the person is in a vehicle, boat, or on horseback, except that a hunter in possession of a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform;

(g) Harvest a bear in a den; or

(h) Disturb a bear in a den for the purpose of taking the bear if the bear exits the den.

(2) An adult shall accompany and maintain control of a youth who is hunting bear with a firearm.

Section 7. Weapon Restrictions. (1) A person shall only use the weapons and ammunition established in paragraphs (a) through (e) of this subsection to take a bear:

(a) A crossbow or archery equipment loaded with a ~~non-barbed~~ broadhead of seven-eighths (7/8) inch or wider upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

2. Of .270 caliber or larger; and

3. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzleloader~~[muzzle-loading firearm]~~ of .50 caliber or larger;

(d) A shotgun of twenty (20) gauge or larger loaded with a shell containing one (1) projectile; or

(e) A handgun loaded with:

1. Centerfire cartridges;

2. Bullets of .270 caliber or larger designed to expand upon impact; and

3. Cartridges with a case length of 1.285 inches or larger.

(2) A crossbow shall contain a working safety device.

(3) A bear hunter shall not use a magazine capable of holding more than ten (10) rounds.

Section 8. Bear Season Dates and Bag Limits. (1) A legal bear hunter shall only kill a bear in the bear zones~~[zone]~~ during the seasons established in paragraphs (a) through (d) of this subsection:

(a) The archery – crossbow season for bears, which shall be for seven (7) consecutive days beginning on the fourth Saturday in October in bear zones 1 and 2;

(b) The modern gun season for bears, which shall be for seven~~(7)~~[three (3)] consecutive days beginning on the third~~[second]~~

Saturday in December in bear zones 1 and 2;

(c) The bear quota hunt with dogs season, which shall be for fourteen (14) consecutive days beginning on the third Saturday in October in bear zones 1, 2, and 3.

(d) The muzzleloader season for bears, which shall be for nine (9) consecutive days beginning on the second Saturday in December in bear zone 3.;

1. Two (2) consecutive days beginning on the Saturday after Thanksgiving; and

2. Two (2) consecutive days beginning on the third Saturday in December; and

(d) The youth-only bear season, which shall last for two (2) consecutive days beginning on the Saturday after Christmas.]

(2) A person shall not harvest more than one (1) bear in a license year.

Section 9. Bear Season Closure. (1) The archery - crossbow season for bears in bear zone 1 shall close after daylight hours on the day the following quota has been reached:

(a) Five (5)[Ten (10)] bears; or

(b) Two (2)[Five (5)] female bears.

(2) The archery – crossbow season for bears in bear zone 2 shall close after daylight hours on the day the following quota has been reached:

(a) Ten (10) bears; or

(b) Four (4) female bears.

(3) The modern gun season for bears in bear zone 1 shall close after daylight hours on the day the following quota has been reached:

(a) Five (5)[Fifteen (15)] bears; or

(b) Two (2)[Five (5)] female bears.

(4) The modern gun season for bears in bear zone 2 shall close after daylight hours on the day the following quota has been reached:

(a) Fourteen (14) bears; or

(b) Four (4) female bears.

(5) (3)] The bear quota hunt with dogs season in bear zone 1 shall close after daylight hours on the day the following quota[of five (5) bears] has been reached:

(a) Three (3) bears; or

(b) Two (2) female bears.

(6) The bear quota hunt with dogs season for bears in bear zones 2 and 3 shall close after daylight hours on the day the following quota has been reached:

(a) Eight (8) bears; or

(b) Three (3) female bears.

(7) The muzzleloader season for bears in bear zone 3 shall close after daylight hours on the day the following quota has been reached:

(a) Five (5) bears; or

(b) Three (3) female bears.

(8) (4) The youth-only bear season shall close after daylight hours on the day the quota of five (5) bears has been reached.

(5)] A bear hunter shall call 800-858-1549 after 9 p.m. each day of any open bear season to determine if the annual quota has been reached.

Section 10. Bear Quota Hunt with Dogs Requirements. (1) A person shall only harvest a bear with the use of unleashed dogs.

(2) The bear quota hunt with dogs season shall also be open as a chase-only season for any person who possesses a valid bear chase permit, even if the quota has been met.

Section 11. Hunter Orange Clothing Requirements. (1) During any modern gun or muzzleloader[muzzle-loading] season for bears, a person hunting any species, and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except these requirements shall not apply to a person hunting:

(a) Waterfowl; or

(b) Furbearers at night during a legal furbearer season.

(2) The hunter orange portions of a garment worn to fulfill the requirements of this section:

(a) May display a small section of another color; and

(b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

Section 12. Bear Reserves. (1) The areas within bear zone 1 as [the Bear Zone] established in paragraphs (a) through (d) of this subsection shall be closed to bear hunting:

(a) Cumberland Gap National Historical Park;

(b) Hensley-Pine Mountain Wildlife Management Area;

(c) Big South Fork National River and Recreation Area; and

(d) The area surrounding Hensley-Pine Mountain Wildlife Management Area: starting at the intersection of Sand Hill Bottom Road and North US Hwy 119 in Cumberland, the boundary proceeds northeast along North US Hwy 119 to the intersection of US Hwy 119 and Kentucky Hwy 2035. The boundary then proceeds west along Kentucky Hwy 2035 to the intersection of Kentucky Hwy 2035 and Kentucky Hwy 931. The boundary continues southwest along Kentucky Hwy 931 to the intersection of Kentucky Hwy 931 and Kentucky Hwy 160, then proceeds southwest along Kentucky Hwy 160 to the intersection of Kentucky Hwy 160 and Kentucky Hwy 463 in Gordon. The boundary then proceeds south and east along Kentucky Hwy 160 to the intersection of Kentucky Hwy 160 and Sand Hill Bottom Road in Cumberland, then south along Sand Hill Bottom Road to the intersection with North US Hwy 119, completing the boundary.

(2) Kentucky resident landowners, their spouses, and dependent children may hunt bears on their own property within the closed area established in subsection (1)(d) of this section.

Section 13. Harvest Recording and Check-in Requirements. (1) Immediately after harvesting a bear, and before moving the carcass, a person shall record on a hunter's log the:

(a) Species taken;

(b) Date taken;

(c) County where taken; and

(d) Sex of the bear.

(2) A person who has harvested a bear[~~during the modern gun season for bears~~] shall:

(a) Retain a completed hunter's log;

(b) ~~[Check a harvested bear at a department-operated check station immediately after leaving the field;~~

(c) Telecheck the bear by 8 p.m. Eastern Standard Time the day the bear was harvested[before leaving the check station] by:

1. Calling 800-245-4263 and completing the telecheck process or checking the bear on the department's Web site at fw.ky.gov; and

2. Recording the confirmation number on the hunter's log;~~and~~
(d) ~~Attach to the carcass a department issued tag prior to leaving the check station.~~

(3) ~~A person who has harvested a bear during the archery – crossbow season, youth-only bear season, or the bear quota hunt with dogs season shall:~~

(a) Retain a completed hunter's log;

(b) Telecheck the bear by 8 p.m. Eastern Standard Time the day the bear was harvested by:

1. ~~Calling 800-245-4263 and completing the telecheck process or checking the bear on the department's Web site at fw.ky.gov; and~~

2. ~~Recording the confirmation number on the hunter's log;]~~

(c) Arrange for department personnel to inspect the bear by:

1. Calling the department at 800-858-1549 within twenty-four (24) hours of harvest; and

2. Presenting to department personnel the bear carcass or an intact hide that contains the skull and proof of sex; and

(d) Attach to the carcass a department issued tag after having the bear inspected by department personnel.

Section 14. Incorporation by Reference. ~~[(1)]~~ The "20 Bear Chase Survey", 2014 edition[following material] is incorporated by reference:]

(a) "Eastern Bear Chase Area" map, 2015 edition;

(b) "Central Bear Chase Area" map, 2015 edition;

(c) "Western Bear Chase Area" map, 2013 edition; and

(d) "~~20~~—Bear Chase Survey", 2014 edition].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., Eastern Time. Approved by the Fish and Wildlife Commission

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: April 10, 2017

FILED WITH LRC: April 14, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes black bear chase and hunt seasons, chase and hunt requirements, bag limits, and legal methods of take.

(b) The necessity of this administrative regulation: To establish bear hunting season requirements and methods of take to provide reasonable hunting and chasing opportunity, while properly managing bear populations in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations to establish open seasons for the taking of wildlife, regulate bag limits, and to make these requirements apply to a limited area. KRS 150.390(1) prohibits the taking of bears in any manner contrary to any provisions of Chapter 150 or its regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in administering the above statutes by defining the seasons, bag limits, and methods of chase and take used to manage black bears in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: This amendment will add 31 counties to the bear hunting area in Kentucky. This amendment will establish three bear zones that will be used to set season quotas that are appropriate for the abundance of bears in that specific area. The Chase-only season will be lengthened to include the dates of September 9 – September 30. The bear quota hunt with dogs season will be adjusted to include the dates of October 28 – November 3. A bear muzzle-loading season will be established in bear zone 3 and take place from December 9 – December 17. The overall quota will be increased to fifty (50) bears, but the female quota will remain unchanged at twenty (20) bears. Finally, this amendment opens the archery – crossbow, modern gun, and muzzleloader bear seasons to non-resident hunters.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to improve hunter opportunity by lengthening the modern gun season and establishing a muzzleloader season for bears. Increasing the number of counties where bear hunting may take place will provide more and varied opportunity while distributing the harvest pressure across a much larger area. The zone system established in this amendment will allow for more precise control over bear harvest.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All hunters that pursue black bears will be affected by this regulatory amendment. In 2016, there were 920 licensed bear hunters in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Those who hunt bear must comply with the individual requirements and restrictions for respective hunt or chase-only seasons for bears, as listed in the fall hunting guide published by the department.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost for a bear chase permit is thirty dollars (\$30.00), a youth bear chase permit is ten dollars (\$10.00), a resident bear permit is thirty dollars (\$30.00), a resident youth bear permit is ten dollars (\$10.00), and a non-resident bear permit is two hundred fifty (\$250.00) pursuant to 301 KAR 3:022.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Hunting opportunity will greatly increase by adding counties and additional bear hunting days for bear hunters. Additionally, houndsmen will have an earlier season with increased bear activity and an additional twenty one (21) days of chase-only season in the month of September. Non-resident bear hunters will now have an opportunity to pursue bears in Kentucky.

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

(a) Initially: There will be a small administrative cost to the department to implement this regulation.

(b) On a continuing basis: There will be a small cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not used because all persons who hunt bear are required to abide by the same seasons, methods of take, bag limits, harvest recording procedures, and checking requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. KRS 150.025 and 150.390.

(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 amount of revenue generated by this administrative regulation for the first year is unknown.

(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 revenue generated by this administrative regulation for subsequent years is unknown.

(c) How much will it cost to administer this program for the first year? There will be a small administrative cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be a small administrative cost 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 (+/-): Unknown; see 4 (a) and (b) above.

Expenditures (+/-): Minimal; see 4 (c) and (d) above.

Other Explanation:

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

301 KAR 3:022. License, tag, and permit fees.

RELATES TO: KRS 150.025, 150.180, 150.183, 150.240, 150.275, 150.280, 150.290, 150.450, 150.485, 150.520, 150.525, 150.600, 150.603, 150.660, 150.720

STATUTORY AUTHORITY: KRS 150.175, 150.195(4)(f), 150.225, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.175 authorizes the types of licenses, permits and tags. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 authorizes the department to promulgate administrative regulations establishing reasonable license fees relating to hunting, fishing, and trapping. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and waters it has acquired for wildlife management and public recreation. This administrative regulation establishes fees and terms for licenses, permits, and tags.

Section 1. Licenses, tags, and permits listed in this section shall be valid from March 1 through the last day of February the following year. (1) Sport fishing licenses:

(a) Statewide annual fishing license (resident): twenty (20) dollars;

(b) Statewide annual fishing license (nonresident): fifty (50) dollars;

(c) Joint statewide fishing license (resident): thirty-six (36) dollars;

(d) Statewide three (3) year fishing license (resident): fifty-five (55) dollars; and

(e) Trout permit (resident or nonresident): ten (10) dollars.

(2) Commercial fishing licenses:

(a) Commercial fishing license (resident) plus ten (10) resident commercial gear tags: \$150; and

(b) Commercial fishing license (nonresident) plus ten (10) nonresident commercial gear tags: \$600.

(3) Commercial fishing gear tags (not to be sold singly):

(a) Commercial fishing gear tags (resident) block of ten (10)

tags: fifteen (15) dollars; and

(b) Commercial fishing gear tags (nonresident) block of ten (10) tags: \$100.

(4) Hunting licenses:

(a) Statewide hunting license (resident): twenty (20) dollars;

(b) Statewide hunting license (nonresident): \$140;

(c) Statewide junior hunting license (resident): six (6) dollars;

(d) Statewide junior hunting license (nonresident): ten (10) dollars;

(e) Shooting preserve hunting license (resident or nonresident): five (5) dollars; and

(f) Migratory game bird and waterfowl permit (resident or nonresident): fifteen (15) dollars.

(5) Combination hunting and fishing license (resident): thirty (30) dollars.

(6) Senior or disabled combination hunting and fishing license (resident): five (5) dollars.

(7) Trapping licenses:

(a) Trapping license (resident): twenty (20) dollars;

(b) Trapping license (resident landowner/tenant): ten (10) dollars;

(c) Trapping license (nonresident): \$130; and

(d) Junior trapping license (resident): five (5) dollars.

(8) Game permits:

(a) Resident bear: thirty (30) dollars;

(b) Resident youth bear: ten (10) dollars;

(c) Nonresident bear: \$250;

(d) Resident bear chase: thirty (30) dollars;[-]

(e)[(e)] Resident youth[junior] bear chase: ten (10) dollars;

(f)[(d)] Resident quota cow elk permit: sixty (60) dollars;

(g)[(e)] Nonresident quota cow elk permit: \$400;

(h)[(f)] Resident quota bull elk permit: \$100;

(i)[(g)] Nonresident quota bull elk permit: \$550;

(j)[(h)] Resident out-of-zone elk permit: thirty (30) dollars;

(k)[(i)] Nonresident out-of-zone elk permit: \$400;

(l)[(j)] Resident deer permit: thirty-five (35) dollars;

(m)[(k)] Nonresident deer permit: \$120;

(n)[(l)] Junior game permit; Resident youth deer: ten (10) dollars;

(o)[(m)] Junior game permit; Nonresident youth deer: fifteen (15) dollars;

(p)[(n)] Bonus antlerless deer permit (two (2) tags per permit (resident or nonresident): fifteen (15) dollars;

(q)[(o)] Bonus quota hunt deer permit (resident or nonresident): thirty (30) dollars;

(r)[(p)] Game permit; Resident spring turkey: thirty (30) dollars;

(s)[(q)] Game permit; Nonresident spring turkey: seventy-five (75) dollars;

(t)[(r)] Game permit; Resident fall turkey: thirty (30) dollars;

(u)[(s)] Game permit; Nonresident fall turkey: seventy-five (75) dollars;

(v)[(t)] Junior game permit; Resident youth turkey: ten (10) dollars;

(w)[(u)] Junior game permit; Nonresident youth turkey: fifteen (15) dollars;

(x)[(v)] Junior game permit; Resident youth elk: thirty (30) dollars; and

(w) Junior game permit; Nonresident youth elk: forty (40) dollars.

(9) Peabody individual permit: fifteen (15) dollars.

(10) Commercial mussel licenses:

(a) Musseling license (resident): \$400;

(b) Musseling license (nonresident): \$1,600;

(c) Mussel buyer's license (resident): \$600; and

(d) Mussel buyer's license (nonresident): \$1,600.

(11) Sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory game bird and waterfowl permit, and deer permit: ninety-five (95) dollars.

(12) Junior sportsman's license (resident), which includes a junior hunting license, two (2) junior deer permits, and two (2) junior turkey permits: thirty (30) dollars.

(13) Land Between the Lakes hunting permit: twenty (20)

VOLUME 43, NUMBER 11 – MAY 1, 2017

dollars.

(13)[(14)] Conservation permit: five (5) dollars.

Section 2. Licenses, tags, and permits listed in this section shall be valid for the calendar year issued. (1) Live fish and bait dealer's licenses:

(a) Live fish and bait dealer's license (resident): fifty (50) dollars; and

(b) Live fish and bait dealer's license (nonresident): \$150.

(2) Commercial taxidermist license: \$150.

(3) Commercial guide licenses:

(a) Commercial guide license (resident): \$150; and

(b) Commercial guide license (nonresident): \$400.

(4) Shooting area permit: \$150.

(5) Dog training area permit: fifty (50) dollars.

(6) Collecting permits:

(a) Educational wildlife collecting permit: twenty-five (25) dollars; and

(b) Scientific wildlife collecting permit: \$100.

(7) Nuisance wildlife control operator's[~~operators~~] permit: \$100.

(8) Pay lake license:

(a) First two (2) acres or less: \$150; and

(b) Per additional acre or part of acre: twenty (20) dollars.

(9) Commercial captive wildlife permit: \$150.

(10) Commercial fish propagation permit: fifty (50) dollars.

(11) Wildlife rehabilitator's permit: twenty-five (25) dollars.

(12) Annual wildlife transportation permit: \$250.

(13) Peabody Wildlife Management Area annual event permit: \$250.

(14) Fish transportation permit: twenty-five (25) dollars.

Section 3. Licenses, tags, and permits listed in this section shall be valid for three (3) years from the date of issue. (1) Falconry permit: seventy-five (75) dollars.

(2) Noncommercial captive wildlife permit: seventy-five (75) dollars.

Section 4. Licenses, tags, and permits listed in this section shall be valid for the date or dates specified on each. (1) Short-term licenses:

(a) One (1) day resident fishing license: seven (7) dollars;

(b) One (1) day nonresident fishing license: ten (10) dollars;

(c) Seven (7) day nonresident fishing license: thirty (30) dollars;

(d) Fifteen (15) day nonresident fishing license: forty (40) dollars;

(e) One (1) day resident hunting license (not valid for deer, elk, or turkey hunting): seven (7) dollars;

(f) One (1) day nonresident hunting license (not valid for deer, elk, or turkey hunting): fifteen (15) dollars;

(g) Seven (7) day nonresident hunting license (not valid for deer, elk, or turkey hunting): fifty-five (55) dollars; and

(h) Three (3) day fur bearer's license: fifty (50) dollars.

(2) Individual wildlife transportation permit: twenty-five (25) dollars.

(3) Special resident commercial fishing permit: \$600.

(4) Special nonresident[~~non-resident~~] commercial fishing permit: \$900.

(5) Commercial waterfowl shooting area permit: \$150.

(6) Shoot to retrieve field trial permits:

(a) Per trial (maximum four (4) days): seventy-five (75) dollars; and

(b) Single day: twenty-five (25) dollars.

(7) Boat dock permit: \$100 per ten (10) year permit period beginning January 1, 2008, except that the fee shall be pro-rated for the number of years remaining in the ten (10) year period.

(8) Shoreline use permit: Valid for a fifteen (15) year permit period beginning January 1, 2010 and shall contain three (3) tiers:

(a) Tier I: \$100;

(b) Tier II: \$200;

(c) Tier III: \$300; and

(d) The fees shall be pro-rated to the nearest five (5) year interval remaining in the fifteen (15) year permit period.

(9) Peabody individual event permit: twenty-five (25) dollars.

(10) Commercial roe-bearing fish buyer's permit:

(a) Commercial roe-bearing fish buyer's permit (resident): \$500; and

(b) Commercial roe-bearing fish buyer's permit (nonresident): \$1,000.

(11) Commercial roe-bearing fish harvester's permit:

(a) Commercial roe-bearing fish harvester's permit (resident): \$500; and

(b) Commercial roe-bearing fish harvester's permit (nonresident): \$1,500.

(12) Otter Creek Outdoor Recreation Area:

(a) Daily Entry Permit: three (3) dollars, with children under twelve (12) free; and

(b) Daily Special Activities Permit: seven (7) dollars.

(13) Commercial foxhound training enclosure permit: \$150.

Section 5. Licenses, tags, and permits listed in this section shall be valid on a per unit basis as specified. (1) Ballard waterfowl hunt (per person, per day): fifteen (15) dollars.

(2) Pheasant hunt permit (per person, per day): twenty-five (25) dollars.

(3) Horse stall rental (per space, per day): two (2) dollars.

(4) Dog kennel rental (per dog, per day): fifty (50) cents.

(5)[~~Pond stocking fee (per stocking):~~]

(a) ~~Ponds less than 1.5 surface acres: seventy-five (75) dollars;~~

(b) ~~Ponds from 1.5 to 2.9 surface acres: \$200; and~~

(c) ~~Ponds equal to or greater than 3.0 surface acres: \$200 plus \$150 for each additional surface acre of water over 3.0 acres prorated on a 0.25-acre basis.~~

(6)[(7)] Commercial captive cervid permit (per facility, per year): \$150.

(6)[(7)] Noncommercial captive cervid permit (per facility; per three years): seventy-five (75) dollars.

Section 6. The following licenses listed in this section shall be valid from April 1 through March 31 of the following year:

(1) Fur processor's license (resident): \$150;

(2) Fur buyer's license (resident): fifty (50) dollars; and

(3) Fur buyer's license (nonresident): \$300.

Section 7. The following Otter Creek Outdoor Recreation Act permits shall be valid from July 1 through June 30 of the following year:

(1) Annual Entry Permit: thirty (30) dollars, with children under twelve (12) free; and

(2) Annual Special Activities Permit: seventy (70) dollars.

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: April 10, 2017

FILED WITH LRC: April 14, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees, terms, and expiration dates for licenses, tags, and permits sold by the Department of Fish and Wildlife Resources.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the Department of Fish and Wildlife Resources to establish reasonable license fees, permit terms, and the expiration dates of licenses and permits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.175 establishes the kinds of licenses, permits, and tags. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 requires the Department to prescribe reasonable fees for licenses, permits, and registrations authorized by Chapter 150.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the requirements and purposes of the statutes identified in (1)(c) by establishing reasonable fees for licenses, permits, and tags issued by the Department.

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

(a) How the amendment will change this existing administrative regulation: This amendment establishes a youth bear chase permit for ten (\$10.00) dollars and a non-resident bear permit for two hundred fifty (\$250.00) dollars.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish a Youth Bear Chase permit and a non-resident Bear Permit in accordance with currently proposed amendments to 301 KAR 2:300 (Black bears) that establish a Youth Bear Chase permit and non-resident Bear Permit.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All hunters that pursue black bears will be affected by this regulatory amendment. In 2016, there were 920 licensed bear hunters in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A youth, who intends to participate in the bear chase season, may now purchase a Youth Bear Chase permit, and a non-resident bear hunter may now purchase a non-resident Bear Permit.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost for a Youth Bear Chase Permit shall be ten dollars (\$10.00) and the cost of a non-resident Bear Permit shall be two hundred fifty (\$250.00) dollars.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Because of this amendment, non-resident hunters will have an opportunity to harvest a bear in Kentucky during the archery – crossbow, modern gun, and muzzle-loading seasons. A youth will now be able to purchase a youth bear chase permit at a reduced cost to the regular bear chase permit.

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

(a) Initially: There will be no additional cost to the department

to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The fees associated with the youth bear chase permit and the nonresident bear hunting permit help cover the costs of bear management and research in Kentucky.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes new fees for non-resident bear hunters and a reduced fee for a youth bear chase permit.

(9) TIERING: Is tiering applied? No. Tiering is not applied because all persons who hunt bear are required to abide by the requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Division of Administrative Services will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.175, 150.195, 150.225, and 150.620.

(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 amount of revenue generated by this administrative regulation is unknown. In 2016, there were 920 licensed bear hunters in Kentucky.

(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 revenue generated by the regulation in subsequent is unknown.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred 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:

ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division of Water (Amendment)

401 KAR 8:010. Definitions for 401 KAR Chapter 8.

RELATES TO: KRS 223.160-223.220, 224.10-100, 224.10-110, 322, 40 C.F.R. 141.2[EO-2008-507, 2008-534]

STATUTORY AUTHORITY: KRS 223.160-223.220, 224.10-100(28), 224.10-110[EO-2008-507, 2008-534]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-110(2) require the cabinet to promulgate administrative regulations for the regulation and control of the

purification of water for public and semipublic use.~~[EO-2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.]~~ This administrative regulation establishes the definitions for terms used by the cabinet in 401 KAR Chapter 8.

Section 1. Definitions. Except as provided in this section, the definitions established in 40 C.F.R. 141.2 shall apply. (1) "Board" means the Kentucky Board of Certification of Water Treatment Plant and Water Distribution System Operators as established by KRS 223.170.

(2) "Boil water advisory" means a type of consumer advisory that provides notice to the consuming public through radio, television, direct mail, electronic mail, posting, newspaper, or other media and that conveys in the quickest and most effective manner possible:

(a) Information that water provided by a system might~~may~~ cause adverse human health effects due to possible biological contamination if consumed, unless it is first boiled for three (3) minutes at a rolling boil; and

(b) What action the public is advised to take.

(3) "Bottled water" means water that is:

(a) From an approved bottled water treatment plant as established in 401 KAR 8:700;

(b) Placed in a sealed container or package; and

(c) Offered for human consumption or other consumer uses.

(4) "Bottled water system":

(a) Means a public water system that provides bottled drinking water and includes the sources of water, and treatment, storage, bottling, manufacturing, or distribution facilities; and

(b) Does not mean~~—The term excludes~~:

1.~~[(a)]~~ A public water system that provides only a source of water supply for a bottled water system; or

2.~~[and (b)]~~ An entity providing only transportation, distribution, or sale of bottled water in sealed bottles or other sealed containers.

(5) "Bottled water treatment plant" means a facility that provides the product water used for bottled water by processing water from an approved source as established in 401 KAR Chapter 8.

(6) "Bypass" means a physical arrangement whereby water can~~may~~ be diverted around a feature of the purification process of a public or semipublic water supply.

(7) "Certificate" means a certificate of competency issued by the cabinet stating that the operator has met all requirements for the specified operator classification as established by 401 KAR Chapter 8.

(8) "Certified laboratory" means a laboratory:

(a)~~[A laboratory]~~ For which the physical, instrumental, procedural, and personnel capabilities have been approved by the U.S. Environmental Protection Agency or the cabinet pursuant to 401 KAR 8:040 and 40 C.F.R. 141 and 142; and

(b) That is certified for one (1) or more types of the contaminants listed or for one (1) or more of the specific constituents or combinations of constituents listed in 401 KAR Chapter 8.

(9) "Certified operator" means an individual who holds an active certificate.

(10) "Community water system" is defined by 40 C.F.R. 141.2.

(11) "Consumer advisory" means a notice to the consuming public through radio, television, direct mail, electronic mail, posting, newspaper, or other media to convey in the quickest and most effective manner possible:

(a) Information that water provided by a system might~~may~~ cause adverse human health effects if consumed and what action the public is advised to take; or

(b) Other information that the public needs to know about its water.

(12) "Contaminant group" means all of the constituent members that collectively comprise the individual bacteriological, inorganic chemical, organic chemical, radiological, volatile organic chemical, synthetic organic chemical, or secondary contaminant groups regulated by 401 KAR Chapter 8.

(13) "Conventional filtration treatment" means a series of

processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

(14) "Cross connection" means a physical connection or arrangement between two (2) otherwise separate systems, one (1) of which contains potable water and the other being either water of unknown or questionable safety, or steam, gas, or chemicals, whereby there can~~may~~ be flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

(15) "Direct responsible charge" means personal, first hand responsibility to conduct or actively oversee and direct procedures and practices necessary to ensure that the drinking water treatment plant or distribution system is operated in accordance with accepted practices and with KRS Chapter 223 and 401 KAR Chapters 8 and 11.

(17) "Mineral water" means bottled water that contains not less than 250 parts per million total dissolved solids.

(18) "NTU" means nephelometric turbidity unit.

(19) "Operator" means a person involved in the operation of a drinking water treatment plant or distribution system.

(20) "Private water supply" means a residential water supply located on private property for the use of one (1) to three (3) residential households.

(21) "Product water" means the water processed by a bottled water treatment plant that is used for bottled drinking water.

(22) "Professional engineer" means an engineer who is licensed as a professional engineer in Kentucky, pursuant to KRS Chapter 322.

(23) "Secondary contaminant" means a contaminant that does not, in general, have a direct impact on the health of consumers but its~~whose~~ presence in excessive quantities can~~may~~ discourage the utilization of drinking water or discredit the supplier.

(24) "Secondary standard" means the maximum contaminant level for a secondary contaminant.

(25) "Semipublic water system" means a water system made available for drinking or domestic use that does not qualify as a private or public water system.

(26) "Submeter" means the use by a property owner or operator of meters that measure water used by tenants for the purpose of passing costs charged by a public water system from the property owner or operator to tenants based on tenants' actual water usage.

(27) "Supplier of water" means the owner or operator of~~a person who owns or operates~~ a public water system.

(28)~~[(27)]~~ "Surface water" means water that is open to the atmosphere and subject to surface runoff, or groundwater under the direct influence of surface water.

(29)~~[(28)]~~ "Surface water source" means ponds, reservoirs, streams of all sizes, free-flowing springs, a source of water supply for a public water system that has a free water surface exposed to the atmosphere, or groundwater under the direct influence of surface water.

(30)~~[(29)]~~ "System" means a public water system.

(31)~~[(30)]~~ "Turbidity" means the presence of suspended particulates, including sand, silt, clay, finely divided organic or inorganic matter, plankton or other microscopic organisms, or elements that optically interfere with the clarity of liquid.

(32)~~[(31)]~~ "Water distribution system" means the portion of the public water system in which~~that~~ water is conveyed from the water treatment plant or other supply point to the premises of a consumer, or a system of piping and ancillary equipment that~~which~~ is owned and operated by an established water system independent of the water supply system from which potable water is purchased.

(33)~~[(32)]~~ "Water supply system" means the source of supply and all structures and appurtenances used for the collection, treatment, storage, and distribution of water for a public or semipublic water system.

(34)~~[(33)]~~ "Water treatment plant" or "purification plant" means that portion of the water supply system that is designated to alter the physical, chemical, or bacteriological quality of the water prior to entry to the water distribution system.

VOLUME 43, NUMBER 11 – MAY 1, 2017

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003, email water @ky.gov (Subject line: "Chapter 8 regulations").

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides definitions for 401 KAR Chapter 8.

(b) The necessity of this administrative regulation: Definitions clarify certain terminology for the regulated community.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110(2) authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use, which are regulated under 401 KAR Chapter 8.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides definitions for 401 KAR Chapter 8 to clarify terms for the regulated community.

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

(a) How the amendment will change this existing administrative regulation: The amendment adds a definition for "submetering".

(b) The necessity of the amendment to this administrative regulation: The additional definition clarifies what constitutes the practice of "submetering".

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110(2) authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use, which are regulated under 401 KAR Chapter 8. This administrative regulation clarifies terms used throughout 401 KAR Chapter 8.

(d) How the amendment will assist in the effective administration of the statutes: The additional definition clarifies what constitutes the practice of "submetering".

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The types of businesses that may use submetering are multi-unit apartment dwellings, mobile home parks, and condo and home owners associations. The number of submetered systems is unknown. There are 436 public water systems, and 52 semipublic water systems. Public water systems are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

(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 contains definitions; there are no substantive requirements.

(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 contains definitions; there are no associated costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Affected entities will be better able to understand the terms used throughout 401 KAR Chapter 8.

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

(a) Initially: This amendment will not result in additional costs.

(b) On a continuing basis: This amendment will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Division of Water uses federal funds to administer the federal Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? No. This regulation contains definitions that do not require tiering.

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 and local governments will not be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(28) and 224.10-110(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 will be no effect on state or local governments.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? There will be no additional costs.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This administrative regulation contains definitions for 401 KAR Chapter 8. It will not incur costs or generate revenue.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate to provide a definition for

"submetering".

2. State compliance standards. KRS 224.10-100, 224.10-110

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate to provide a definition for "submetering". However, the federal Safe Drinking Water Act, for which Kentucky has primacy and of which the administrative regulations in 401 KAR Chapter 8 are a part, is federally mandated.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? There is no federal mandate to provide a definition for "submetering". However, the federal Safe Drinking Water Act, for which Kentucky has primacy and of which the administrative regulations in 401 KAR Chapter 8 are a part, is federally mandated.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate to provide a definition for "submetering". However, the federal Safe Drinking Water Act, for which Kentucky has primacy and of which the administrative regulations in 401 KAR Chapter 8 are a part, is federally mandated.

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water
(Amendment)**

401 KAR 8:020. Public and semipublic water systems; submetering; general provisions.

RELATES TO: KRS 211.350-211.392, 223.160-223.220, 224.10-100, 224.10-110, 224.16-050, 369, 40 C.F.R. 141, 142.14, 142.15, 142.16, 142.20, 142.21, 142.40-142.65

STATUTORY AUTHORITY: KRS 223.200, 224.10-100(28), 224.10-110(2), 40 C.F.R. 141.3, 141.31, 141.75, 142.14, 142.15, 142.20, 142.21, 142.40-142.65, 42 U.S.C. 300f-300j-26

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-110(2) authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use. This administrative regulation establishes the general provisions for regulating public and semipublic water supplies.

Section 1. A public or semipublic water system shall be subject to the requirements of 401 KAR Chapter 8, except those exempted in 40 C.F.R. 141 and 142[144-3].

Section 2. Submetering. (1) A property using submeters as defined by 401 KAR 8:010(26) shall not be considered a public water system as defined by 40 C.F.R. 141.2 and, except for this administrative regulation, shall be exempt from the requirements of 401 KAR Chapter 8.

(2)(a) A property using submeters as defined by 401 KAR 8:010(26) and exempt from the requirements of 401 KAR Chapter 8 shall:

1. Receive all of its water from a public water system and shall not change the quality of water provided to customers;

2. Be located on property owned by a single person, entity, individual, or a co-op or condominium association of property owners;

3. Not be regulated as a water utility by the Kentucky Public Service Commission; and

4. Not charge tenants an amount that exceeds tenants' share of the actual amount charged by the public water system to the owner or operator of a property using a submetered system, based on the tenants' actual water usage in proportion to the total amount of water used for the entire submetered property.

(b) The owner or operator of a property using a submetered system shall designate a person or organization as the owner or operator of the submetered system and shall provide the name, address, and phone number of the designated owner or operator upon request by the cabinet.

(c) The owner or operator of a property using a submetered system shall certify to the cabinet in writing that the:

1. Submetered system does not have any cross connections; and

2. Applicable provisions of 815 KAR 20:120 have been met.

(3) An advisory received by the owner or operator pursuant to Section 3(9) of this administrative regulation shall be disseminated to property tenants in the manner established in Section 3(10) of this administrative regulation.

(4) Public notices and consumer confidence reports received by the owner or operator pursuant to 401 KAR 8:075 shall be disseminated to property tenants in the next billing period.

Section 3[2]. (1) Public and semipublic water systems. A person shall not operate or commence operation of a public or semipublic water system except in compliance with the provisions of 401 KAR Chapter 8 and 40 C.F.R. 141. A water supply system constructed prior to November 11, 1990 may be continued in use, if the operation, maintenance, bacteriological, chemical, physical, and radiological standards comply with 401 KAR Chapter 8, or the system obtains a variance or exemption from those standards in accordance with 40 C.F.R. 141.

(2)(a) A cross-connection shall be prohibited.

(b) The use of automatic devices, such as a reduced pressure zone back flow preventer and a vacuum breaker, may be approved to protect public health, in lieu of air gap separation.

(c) A combination of air gap separation and an automatic device shall be required if determined by the cabinet to be necessary due to the degree of hazard to public health.

(d) Every public water system shall determine if or where a cross-connection exists and shall immediately eliminate it.

(3) A bypass shall not be created or maintained without the prior written approval of the cabinet stating the approved circumstances for establishment of a bypass, its design, and the exact conditions for its use.

(4) An auxiliary intake shall not be used in direct connection with a public or semipublic water system except with prior written approval from the cabinet stating the emergency condition that necessitates the intake.

(5) The plumbing system serving the purification plant and auxiliary facilities shall discharge to a sewer system if available.

(a) If a sewer is not available, the connection shall be made to a sewage disposal facility approved pursuant to KRS Chapter 211.350 through 211.392 or 224.16-050.

(b) There shall not be connections between the sewer system and a filter backwash, filter-to-waste drain, or clearwell overflow line, unless an air gap is provided between the drain and overflow line and the sanitary storm sewer or natural drainage system, so as to preclude the possibility of back-up of sewage or waste into the drain or overflow line.

(6) The owner or operator of a public water system shall operate and maintain the facilities and systems of treatment, intake, and distribution to comply with the provisions of 401 KAR Chapter 8 ~~including~~ including ~~Operation and maintenance includes~~ effective performance; preventive maintenance; operator staffing and training pursuant to 401 KAR 8:030, 11:040, and 11:050; establishing representative sample points that comply with the requirements of 401 KAR Chapter 8; and adequate process controls for testing, including quality assurance procedures.

(7) Reports to the cabinet.

(a) The supplier of water shall provide a complete monthly operating report to the cabinet, which shall be received at the Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601 not later than ten (10) days after the end of the month for which the report is filed.

1. A completed report shall include:

a. Volume of water treated;

b. Average number of hours per day water is being treated;

c. [b.] Type and amount of chemicals added;

d. [e.] Test results appropriate to be reported by the plant; and

e. [d.] The dated original signature, or equivalent, pursuant to KRS Chapter 369, of the owner or authorized agent.

2. A supplier of water shall submit the reports required by 40

C.F.R. 141.75(b) to the cabinet not later than ten (10) days after the end of each month the public water system serves water to the public.

3. A public water system shall report to the cabinet in accordance with 40 C.F.R. 141.31.

(b) The public water system shall submit to the cabinet a completed Annual Water System Data form, DOW0801, (April 2017) not later than January 10 of each year.

(c) Reports of failure to comply. A public water system shall report to the cabinet within forty-eight (48) hours, by phone or in writing, the failure to comply with a monitoring requirement of 401 KAR Chapter 8 or any other provision of 401 KAR Chapter 8; including the failure to comply with monitoring requirements.

(d)[(e)] Emergency reports.

1. If a public water system experiences a line break or loss of pressure as established in 401 KAR 8:150, Section 4(2)(e), loss of disinfection, or other event that may result in contamination of the water, the public water system shall immediately report to the cabinet by calling the Division of Water in Frankfort at (502) 564-3410 or the appropriate regional field office of the Division of Water.

2. If a report required by this paragraph is made during other than normal business hours, it shall be made through the twenty-four (24) hour environmental emergency telephone number, (800) 928-2380.

(8) Records to be maintained. An owner or operator of a public water system shall keep the records established in 40 C.F.R. 141.33 on the premises or readily accessible to cabinet staff inspecting the system.

(9) Boil water and consumer advisories.

(a) Boil water advisories.

1. A public water system or semipublic water system shall issue a boil water advisory if the system believes an advisory is warranted.

2. The cabinet may direct that a boil water advisory be issued upon:

a. The reception of confirmed positive bacteriological results, for example, including E. coli or fecal coliform, in at least one (1) sample; or

b. Other circumstances that warrant an advisory for the protection of public health.

3. The cabinet may, if circumstances warrant for the protection of public health, issue a boil water advisory directly, rather than rely on a public or semipublic water system to issue the advisory.

4. A boil water advisory shall remain in effect until the cabinet approves the lifting of the advisory based on bacteriological results showing coliform bacteria are not present in the water.

(b) Consumer advisory.

1. The cabinet may issue a consumer advisory if:

a. Conditions within a public water system or semipublic water system indicate a possible adverse health effect from consumption of the water distributed by the system; or

b. Other information of interest to the consumer exists.

2. The advisory shall notify affected persons of a required or recommended action.

(c) A public or semipublic water system shall:

1. Immediately notify the local health department that serves the area affected if a boil water advisory or consumer advisory is issued.

a. The notification may be made by telephone, email, or fax machine for an occurrence during normal business hours.

b. For an occurrence after normal business hours, the public or semipublic water system shall notify the affected local health department in a manner agreed upon by the system and affected health department; or

2. Develop a protocol with a local health department that describes when and how the system shall notify the affected health department if the system issues a boil water advisory or consumer advisory. The protocol shall address:

a. For which types of advisories the system shall notify the affected health department;

b. What procedures shall be used to notify and under what circumstances;

c. How soon after the occurrence the notification shall be made; and

d. To whom the notification shall be made, during and after business hours.

(10) How to issue an advisory.

(a) A boil water advisory or consumer advisory shall be issued through newspapers, radio, television, or other media having an immediate public impact.

(b) As a health and safety measure, the water system shall repeat the notification during the period of imminent danger at intervals that maintain public awareness.

(c)1. The advisory shall be readily understandable and shall include instructions for the public, as well as an explanation of the steps being taken to correct the problem.

2. Boiling instructions shall caution to boil water to be used for consumption by boiling the water for at least three (3) minutes at a rolling boil.

(11) Maps.

(a) A public or semipublic water system shall have on the premises, or readily accessible to cabinet staff inspecting the system, an up-to-date map of the distribution system. The map shall, at a minimum, show:

1. Line size;
2. Cutoff valves;
3. Fire hydrants;
4. Flush hydrants;
5. Tanks;
6. Booster pumps;
7. Chlorination stations;
8. Connection to emergency or alternative sources;
9. Wholesale customer master meters; and
10. Type of piping material in the distribution system and its location.

(b)1. If a public water system is not able to comply with the requirements of paragraph (a) of this subsection, the system may petition the cabinet to modify this requirement.

2. The petition for modification shall state specifically what portion of the requirements of paragraph (a) of this subsection is not practical and why.

(12) Operation and maintenance manual.

(a) Each public water system shall develop and keep on the premises, for operators and employees of the system, an operation and maintenance manual that includes:

1. A detailed design of the plant;
2. Daily operating procedures;
3. A schedule of testing requirements designating who is responsible for the tests;and
4. Safety procedures for operation of the facility, including storage and inventory requirements for materials and supplies used by the facility; and

5. Procedures for issuing a boil water advisory and consumer advisory as established in this administrative regulation, including notification to the public and local health department and consumers.

(b) The operation and maintenance manual shall be updated as necessary, but not less than annually, and shall be available for inspection by the cabinet.

(c) A public water system[systems] serving fewer than 100 people or thirty (30) service connections may request that the cabinet waive the requirements of paragraphs (a) and (b) of this subsection. The request shall be in writing and any waiver granted by the cabinet shall be in writing and be retained by the public water system for examination by cabinet personnel.

(13) Flushing[recommended]. Each community water system shall establish and maintain a flushing program that ensures:

(a) Dead end and low usage mains are flushed periodically;

(b) Drinking water standards are met; and

(c) Sediment and air removal and disinfectant residuals established in 401 KAR 8:150, Section 1 are maintained.~~[(a) To protect public health, a distribution system may be thoroughly flushed at least twice a year, usually in the spring and fall. The purpose of systematic flushing is to reduce turbidity created from the scouring of accumulated sediment within the water lines.~~

1. Flushing shall start at the hydrants nearest the source of supply and proceed in an outward direction to the end of each main.

2. Flushing shall continue at each hydrant until all traces of turbidity and color are gone.

3. Hydrants shall be opened and shut slowly to prevent damage from water hammer.

(b) In addition to the regularly scheduled flushing, the following conditions shall indicate a need to flush the entire system:

1. Turbidity within the distribution system greater than five (5) or one (1) nephelometric turbidity units, or NTU, as applicable to the system;

2. An inability to maintain an adequate residual of a disinfection agent in any part of the system; or

3. A heterotrophic plate count, or HPC, in excess of 500.

(c) Other indicators that flushing may be necessary shall be taste and odor complaints, color of water, contaminated water samples, or line repairs.]

(14) A person shall not introduce into the water supply system a substance that may have a deleterious physiological effect, or for which physiological effects may not be known.

(15) Certified lab analysis required. For the purpose of determining compliance with the sampling requirements of 401 KAR Chapter 8, samples shall be analyzed by a laboratory certified by the cabinet as established[prescribed] in 401 KAR 8:040, except that measurements for turbidity, disinfectant residuals, and other parameters established[specified] by 40 C.F.R. 141.28 and 141.131 may be performed by a certified operator or an individual under the supervision of a certified operator.

(16) Right of entry. The cabinet may enter an establishment, facility, or other property of public and semipublic water supplies in order to determine if[whether] the supplies have acted or are acting in compliance with applicable laws or regulations that the cabinet has the authority to enforce.

(a) Entry may include, for example, collection of water samples for laboratory analyses and inspection of records, files, papers, processes, controls, and facilities required to be kept, installed, or used under the provisions of 401 KAR Chapter 8.

(b) The cabinet or its authorized agent may cause to be tested a feature of a public water system, including its raw water source, to determine compliance with applicable legal requirements.

(17)[Recommended practices for water supply reservoirs to be used for drinking water. The following practices may be employed by water systems that have a lake primarily used as a source of raw drinking water:

(a) Prohibition of swimming, water skiing, and other contact sports;

(b) Prohibition of large motor-driven craft or any craft with toilets;

(c) A requirement that an area at least 100 feet wide from the upper pool elevation be kept clear of all sources of potential contamination such as septic tanks, drain fields, livestock, and barns;

(d) Prohibition of effluent from sewage treatment plants being discharged into the lake;

(e) Picnicking may be permitted around the lake if plans for the development of a picnic area meet regulatory requirements of the cabinet; and

(f) Implementation of a nonpoint source pollution control plan.

(18)] Water treatment chemicals and system components. Chemical additives and protective materials, such as paints and linings, may be used by a water system if they meet the requirements established in the Recommended Standards for Water Works, 2012 Edition, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers' Recommended Standards for Water Works, 2012.

(19)[(19)] Disposal of chlorinated water. Chlorinated water resulting from disinfection of treatment facilities and new, repaired, or extended distribution systems shall be disposed in a manner that shall not violate 401 KAR 10:031.

(19)[(20)] Water loading stations. A public water system that provides water loading stations for the purpose of providing water

to water hauling trucks or other bulk water devices shall construct the stations to conform to the standards in the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers' Recommended Standards for Water Works.

Section 4[3]. The cabinet shall maintain records and submit reports as established in 40 C.F.R. 142.14, 142.15, and 142.16(f).

Section 5[4]. A public water system may receive a variance or exemption from some provisions of 401 KAR Chapter 8 only in accordance with 40 C.F.R. 141.4.

Section 6[5]. A public water system may use noncentralized treatment devices only in accordance with 40 C.F.R. 141.100 or bottled water only in accordance with 40 C.F.R.[144, Sections] 141.101.

Section 7[6]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Recommended Standards for Water Works, 2012 Edition[2003]," A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, 2012; and[is incorporated by reference.]

(b) "Annual Water System Data" form, DOW0801, (April 2017).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available the division's Web site at <http://water.ky.gov>.

(3) The "Recommended Standards for Water Works, 2012 Edition," A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, 2012, may also be obtained at <http://10statesstandards.com/waterrev2012.pdf>.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003, email: water@ky.gov (Subject line: "Chapter 8 regulations").

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides general provisions for the regulation of public and semipublic water systems.

(b) The necessity of this administrative regulation: This administrative regulation provides a general framework for public water systems to protect public health, including treatment,

reporting, and recordkeeping requirements. All states with primary authority to implement and enforce the Safe Drinking Water Act must have regulations compatible with the federal program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 and 224.10-110 authorize the cabinet to regulate public and semipublic water systems. 40 C.F.R. 141 and 142 provide a portion of the regulatory framework to administer the federal Safe Drinking Water Act (42 U.S.C. 300f-300j-26).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides public water systems with a general framework for treating water to protect public health.

(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 exempt submetering from inclusion as public water systems under certain conditions, correct references to 40 C.F.R. 141 and 142, update notification methods to include social media and email, add the average time water is treated daily to reporting requirements, add advisory procedures to operation plans, require public water systems to establish a flushing program, remove language regarding recommended practices for water supply reservoirs, make advisory language and document titles consistent throughout 401 KAR Chapter 8, and update Materials Incorporated by Reference to their most current editions.

(b) The necessity of the amendment to this administrative regulation: These amendments are necessary to clarify roles and responsibilities regarding public and semipublic water systems.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 and 224.10-110 authorize the cabinet to regulate public and semipublic water systems.

(d) How the amendment will assist in the effective administration of the statutes: The amendments clarify the practice of submetering and its associated responsibilities, update notification methods, reporting requirements, operations plans, and Materials Incorporated by Reference, require systems to establish a flushing program, and remove language regarding recommended practices for water supply reservoirs. These amendments align the regulations with current practices and technology, refine operations plans, and gives systems flexibility in establishing a flushing program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The types of businesses that may use submetering are multi-unit apartment dwellings, mobile home parks, and condo and home owners associations. The number of submetered systems is unknown. There are 436 public water systems, and 52 semipublic water systems. Public water systems are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will need to report the average number of hours water is being treated to their monthly operating reports, and amend their Operations Manuals to include procedures to issue an advisory. Public water systems will need to establish a flushing program. Submetered properties will need to make certain that infrastructure and water usage billing meets regulatory requirements to be exempt as a public water system, and will also need to notify customers of advisories and reports issued by the public water system providing water to the submetered property.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities may incur nominal administrative costs to

add information to monthly operating reports and Operations Manuals. Submetered properties may incur administrative costs for billing tenants for actual water usage, and to certify that it is an exempt submetered system. Public water systems that do not already have an established flushing program may incur costs in the design and implementation of a flushing program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will have more refined and useful information in monthly operating reports and Operations Manuals. Submetered properties will be exempt from being regulated as a public or semipublic water system. Public water systems will have the flexibility to establish flushing programs that meet the needs of its system and customers.

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

(a) Initially: There will be additional administrative costs to the Division of Water to collect and maintain data.

(b) On a continuing basis: The additional continuing costs to the Division of Water should be minimal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Division of Water uses federal funds to administer the federal Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional increase in fees or funding is anticipated.

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

(9) TIERING: Is tiering applied? Yes. This regulation is tiered by distinguishing between public, semipublic, and non-regulated water systems.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? There are 436 public water systems, and 52 semipublic water systems. Public water systems are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100 and 224.10-100 authorize the cabinet to regulate public and semipublic water systems. C.F.R. 141 and 142 are promulgated by the U.S. EPA pursuant to the Safe Drinking Water Act.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? The entities may incur nominal administrative costs to add information to monthly operating reports and Operations Manuals. Public water systems that currently do not have a flushing program may incur costs to design and implement a flushing program. There will be additional administrative costs to the Division of Water to collect and maintain data.

(d) How much will it cost to administer this program for subsequent years? Once the initial information is added to monthly operating reports and Operations manuals, and public water systems have established a flushing program, additional continuing

costs should be minimal. The additional continuing costs to the Division of Water should be minimal.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: Additional administrative costs should be minimal. The number of public water systems that do not have a current flushing program cannot reasonably be determined, therefore, the cabinet is unable to calculate cost estimates.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Safe Drinking Water Act (42 U.S.C. 300f through 300j-26), 40 C.F.R. 141 and 142. There is no federal mandate regarding submetering or flushing programs.

2. State compliance standards. KRS 224.10-100, 224.10-110

3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. 141 and 142 contain the national primary drinking water regulations and standards for implementation of the federal Safe Drinking Water Act.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? Yes. Portions of this regulation are promulgated under KRS 224.10-110 and 224.10-100. These requirements are for general operation and maintenance, boil water notices and advisories, and other general requirements for a public water system that have no federal counterpart and are intended to protect public health.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The requirements in this regulation were promulgated under state law and most were in place prior to the Safe Drinking Water Act. Kentucky's heavy use of surface water sources and karstic groundwater geology have led to long-standing practices and requirements designed to help protect public health. Flushing programs are designed to protect public health.

ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division of Water (Amendment)

401 KAR 8:040. Laboratory certification.

RELATES TO: KRS 224.10-100, 40 C.F.R. 141.21, Appendix A-Subpart C, 141.201, Appendices A, B of Subpart Q; ~~EO-2009-538~~

STATUTORY AUTHORITY: KRS 224.10-100(4), (5), (28), 224.10-110(2), 40 C.F.R. 141.28, 142.10, 42 U.S.C. 300f-300j-26; ~~EO-2009-538~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110(2) requires the cabinet to enforce the administrative regulations promulgated by the secretary for the regulation and control of the purification of water for public and semipublic use. ~~[EO-2009-538, effective June 12, 2009, establishes the new Energy and Environment Cabinet.]~~ This administrative regulation establishes procedures for certification of commercial or water system laboratories to test for drinking water contaminants.

Section 1. Laboratory Certification. (1) The U.S. Environmental Protection Agency or the cabinet shall evaluate a public water system laboratory or a commercial laboratory that performs drinking water analysis for a public water system for certification.

(2) Contracting by the cabinet with a third party to conduct laboratory evaluations and make recommendations to the cabinet regarding certification shall be in accordance with the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005.

(3)(a) Certification may be for one (1) or more method analyte pair[analysis categories] or for a single drinking water contaminant within a method analyte pair[an analysis category].

(b) Each method analyte pair[analysis category] shall require a different certification, but qualification for different certifications may be evaluated during one (1) audit.

Section 2. Application. (1) An initial certification request may be made at any point during the calendar year.

(2) A laboratory seeking certification shall submit a written request for certification to the cabinet. The request shall include:

(a) A statement of the method analyte pair[analysis category] or drinking water contaminant for which certification is requested;

(b) A list of the analytic methods for each analysis for which certification is requested;

(c) Payment of the fee established in 401 KAR 8:050, Section 2(5) for the certification requested; and

(d) Completion of a Proficiency Test (PT)[Performance Evaluation (PE)] study for each analysis category or drinking water contaminant for which certification is requested.

(3) The cabinet may request other information necessary to determine eligibility for certification as described in the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005.

(4)(a) An applicant who has been decertified in accordance with the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005 for a method analyte pair[an analysis category] or drinking water contaminant may request recertification in accordance with this section.

(b) The applicant for recertification shall pay the fee established in 401 KAR 8:050, Section 2[2(4)].

Section 3. Public Water System Laboratory. (1) A Public water system may establish a laboratory. Each laboratory shall be certified annually.

(2) Failure to achieve or maintain annual certification shall not relieve the public water system of the responsibility to report results of the required analyses from a certified laboratory.

Section 4. Requirements. Maintenance of certification shall require~~[the following]~~:

(1) Analysis. Analyses for drinking water contaminants shall be performed in accordance with the appropriate approved method established in 40 C.F.R. Subpart C, 141.21 through Appendix A;

(2) Submission of analysis results. The result of each analysis performed in a certified laboratory by or for a public water system shall be submitted to the cabinet by the tenth day of the month following the compliance period for which the analysis was performed and shall be submitted to the public water system as soon as possible. The public water system shall be responsible for this reporting requirement; and

(3) Proficiency Test[Performance—evaluation] sample. A Proficiency Test[performance evaluation (PE)] sample shall be analyzed for each method analyte pair[analysis category] or drinking water contaminant for which certification is requested, and the results shall be submitted to the cabinet at times established[specified] in the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005 not to exceed twice a year, unless additional results shall be required in accordance with the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005.

Section 5. Deviations. (1) Deviation from accepted practice established[specified] in the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005 listed on a report resulting from an

on-site inspection, shall be corrected.

(2) A written explanation of the deviation and action taken to correct it shall be submitted to the cabinet within thirty (30) days of the issuance of the inspection report.

Section 6. Violations. (1) A laboratory shall report any violation of a maximum contaminant level or other violation requiring Tier 1 public notification pursuant to 401 KAR 8:075[8:070] to the public water system and the cabinet within twenty-four (24) hours of sample analysis, in accordance with 40 C.F.R. 141.201-141.211, Appendices A and B.

(2) A public water system shall begin check sampling within twenty-four (24) hours of notification of a violation.

(3) Emergency provision. A laboratory shall make provisions to receive and test samples twenty-four (24) hours a day during an emergency.

Section 7. Right of Entry. A certified laboratory shall permit the cabinet to conduct on-site surveys during normal business hours, without prior notification.

Section 8. Revocation of certification and downgrading of certification shall be in accordance with the procedures established in the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005. (1) A laboratory that has been notified of a change of certification shall, within seventy-two (72) hours, notify the public water systems that the laboratory serves of the change in certification status and any impact that change could have on the public water system.

(2) A laboratory may provide monitoring reports by subcontracting with a laboratory that is certified by the cabinet.

Section 9. Recognition of an Out-of-state Laboratory. (1) The cabinet shall recognize a laboratory located outside Kentucky upon submission of proof by the laboratory that it is certified by the U.S. Environmental Protection Agency, or by a state having primary enforcement responsibility for the provisions of the Safe Drinking Water Act, 42 U.S.C. 300f through 300j-26, or that is certified pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f through 300j-26, requirements.

(2) A water system located in Kentucky that has entered into a contract with a certified out-of-state laboratory shall comply with time intervals and capabilities established in the Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005, Publication EPA 815-R-05-004, January 2005.

(3) If on-site inspection shall be conducted for certification of an out-of-state laboratory, the laboratory shall bear the cost.

Section 10. Incorporation by Reference. (1) "Manual for the Certification of Laboratories Analyzing Drinking Water; Criteria and Procedures Quality Assurance; Fifth Edition, January 2005", Publication EPA 815-R-05-004, January 2005, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the

public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-341, fax (502) 564-9003, email water @ky.gov (Subject line: "Chapter 8 regulations").

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for certified laboratories that carry out necessary analysis of drinking water.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure that Kentucky has an adequate number of certified laboratories to conduct analysis for public water systems.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 authorizes the cabinet to enforce regulations for the purification of drinking water for public and semipublic use. 40 C.F.R. 142.10(3) requires states to have a laboratory certification program in order to maintain primacy for implementation and enforcement of the federal Safe Drinking Water Act.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation allows the cabinet to certify laboratories to carry out necessary analysis of drinking water.

(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 remove an outdated Executive Order and clarify materials incorporated by reference, change "Performance Evaluation" to "Proficiency Test", and "analysis category" to "method analyte pair". These changes clarify testing requirements and align them with current practice.

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation clarify testing requirements and align the regulation with current practice.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 authorizes the cabinet to enforce regulations for the purification of drinking water for public and semipublic use. 40 C.F.R. 142.10(3) requires states to have a program for laboratory certification in order to maintain primary implementation and enforcement authority for the Safe Drinking Water Act. The amendments to this administrative regulation allow certified laboratories to use the latest analytical techniques.

(d) How the amendment will assist in the effective administration of the statutes: Public water systems and certified laboratories will be able to use the latest analytical techniques and tailor monitoring to achieve the most effective means of compliance.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently there are forty-six (46) certified microbiology laboratories and fourteen (14) certified chemistry laboratories in Kentucky. Twenty-seven (27) microbiology and three (3) chemistry laboratories are municipally owned. Outside Kentucky, there are five (5) certified microbiology laboratories and twenty-four (24) certified chemistry laboratories. These laboratories serve 436 public, 52 semipublic, and 5 bottled water systems in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this

administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendments align the regulation with current practice. No additional actions will be required for the regulated entities to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendments to this administrative regulation will not increase costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public water systems and certified laboratories will be able to use the latest analytical techniques and tailor monitoring to achieve the most effective means of compliance.

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

(a) Initially: The amendments to this administrative regulation will not increase costs.

(b) On a continuing basis: The amendments to this administrative regulation will not increase costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding sources will not change. Funding sources are a combination of general funds, fees, and federal funds provided to support Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Yes. A laboratory may be certified for a single category, a group of categories, or for all categories.

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 applies to certified laboratories that perform analysis for contaminants in public and semipublic water systems. Public water systems are often owned by city governments or organized under county governments. Other entities, such as associations, privately-owned or investor-owned entities, may have a water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100 authorizes the cabinet to enforce regulations for the purification of drinking water for public and semipublic use. 40 C.F.R. 142.10(3) requires that the cabinet have a laboratory certification program as a condition of maintaining primary implementation and enforcement authority for the Safe Drinking Water Act.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not result in additional

costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not result in additional costs.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This administrative regulation will not have any additional fiscal impact.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. 142.10(3)

2. State compliance standards. KRS 224.10-110

3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. 142.10(3) requires states to have a laboratory certification program as a condition for maintaining primary implementation and enforcement authority for the Safe Drinking Water Act.

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, additional, or different requirements from the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment does not impose stricter standards, or additional or different responsibilities or requirements.

ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division of Water (Amendment)

401 KAR 8:075. Consumer confidence reports and public notification.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.151-141.155, 42 U.S.C. 300f-300j-26[~~EO 2008-507, 2008-534~~]

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110, 40 C.F.R. 141.151-141.155, 141.201-141.211, Appendix A, Appendix B, Appendix C, 42 U.S.C. 300f-300j-26[~~EO 2008-507, 2008-534~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110(2) and (3) require the secretary of the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use.[~~EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.~~] This administrative regulation establishes the requirements for consumer confidence reports and notification of the public if a public water system violates a provision of this administrative regulation. This administrative regulation establishes requirements more stringent than[~~different from~~] the federal regulation for submitting consumer confidence reports and certifications to the cabinet in enforceable timeframes. The federal regulation requires a consumer confidence report[reports] to be certified within three (3) months after it is mailed to the cabinet[~~at the same time the report is delivered to the customers, and the certification is required to be submitted to the cabinet within three (3) months~~]. This administrative regulation requires that the report and certification be delivered to the cabinet by July 1 of each year.

Section 1. Consumer Confidence Reports. (1) A community water system shall submit an annual consumer confidence report to its customers and to the cabinet in accordance with 40 C.F.R. 141 Subpart O, 141.151, 141.152, 141.153, 141.155, including Appendix A, and 141.154, except as established[~~provided~~] in

subsection (2) of this section.

(2) A copy of the annual report and certification required by 40 C.F.R. 141.155 shall be delivered to the cabinet and the system's customers by July 1 each year.

Section 2. Public Notification. The owner or operator of a public water system shall give public notice as established in 40 C.F.R. Subpart Q, 141.201 through 141.211, Appendix A, Appendix B, and Appendix C.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003, email water @ky.gov (Subject line: "Chapter 8 regulations").

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires public water systems to annually report to its customers information on the quality and nature of the water that the system is delivering to customers and the system's compliance with national primary drinking water regulations. This administrative regulation also requires public water systems to provide notice of a violation to the public in accordance with 40 C.F.R. 141.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to require public water systems to keep customers informed of issues related to the quality and nature of the water that customers are receiving, and to require notice to customers if the system violates drinking water standards. All states with delegated authority to implement and enforce the federal Safe Drinking Water Act must have compatible state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use. 40 C.F.R. 141 requires public water systems to provide reports regarding the quality and nature of the water it is delivering to its consumers, and to provide public notice of drinking water standard violations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation requires public water systems to provide consumer reports regarding the quality and nature of the water it delivers to its consumers, and public notice when drinking water standards are violated.

(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 consolidates language from 401 KAR 8:070 which is being repealed. The amendment does not change the

requirements of the existing regulations.

(b) The necessity of the amendment to this administrative regulation: The amendment consolidates language from 401 KAR 8:070 which is being repealed. The language must be maintained in regulation in order that public notice of drinking water violations will continue being issued in the manner required by the Safe Drinking Water Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use. 40 C.F.R. 141 requires public water systems to provide reports regarding the water it is delivering to its consumers, and to provide public notice of drinking water standard violations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains language from 401 KAR 8:070 which is being repealed, in order that public notice of drinking water violations will continue being issued in the manner required by the Safe Drinking Water Act.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to 436 public water systems.

(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 will not be required to take any additional actions 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): This amendment will not result in additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public water systems will have consistent regulations regarding consumer confidence reports and public notice of drinking water violations.

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

(a) Initially: This amendment will not result in further costs.

(b) On a continuing basis: This amendment will not result in further costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no change in funding to implement or enforce this amendment.

(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 require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Yes. The requirements of this administrative regulation differ based on the number of persons served by a public water system.

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 applies to 436 public water systems in Kentucky, which are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 40 C.F.R. 141, 42 U.S.C. 300f through 300j-26.

(3) Estimate the effect of this administrative regulation on the

expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any revenue.

(c) How much will it cost to administer this program for the first year? This amendment will not result in any additional costs.

(d) How much will it cost to administer this program for subsequent years? This amendment will not result in any additional costs.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This amendment will not result in any additional revenues or expenditures.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. 141 and 42 U.S.C. 300f through 300j-26

2. State compliance standards. KRS 224.10-100 and 224.10-110

3. Minimum or uniform standards contained in the federal mandate. The federal Safe Drinking Water Act and 40 C.F.R. 141 require public water systems to annually report to its customers information regarding the quality and nature of the water the system is delivering to the customer and the system's compliance with national primary drinking water regulations. 40 C.F.R. 141 also provides comprehensive requirements for public notification when drinking water standard violations occur.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? The regulation does not impose stricter requirements than the federal mandate regarding public notice of drinking water standard violations. Provisions related to the certification of consumer confidence reports to the cabinet are more stringent to ensure that reports are correctly distributed to a system's customers, and establishes the information regarding total organic compounds that must be included. 40 C.F.R. 141.155 requires consumer confidence reports to be certified within three (3) months after being mailed to the primacy agency. This administrative regulation requires that the report and certification be delivered to the cabinet by July 1 of each year. The requirements are clerical in nature and the cabinet considers the requirement that certification be received in the same time period to be reasonable.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The provisions related to the certification of consumer confidence reports to the cabinet are more stringent to ensure the reports are correctly distributed to the system's customers, and establishes the information regarding total organic compounds that must be included. This information was not addressed by the U.S. EPA in its regulation. These requirements are clerical in nature and do not impose a financial burden on the systems.

ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division of Water (Amendment)

401 KAR 8:100. Design, construction and approval of facilities and approval timetable for 401 KAR Chapter 8.

RELATES TO: KRS 151.634, 224.10-110[,—224.60-100],

322.020(1), 322.340, 40 C.F.R. 141[~~141.5, 141.110-111~~]

STATUTORY AUTHORITY: KRS 224.10-100[~~224.10-100(2)~~], 224.10-110, 224.10-220, 40 C.F.R. 141.5[, ~~141.110-111~~], 142.10, 142.16, 42 U.S.C. 300j-26

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110 (2), (3), and (4) require the cabinet to enforce administrative regulations promulgated by the secretary for the regulation and control, including construction and operation of facilities, of the purification of water for public and semipublic use. KRS 224.10-220 requires the cabinet to establish timetables for the issuance of all permits by the cabinet, except those permits for which a timetable is set out by statute. This administrative regulation establishes design plan requirements for the construction of new and expanded facilities that deliver potable water for public or semipublic use and establishes requirements for submitting plans and specifications for modifications to existing facilities and a timeline for cabinet review and approval or disapproval of plans. There is not a federal regulation that deals with this subject matter; therefore, this administrative regulation is not more stringent than federal requirements.

Section 1. Preliminary Engineering Report. (1) A preliminary engineering report for a proposed new facility or a modification to an existing facility shall be prepared by a professional engineer and submitted to the cabinet.

(a) Except as established in paragraph (b) of this subsection, a supplier or potential supplier of water shall submit the preliminary engineering report to the cabinet before entering into a financial commitment for or initiating construction of a new public water system or increasing the capacity of an existing public water system.

(b) A preliminary engineering report shall not be required for:

1. A semipublic treatment facility; or
2. Construction, extension, or improvement of a distribution system.

(c) The preliminary engineering report shall comply with 40 C.F.R. 141.5, Siting requirements.

(d) An applicant for a proposed new public water system or modification to an existing public water system shall not locate a proposed surface water intake five (5) miles or less downstream from the discharge of an existing wastewater treatment plant. The cabinet may issue a variance to the five (5) mile limitation established in this paragraph if the applicant demonstrates that the:

1. Water quality at the proposed intake located five (5) miles or less downstream of a wastewater treatment plant will not be significantly affected by the discharge from the wastewater treatment plant; and

2. The proposed new public water system or modification to an existing public water system has the capacity to treat the source water in order that finished water will be in compliance with 401 KAR Chapter 8.

(2) The preliminary engineering report shall include[~~contain the following information~~]:

(a) The name of the applicant and of the owner of the plant;

(b) A map that shows the location of the proposed facility;

(c) The proposed source of water and the quantity available, with the location of the intake or wellhead identified by latitude and longitude in degrees, minutes, and seconds;

(d) An analysis of the water from the proposed source for contaminants regulated pursuant to 401 KAR Chapter 8, performed by a certified laboratory;

(e) A detailed description of the proposed facility;

(f) A detailed flow diagram of the proposed facility;

(g) A demonstration that the intake or intakes comply with Section 1(d) of this administrative regulation;

(h)[(g)] Pilot study conclusions, if conducted; and

(i)[(h)] An operation plan, including:

1. Anticipated load;
2. Hours of operation;
3. Area served; and
4. Number and certification of operational staff.

(3) Preliminary engineering report approval.

(a) The preliminary engineering report shall be consistent with

the requirements of:

1. Recommended Standards for Water Works, 2012 Edition, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, 2012;

2. General Design Criteria for Surface and Ground Water Supplies, April 2010; and

3. Section 1(d) of this administrative regulation~~[the materials incorporated by reference in Section 9(a) – (c) of this administrative regulation]~~.

(b) Upon receipt and review of the preliminary engineering report, the cabinet shall either approve the preliminary engineering report or return it to the applicant for revision.

1. Final plans shall not be submitted until the preliminary engineering report has been approved.

2. Approval of the preliminary engineering report shall not constitute final approval for construction.

3. A proposed change in the preliminary engineering report shall be submitted to the cabinet and approved prior to incorporation in the final plans.

Section 2. Final Plans and Specifications. (1) Final plans and specifications for the construction or modification of a water treatment plant or a distribution facility shall be consistent with:

(a) Recommended Standards for Water Works, 2012 Edition, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, 2012;

(b) General Design Criteria for Surface and Ground Water Supplies, April 2010; and

(c) Section 1(d) of this administrative regulation~~[the materials incorporated by reference in Section 9(a) – (c) of this administrative regulation]~~.

(d)~~[(a)]~~ If a preliminary engineering report is required pursuant to Section 1 of this administrative regulation, the final plans and specifications shall be consistent with the approved preliminary engineering report.

(e)~~[(b)]~~ 1. Plans for the construction or modification of a public water system shall be submitted by the water system or shall be accompanied by a letter from the water system confirming that the water system has reviewed the plans, accepts the design, and has the capacity to and shall provide water service to the project.

2. A public water system that purchases water from another public water system shall submit a letter from the providing water system verifying the providing water system has the capacity and shall provide water service to the purchasing water system, including the proposed project if the project will result in:

a. Demand for water exceeding eighty-five (85) percent of the purchasers current purchase contract; or
b. Increased water demand by the purchaser by 10,000 gallons or more per day.

(c) Engineering plans and specifications shall:

1. Be submitted to the cabinet~~[- shall]~~

2. Be prepared by a professional engineer licensed in Kentucky~~[-]~~ and~~[shall]~~

3. Bear the engineer's seal, signature, and date of signature.

4.~~[4.]~~ Prior to the construction or modification of a public or semipublic water system, the following documents and fees shall be submitted to the cabinet:

a. Two (2)~~[Three (3)]~~ copies of the plans and specifications or changes thereto, one (1) of which shall be in an electronic format;

b. For construction or modification of a distribution system, a complete Construction Application for Drinking Water Distribution, DW-1, (8/2010) form;

c. For the construction or modification of a treatment facility, a completed Construction Application for Drinking Water Treatment, DW-2, (8/2010) form;

d. For construction or modification of a semi-public facility, a completed Construction Application for Small Groundwater and Semi-Public Systems, DW-3, (8/2010) form;

e. A map that shows the location of the proposed facility;

f. Hydraulic calculations;

g. Design data and supporting documents necessary for review

of the plans and specifications;

h. Chemical and microbiological analyses of a new raw water source if the plans and specifications are for a treatment facility; and

i. The fee required by 401 KAR 8:050.

5.~~[2.]~~ Construction or modification of a public or semipublic water system shall not begin until the plans and specifications have been approved by the cabinet in writing; ~~and~~~~[-]~~

6.~~[3.]~~ The front page of the plans shall identify the:

a. Public water system~~[- the]~~

b. Owner of the public water system~~[- the]~~

c. Public water system's location by city and county~~[-]~~ and~~[the]~~

d. Professional engineer preparing the plans.

(d) The cabinet's review of plans and specifications shall be limited to sanitary features of design and other features of public health significance and shall not include a review of structural, mechanical, or electrical design.

(e) The plans shall be drawn to scale and shall be accompanied by specifications, so as to allow a comprehensive engineering review, and shall include~~[the following]~~:

1. Plan and sectional views with all necessary dimensions; and

2. A piping diagram in sufficient detail to allow a hydraulic analysis of the system.

(2) Approval of final plans.

(a) Upon receipt and review of final plans and specifications, the cabinet shall either approve the final plans and specifications in writing or return them to the applicant for revision.

(b) If approved, one (1) set of approved plans and specifications shall be returned to the engineer, and one (1) set shall be returned to the water system.

Section 3. Construction. (1)(a) During construction, a set of approved plans and specifications shall be available at the job site.

(b) Construction shall be performed in accordance with the approved plans and specifications.

(2) If the cabinet's representative observes work being performed in a manner that does not conform to the approved plans and specifications, the cabinet shall notify the owner in writing.

(3) Unless construction begins within two (2) years from the date of approval of the final plans and specifications, the approval shall expire.

Section 4. Final Approval of Facility. (1) Upon completion of construction, a professional engineer shall certify in writing that the project has been completed in accordance with the approved plans and specifications.

(2) A proposed change to the approved plans affecting sanitary features of design shall be submitted to the cabinet for approval in accordance with Section 2 of this administrative regulation.

(3) The public water system shall not implement a change to the approved plans without the prior written approval of the cabinet.

Section 5. Modifications and Extension of Service. The cabinet shall not approve a modification of a public water system or an extension of service to one (1) or more customers if the modification or extension of service is likely to result in the water system's inability to supply consistent water service in compliance with 401 KAR 8:010 through 8:510~~[8:600]~~.

Section 6. Treatment Techniques. A public water system shall comply with the treatment technique requirements established in 40 C.F.R. 141.110~~[141.10]~~ through 141.111, General requirements and treatment techniques for acrylamide and epichlorohydrin.

Section 7. Variance. If plans and specifications deviate from the requirements of this administrative regulation, a written request for a variance shall be submitted with the plans and specifications or preliminary plans.

(1) The variance request shall include:

(a) A description of the reason for the variance request;

(b) The basis for the alternate plans or specifications, which

shall be supported by current engineering practices; and

(c) Other information necessary to support the variance.[:]

(2) A variance shall not be approved if it will not protect public health, water quality, and the environment.

Section 8. Approval Timetables. (1) A complete request for approval shall contain all the administrative and technical information required pursuant to 401 KAR Chapter 8, KRS Chapter 224, and 40 C.F.R. 141 and 142.

(2)(a) Except for the projects established in subsection (2)(b) of this section, the cabinet shall issue its final decision on a request for preliminary or final approval of plans and specification reviews within forty-five (45) calendar days of receipt of the complete request for approval.

(b) The cabinet shall issue its final decision on a request for a preliminary or final approval of plans and specification reviews for construction or modification of a water treatment plant within ninety (90) calendar days of receipt of the complete request for approval.

(3) Timetable Extensions.

(a) If two (2) or more permits for a facility, site, source, construction project, or other entity are required from the cabinet, the cabinet may coordinate the issuance of the permits, establishing different review and action times that shall be accomplished by the cabinet or applicant.

(b) If the permits are coordinated, the cabinet shall notify the applicant and indicate the time frames under which the intermediate and final permit actions shall be accomplished.

(c) The established time frame for final action shall not exceed the last date for action pursuant to 401 KAR Chapter 8, KRS Chapter 224, and 40 C.F.R. 141 and 142, based on all applications being considered and the filing date of each application.

Section 9[8]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Recommended Standards for Water Works, 2012 Edition, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers", 2012[Great Lakes – Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers "Recommended Standards for Water Works", 2007];

(b) "General Design Criteria for Surface and Ground Water Supplies", April 2010;

(c)[~~"Water Policy Memorandum number 84-02, General Guidelines for Conducting Stream Studies for Wastewater Discharges Proposed within Five Miles Upstream from Public Water Supply Sources, or for the Location of Public Water Supply Intakes within Five Miles Downstream from Wastewater Discharges", 1984;~~

(d)] "Construction Application for Drinking Water Distribution", DW-1, 8/2010;

(d)[(e)] "Construction Application for Drinking Water Treatment", DW-2, 8/2010; and

(e)[(f)] "Construction Application for Small Groundwater and Semi-Public Systems", DW-3, 8/2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) "Recommended Standards for Water Works, 2012 Edition, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers", 2012, may also be obtained at <http://10statesstandards.com/waterrev2012.pdf>.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency

in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003, email water@ky.gov. (Subject line: "Chapter 8 regulations")

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person Carole J. Catalfo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for public and semipublic water systems to submit preliminary and final construction plans to the cabinet for approval, and establishes timeframes for approvals.

(b) The necessity of this administrative regulation: This administrative regulation allows the cabinet to approve or disapprove the plans and specifications for proper construction of public and semipublic water systems, and sets approval and disapproval timeframes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 requires the cabinet to review and approve or disapprove plans for the construction or modification of water treatment and distribution systems. KRS 224.10-220 requires the cabinet to prescribe timetables for the issuance of all permits by the cabinet, except those permits for which a timetable is set out by statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes procedures and guidelines to allow the cabinet to review, approve, or disapprove plans and specifications for proper construction and modification of public and semipublic water treatment plants and distribution systems.

(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 incorporates the language of 401 KAR 8:101, which is being repealed, that establishes timeframes for cabinet approval or disapproval of water treatment plants and distribution systems. The amendment increases the amount of time for cabinet approval of plans for system construction and modification from forty-five (45) to ninety (90) days. The amendment corrects references to C.F.R.s, updates the "General Design Criteria for Surface and Ground Water Supplies" to its most recent version, updates references to Materials Incorporated By Reference to make them consistent across 401 KAR Chapter 8, and reduces the number of plans required to be submitted to the cabinet while allowing an electronic version of those plans. The amendment also incorporates the updated language of the "Five Mile Policy" into the regulation rather than incorporation by reference.

(b) The necessity of the amendment to this administrative regulation: This amendment preserves timelines for cabinet approval or disapproval of water treatment plants and distribution systems and updates one document incorporated by reference. The updated document allows the professional engineering community to use the most current design guidelines for the construction or expansion of water treatment plants and distribution systems. The amendment also reduces the number of plans required to be submitted to the cabinet while allowing an

electronic version of those plans.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 requires the cabinet to review and approve or disapprove plans for the construction or modification of water treatment and distribution systems. KRS 224.10-220 requires the cabinet to prescribe timetables for the issuance of all permits by the cabinet, except those permits for which a timetable is set out by statute.

(d) How the amendment will assist in the effective administration of the statutes: The amendments maintain timetables for the cabinet to review and approve or disapprove plans for the construction or modification of water treatment and distribution systems. The amendments allow the professional engineering community to use the most current design guidelines for the construction or modification of water treatment plants and distribution systems. The amendments also reduce the number of plans to be submitted to the cabinet and allows an electronic version for ease and convenience.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently there are 436 public, 52 semipublic, and 5 bottled water systems in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment requires public water systems and engineers to use the latest edition of "General Design Criteria for Surface and Ground Water Supplies" when designing new or modified water treatment and distribution facilities, and submit one (1) hard copy and one (1) electronic copy of plans, rather than three (3) hard copies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendments will not affect costs of compliance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public water systems and engineers will use current design criteria for new or modified water treatment and distribution facilities, submit fewer plans to the cabinet, and have an established time frame for cabinet review and approval or disapproval of plans and specifications.

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

(a) Initially: The amendment will not result in additional costs.

(b) On a continuing basis: The amendment will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for the implementation and enforcement of this administrative regulation is federal funding under the Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

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

(9) TIERING: Is tiering applied? Yes. This administrative regulation makes distinctions between public and semipublic water systems. This is not a change from the current 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? This regulation applies to public and semipublic water systems. Public water

systems are often owned by city governments or organized under county governments.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 224.10-220, 40 C.F.R. 141, 142, 42 U.S.C. 300J-26

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue for local governments.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue for local governments.

(c) How much will it cost to administer this program for the first year? This regulation will not result in additional costs.

(d) How much will it cost to administer this program for subsequent years? This regulation will not result in additional costs.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This regulation will not result in additional costs or revenue.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. 141.5, 142.10, 142.16

2. State compliance standards. KRS 224.10-100, 224.10-110, 224.10-220

3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. 141.5 requires public water systems to notify the state and avoid locating a new or modified facility from sites that are at significant risk from earthquakes, floods, or other disasters which could cause a public water system to breakdown, or within a floodplain of a 100-year flood. 40 C.F.R. 142.10(b)(5) requires states with primary authority to implement and enforce the federal Safe Drinking Water Act to enact regulations that assure that the design and construction of new or substantially modified public water system facilities will be capable of compliance with the State primary drinking water regulations. 40 C.F.R. 142.16(b)(1) requires states with primary authority to implement and enforce the federal Safe Drinking Water Act to enact regulations that include enforceable design and operating criteria for each filtration treatment technology allowed or a procedure for establishing design and operating conditions on a system-by-system basis.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No. The federal regulations provide general guidance, while this regulation provides specific requirements and a timeline for submission and approval of plans.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal regulations provide general guidance, while this regulation provides specific, but not stricter, requirements and a timeline for submission and approval of plans.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water
(Amendment)

401 KAR 8:250. Inorganic and organic chemical sampling, analytical techniques,[and] maximum contaminant levels, radionuclides, and secondary standards.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.142, 143[141.11, 141.23, 141.24, 141.40, 141.41, 141.50, 141.51, 141.61, 141.62, EO-2009-538]

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110(2), 40 C.F.R. 141.142, 143[141.11, 141.23, 141.24, 141.40, 141.41, 141.50, 141.51, 141.61, 141.62, 42 U.S.C. 300f-300j-26, EO-2009-538]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110(2) requires the cabinet to enforce administrative regulations promulgated by the secretary for the regulation and control of the purification of water for public and semipublic use.[EO-2009-538, effective June 12, 2009, establishes 2 the new Energy and Environment Cabinet.] This administrative regulation establishes sampling and analytical requirements for certain inorganic and organic chemicals and sets maximum contaminant levels for those chemicals which, if exceeded, may affect public health. This administrative regulation establishes the requirements for sampling and testing procedures for radionuclides and establishes maximum contaminant levels for safe drinking water. This administrative regulation establishes maximum contaminant levels and requirements for the sampling and testing for contaminants that do not have a direct impact on the health of consumers, but may discourage the utilization of drinking water or discredit the supplier. Provisions for these contaminants are referred to as "secondary standards". This administrative regulation establishes sampling schedules and requires public water systems to modify treatment to comply with maximum levels established by federal regulation. Federal regulations leave monitoring frequency and consequences for exceeding secondary standards to primacy agency discretion.

Section 1. Inorganic and Organic Chemical Sampling, Analytical Techniques, and Maximum Contaminant Levels. (1) A public water system shall meet the requirements for inorganic chemicals as established in[accordance with] 40 C.F.R. 141.11, 141.23, 141.41, 141.51, and 141.62.

(2)[Section 2.] A public water system shall meet the requirements for organic chemicals as established in[accordance with] 40 C.F.R. 141.24, 141.50, and 141.61.

Section 2. Radionuclides. A community water system shall meet the requirements for radionuclides as established in 40 C.F.R. 141.25, 141.26, 141.55, and 141.66.

Section 3. Sampling, Analysis, Reporting, and Treatment for Secondary Contaminants. (1) A public water system that treats groundwater or surface water shall sample for secondary contaminants as established in 40 C.F.R. 143.1 through 143.4.

(a) An analysis for secondary contaminants shall be performed if a new source of water supply is proposed to the cabinet for preliminary approval pursuant to 401 KAR 8:100, Section 1.

(b) Excessive amounts of these contaminants or excessive costs for removal of these contaminants shall be grounds for rejection of the proposed source of water.

(2)(a) An existing public water system that treats groundwater or surface water shall sample for, analyze, and report the secondary contaminants listed in 40 C.F.R. 143.3 annually, and if consumer complaints indicate the presence of one (1) or more of these contaminants.

(b) Treatment shall be adequate to assure that the secondary contaminant level does not exceed the maximum level limits established in 40 C.F.R. 143.3.

(3) A sample shall be taken from each entry point to the distribution system.

(4) If a secondary maximum contaminant level established in

40 C.F.R. 143.3 is exceeded by a supplier of water, the cabinet may direct that supplier to modify the treatment procedure or to locate a more suitable source of water if the exceeded contaminant level results in a violation of the primary drinking water standards or in consumer complaints.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-341, fax (502) 564-900, email water @ky.gov (Subject line: "Chapter 8 regulations").

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes sampling and analytical requirements for inorganic and organic chemicals and sets maximum contaminant levels for those chemicals which, if exceeded, may affect public health. This administrative regulation establishes the requirements for sampling and testing procedures for radionuclides and establishes maximum contaminant levels for safe drinking water. This administrative regulation establishes maximum contaminant levels and requirements for the sampling and testing for contaminants that do not have a direct impact on the health of consumers, but may discourage the utilization of drinking water or discredit the supplier. Provisions for these contaminants are referred to as "secondary standards". This administrative regulation establishes sampling schedules and requires public water systems to modify treatment to comply with maximum levels established by the federal regulation. Federal regulations leave monitoring frequency and consequences for exceeding secondary standards to primacy agency discretion.

(b) The necessity of this administrative regulation: This administrative regulation allows the cabinet to assure the chemical purity of drinking water, controls radionuclides which is necessary to protect public health, and establishes requirements for monitoring and analyzing secondary contaminants in public water systems. All states with Safe Drinking Water Act delegation must have compatible state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Monitoring drinking water for chemical purity is essential to protect public health. Though secondary contaminants may not pose a public health threat, they may make water consumption unpleasant and cause consumers to avoid using the public water system.

(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 consolidates the language from 401 KAR 8:550 and 8:600, which are being repealed, into one comprehensive regulation. The substance of the three regulations has not been altered.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation consolidates the language of three regulations, two of which are being repealed, which are necessary to maintain state primacy over implementation and enforcement of the Safe Drinking Water Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use, and for the construction and operation of water treatment systems and distribution systems.

(d) How the amendment will assist in the effective administration of the statutes: Consolidating the language of the two regulations being repealed into one comprehensive regulation will streamline regulations for convenience and ease.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects 436 public, 52 semipublic, and 5 bottled water systems in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment consolidates three regulations into one without any changes to the substance of the regulations. Regulated entities will not be required to take any additional steps to comply.

(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 result from the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The language of three regulations is being consolidated into one to streamline the regulations for ease and convenience. The federal and state monitoring, analytical, and treatment requirements remain consistent.

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

(a) Initially: The amendment will not result in additional costs.

(b) On a continuing basis: The amendment will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The cabinet uses federal funds to implement the provisions of the Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding will be required.

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

(9) TIERING: Is tiering applied? Yes. The regulation differs in requirements for public, semipublic, or community, non-community, and transient non-community water systems, and the number of persons served.

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 applies in part to public and semipublic water systems which are often owned by city governments or organized under county governments. Other districts may, in some cases, have a

water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 10-110, 40 C.F.R. 141, 142, 143, and 42 U.S.C. 300f through 300j-26.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not result in additional costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not result in additional costs.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This administrative regulation will not result in additional revenue or costs.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. 141, 142, 143, 42 U.S.C. 300f – 300j-26

2. State compliance standards. KRS 224.10-100(28), 224.10-110

3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. 141.11, 141.23, 141.41, 141.51, 141.62, 141.24, 141.50 and 141.61 establish analytical techniques, monitoring requirements, and maximum contaminant levels for organic and inorganic chemicals. 40 C.F.R. 141.25, 141.26, 141.55, and 141.66 identify required analytical techniques, monitoring, and maximum contaminant levels for radionuclides. 40 C.F.R. 143 establishes guidelines for public water systems and states to monitor secondary contaminants.

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, additional, or different responsibilities or requirements than those required by the federal mandate. The administrative regulation specifies monitoring frequencies and consequences for exceeding contaminant levels left to the discretion of the state primacy agency.

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

TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Carriers (Amendment)

601 KAR 1:113. Transportation Network Company.

RELATES TO: KRS 17.500, 61.878(1)(c)1., 61.930(6), 61.931(6), 186.050, 186.281, 189.290, 189A.010, 281.010, 281.600, 281.630, 281.6301, 281.631, 281.640, 281.650, 281.655, 281.656, 281.912, 281.990, 304.3-070, 304.10-010-304.10-070, 304.20-020, 304.39-020(2), 304.39-040, 304.39-320, Chapter 365, 532.060

STATUTORY AUTHORITY: KRS 281.600, 281.630, 281.655
NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Department of Vehicle Regulation to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor carriers. KRS 281.630 authorizes the department to establish requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to establish standards for pre-trip acceptance policies and prearranged ride liability policies for transportation network companies. This administrative regulation establishes the standards and application requirements for a transportation network company to operate in Kentucky.

Section 1. Definitions. (1) "Basic reparation benefits" is defined by KRS 304.39-020(2).

(2) "Certificate" is defined by KRS 281.010(8).

(3) "Driver" is defined by KRS 281.010(20).

(4) "Mobile application" is defined by KRS 281.010(30).

(5) "Motor carrier" is defined by KRS 281.010(31).

(6) "Motor carrier vehicle" is defined by KRS 281.010(32).

(7) "Operating Authority" means the authority granted to operate as a TNC in the commonwealth through the application process with the department.

(8) "Passenger" is defined by KRS 281.010(36).

(9) "Personal information" is defined by KRS 61.931(6).

(10) "Prearranged ride" is defined by KRS 281.010(39).

(11) "Pre-trip acceptance liability policy" is defined by KRS 281.010(40).

(12) "Regular seat" is defined by KRS 281.010(44).

(13) "Street hail" is defined by KRS 281.010(45).

(14) "Transportation network company" or "TNC" is defined by KRS 281.010(51).

(15) "Transportation network company driver" or "TNC driver" is defined by KRS 281.010(53).

(16) "Transportation network company service" or "TNC service" is defined by KRS 281.010(54).

(17) "Transportation network company vehicle" or "TNC vehicle" is defined by KRS 281.010(55).

(18) "Underinsured vehicle coverage" is defined by KRS 304.39-320(1).

(19) "Uninsured vehicle coverage" is defined by KRS 304.20-020(2).

Section 2. Application and Renewal. (1) A TNC shall register as a business organization with the Kentucky Secretary of State.

(2) The department may waive the filing of the certificate of assumed name if a TNC:

(a) Demonstrates compliance with the relevant provisions of KRS Chapter 365;

(b) Certifies in writing to the department that Kentucky law either prohibits or does not require the filing; and

(c) States the reasons in writing why the filing is not required.

(3) In order to apply for a certificate to operate, a TNC shall submit directly to the Division of Motor Carriers:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(4) A TNC with fifty-one (51) or more vehicles may qualify vehicles to operate by providing to the department through an online data access point:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) A calendar year bulk qualification fee pursuant to the following schedule:

1. \$3,000 for fifty-one (51) to 100 vehicles;

2. \$4,500 for 101 to 150 vehicles;

3. \$6,000 for 151 to 200 vehicles;

4. \$7,500 for 201 to 250 vehicles;

5. \$9,000 for 251 to 300 vehicles;

6. \$10,500 for 301 to 350 vehicles;

7. \$12,000 for 351 to 400 vehicles;

8. \$15,000 for 401 to 500 vehicles; and

9. \$22,500 for 501 or more vehicles.

(5) A TNC shall annually submit the following to the Division of Motor Carriers to renew a certificate:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605;

(b) A certificate renewal fee of \$250 pursuant to KRS 281.630(4)(d); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(6) If a TNC elects to use the bulk vehicle registration payment option in the TNC's initial or renewal TNC application, the TNC shall not be required to submit additional vehicle qualification information and fees to the Division of Motor Carriers in connection with vehicles that are added during the duration of the period for which the bulk payment was made.

(7) A TNC shall pay a renewal bulk fee by December 15 of each calendar year.

(8) A TNC vehicle shall be added to the TNC's current list by submitting the following to the Division of Motor Carriers:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605; and

(b) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(9) An application shall be submitted electronically, by mail, or by hand delivery.

(10) Operating authority obtained pursuant to this section shall not be transferable.

(11)(a) The TNC shall submit the following documents if submitting an application for certificate, annual renewal, or adding a driver during the year:

1. An affidavit from the corporate officer in charge of Kentucky operations certifying that the national criminal background check of TNC drivers established in KRS 281.630 and 281.6301 shall be completed prior to allowing the TNC driver to accept rides through the TNC mobile application; and

2. One (1) copy of the current contractual agreement between the TNC and TNC drivers.

(b) A deficient application shall be returned to the applicant with no formal action taken by the department.

Section 3. Demonstration of Financial Responsibility and Insurance. (1) A TNC shall maintain primary automobile insurance that:

(a) Recognizes that a driver is a TNC driver or using a vehicle to transport passengers for compensation; and

(b) Provides insurance coverage for a TNC driver who is:

1. Logged on to the TNC's mobile application; or

2. Engaged in a prearranged ride.

(2) The following pre-trip acceptance liability policy insurance coverage requirements shall apply if a TNC driver is logged on to the TNC's mobile application and available to receive transportation requests but not engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(12);

(b) Basic reparation benefits in accordance with KRS 304.39-020;

(c) Uninsured vehicle coverage in accordance with KRS 304.20-020; and

(d) Underinsured vehicle coverage in accordance with KRS 304.39-320.

(3) The pre-trip acceptance liability policy insurance coverage requirements of KRS 281.655(12) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(4) The following automobile insurance requirements shall apply while a TNC driver is engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(4);

(b) Basic reparation benefits in accordance with KRS 304.39-020;

(c) Uninsured vehicle coverage in accordance with KRS 304.20-020; and

(d) Underinsured vehicle coverage in accordance with KRS 304.39-320.

(5) The prearranged ride liability insurance coverage requirements of KRS 281.655(4) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(6) If the insurance maintained by a TNC driver has lapsed or does not provide the required coverage, the TNC shall provide the required insurance coverage beginning with the first dollar of a claim. The TNC shall have the duty to defend a claim for damages.

(7) Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer or policy first denying a claim.

(8) The insurance required by this section shall be placed with an insurer licensed pursuant to KRS 304.3-070, or with a surplus lines insurer eligible under KRS 304.10-010 through 304.10-070.

(9) A TNC driver shall carry proof of insurance coverage satisfying KRS Chapter 304, KRS 281.655, and this administrative regulation during his or her use of a vehicle in connection with a TNC's mobile application. In the event of an accident, and upon request, a TNC driver shall provide this insurance coverage information directly to interested parties, automobile insurers, and investigating police officers.

(10) A TNC driver shall disclose directly to interested parties, automobile insurers, the department, and investigating police officers, whether or not he or she was logged on to the TNC's mobile application or on a prearranged ride at the time of an accident.

Section 4. Insurance Exclusions. (1) A Kentucky automobile insurer may exclude the following coverage under a TNC driver's insurance policy for loss or injury that occurs while a TNC driver is logged on to a TNC's mobile application or while a TNC driver provides a prearranged ride:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage as established in KRS Chapter 304;

(c) Uninsured and underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

(2) Nothing in this administrative regulation shall require a personal automobile insurer to provide coverage while a driver is:

(a) Logged on to the TNC mobile application;

(b) Engaged in a prearranged ride; or

(c) Using a vehicle to transport passengers for compensation.

(3) Nothing in this administrative regulation shall preclude an insurer from providing coverage for the TNC driver's vehicle.

(4) An automobile insurer whose policy excludes coverage for a TNC vehicle or TNC driver shall have no duty to defend or indemnify a claim for personal or property damages.

(5) An automobile insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver.

(6) In a claims coverage investigation, the TNC and an insurer potentially providing coverage shall cooperate to facilitate the exchange of relevant information with directly involved parties.

(7) Information relevant to a claims coverage situation shall include:

(a) The name of the insurer or potential insurer of the TNC driver;

(b) The precise times the TNC driver logged off and on the

TNC mobile application in the twelve (12) hour period immediately before and after the incident; and

(c) A complete description of the insurance coverage including the exclusions and limits.

Section 5. Vehicles. (1) A vehicle used by a driver for TNC services shall be qualified by the department to operate by submitting a completed Transportation Network Company Authority Application, TC 95-627 and submitting the fees required in Section 2 of this administrative regulation.

(2) The TNC shall ensure that the vehicles used by TNC drivers to transport passengers shall be subject to an annual inspection ~~by a mechanic approved by an automotive technician who holds a valid automotive service excellence (A.S.E.) certification from the National Institute for Automotive Service Excellence~~.

(3) The annual inspection shall be completed on the vehicle inspection form provided in Transportation Network Company Authority Application, TC 95-627, or ~~a[n equivalent]~~ vehicle inspection form provided by the TNC within thirty (30) days of the qualification of a vehicle for TNC services.

(4) A TNC shall collect and maintain information on the vehicles being used to provide service by TNC drivers including:

(a) The VIN and license plate number; and

(b) Records of official vehicle inspections by the automotive technician.

(5) Records of vehicle inspection and VIN and license plate numbers shall be kept by the TNC for a minimum of three (3) years from the date of inspection, and the TNC shall make the records available to the department or its representative on request. The information and records may be submitted as personal or proprietary information pursuant to KRS 61.878(1)(c)1 and 61.931(6).

(6) A vehicle used to provide TNC services shall be readily identifiable by the following:

(a) A company specific emblem or decal affixed to the front windshield on the passenger side of the vehicle provided by the TNC; and

(b) An electronic copy of the current TNC certificate.

(7) A driver who is no longer providing TNC service shall destroy or return the decal or emblem to the TNC.

(8) A TNC shall ensure that the vehicles used by drivers to provide TNC services shall:

(a) Have at least four (4) doors; and

(b) Be designed to carry no more than eight (8) persons including the driver; and

~~(c) Be no more than ten (10) model years old with an odometer reading of less than 200,000 miles~~.

Section 6. TNC Drivers. (1) A TNC shall require each driver to undergo a national criminal background check before providing TNC services pursuant to KRS 281.6301.

(2) The TNC shall certify the criminal background check during the application process established in Section 2 of this administrative regulation. The national criminal background check shall be either:

(a) A comprehensive background check using fingerprint analysis; or

(b) An individual analysis using a social security number.

(3) The analysis required in subsection (1) of this section shall be conducted by a business or firm engaged in determining criminal background history.

(4) A TNC shall also require that each TNC driver:

(a) Is at least twenty-one (21) years old;

(b) Is the owner or lessee of the TNC vehicle or has a statement from the registered owner authorizing the use of the vehicle for TNC services pursuant to KRS 281.631;

(c) Is listed as an insured of the TNC vehicle;

(d) Has a valid state-issued driver's license and vehicle registration;

(e) Has personal vehicle insurance coverage as established in Section 3 of this administrative regulation;

(f) Has completed an annual driver safety training course

approved by the department;

(g) Provides a written or electronic affirmation that he or she is fit and able to operate a motor vehicle to provide TNC services; and

(h) Is in compliance with applicable state law and local ordinances related to the operation of a motor vehicle.

(5) A current list of drivers shall be kept on file with the TNC and made available for inspection by the department on request. A TNC driver's electronic file shall include the following:

(a) A current driving history record to be updated annually;

(b) The current address of the driver;

(c) A copy of a valid state-issued driver's license and the operator's license number;

(d) Proof of his or her personal vehicle insurance coverage;

(e) Proof of personal vehicle registration;

(f) Proof of the written or electronic affirmation that a TNC driver is fit and able to operate a motor vehicle to provide TNC services;

(g) Verification of the criminal background check required in subsection (1) of this section;

(h) Records indicating if a driver has refused to accept a prearranged ride and the reason for doing so;

(i) Records of complaints against a driver; and

(j) A copy of the most current vehicle inspection.

Section 7. Passenger Service. (1) A TNC shall adopt a policy of non-discrimination based on the following:

(a) Destination;

(b) Race or color;

(c) National origin;

(e) Religious belief or affiliation;

(f) Sex and sexual orientation or identity;

(g) Disability;

(h) Age; and

(i) The presence of a passenger's service animal.

(2) A TNC shall notify TNC drivers of the adopted policy of non-discrimination established in subsection (1) of this section.

(3) After acceptance, a TNC driver may refuse to transport a passenger who is acting in an unlawful, disorderly, or endangering manner but shall comply with the non-discriminatory policy in subsection (1) of this section. A driver may also refuse to transport a passenger with a service animal if the driver has a documented medical allergy.

(4) A TNC driver shall not transport a passenger under the age of fourteen (14) unless accompanied by a person over the age of eighteen (18).

(5) A TNC shall establish policies regarding TNC driver behavior that shall include the following prohibitions:

(a) Being under the influence of alcohol or another substance or combination of substances that impair the driving ability while providing TNC services;

(b) Accepting a street hail by a potential rider;

(c) Directly soliciting a passenger or responding to a direct solicitation; and

(d) Providing services for cash.

(6) A driver shall immediately report the following to the driver's affiliated TNC:

(a) A refusal to transport a passenger and the reasons for the refusal within forty-eight (48) hours after the refusal if the refusal occurred after the ride had been accepted by the driver;

(b) Information regarding a driving citation, incident, or accident within twenty-four (24) hours after the event; or

(c) Information regarding a conviction within twenty-four (24) hours.

(7) A TNC shall provide the following information to the public on its Web site and mobile device application software:

(a) A schedule of its rates or the method used to calculate rates and peak pricing; and

(b) Information indicating a zero tolerance policy related to drug and alcohol usage by its drivers while performing TNC services and a passenger support telephone number or email address where a suspected violation may be immediately reported.

(8) A TNC shall provide the following information to a person

requesting a ride through its mobile application:

(a) The expected cost of the trip if requested by a potential passenger;

(b) The first name and a photograph of the TNC driver accepting the ride request; and

(c) A photograph or description, including license plate number, of the vehicle that will be used for the ride.

(9) At the completion of the prearranged ride, a TNC shall electronically provide the passenger with a receipt showing:

(a) The point of origin and destination of the ride;

(b) The duration and distance of the ride;

(c) The cost of the ride broken down into base fare and additional charges; and

(d) The driver's first name.

Section 8. Terms of Service. (1) The TNC shall not require a hold harmless or indemnification clause in the terms of service for a TNC driver or passenger that may be used to evade the insurance requirements of this administrative regulation and KRS Chapter 281.

(2) A TNC shall not disclose to a third party the personally identifiable information of a user of the TNC's mobile application unless:

(a) The TNC obtains the user's consent to disclose personally identifiable information;

(b) The disclosure is required to comply with a legal obligation; or

(c) The disclosure is required to protect or defend the terms of use of the service or to investigate violations of the terms of use.

(3) A TNC may disclose a passenger's name and telephone number to the TNC driver in order to facilitate correct identification of the passenger by the driver or to facilitate communication between the passenger and the driver.

Section 9. Penalties. (1) A TNC that operates in violation of the requirements of this administrative regulation shall be fined \$200 pursuant to KRS 281.990(1).

(2) A TNC that operates in violation of the terms of its certificate or permit or operates without a valid permit shall be fined \$500 per occurrence pursuant to KRS 281.990(2).

(3) A TNC that fails to produce requested records and information pursuant to KRS 281.820 within forty-eight (48) hours of the request by the department shall be fined \$200.

(4) A TNC shall be responsible for an affiliated TNC driver's failure to comply with this administrative regulation if the driver's violation has been previously reported to the TNC in writing and the TNC has failed to take action within ten (10) days of the report.

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

(a) "Transportation Network Company Authority Application", TC 95-627, November, 2014; and

(b) "Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application", TC 95-605, May, 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Vehicle Regulation, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be obtained by accessing the department's Web site at <http://transportation.ky.gov/>.

GREG THOMAS, Secretary

JOHN-MARK HACK, Commissioner

D. ANN DANGELO, Office of Legal Services

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 12, 2017 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 30, 2017 at 10:00 a.m. Eastern Time at the Kentucky Transportation Cabinet, Room C-106, 200 Mero Street, 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 through May 31, 2017. 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: Ann DAngelo, Assistant General Counsel, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email Ann.Dangelo@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Ann DAngelo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for a transportation network company to operate in the state of Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to address the use of online mobile applications to connect riders with vehicles for hire.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 281.600 authorizes the Transportation Cabinet to promulgate administrative regulations to establish the requirements for the safe operation of motor vehicles and motor carriers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the regulatory requirements for a transportation network company to operate in Kentucky.

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

(a) How the amendment will change this existing administrative regulation: This amendment will require an annual vehicle inspection by a mechanic, rather than an A.S.E. certified mechanic; require an annual inspection of a vehicle that qualifies for TNC services within thirty (30) days of qualification; and amend the current requirement that a vehicle cannot be used for TNC services that is more than ten (10) years old.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update requirements, and to ensure that the public has the most current information regarding TNC services and vehicles.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment will further clarify requirements for the safe operation of Transportation Network Companies in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: Updates to the administrative regulation will ensure that the procedures related to Transportation Network Companies stay current.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the Cabinet's Division of Motor Carriers, the Department of Vehicle Regulation, and all businesses intending to operate as a Transportation Network Company in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The annual inspection form will now be required to be provided within thirty (30) days of the qualification of the vehicle for TNC services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs or fees as a result of this

amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Businesses intending to operate as transportation network companies that are compliant with the requirements of this administrative regulation will be granted operating authority.

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

(a) Initially: There are no costs associated with these amendments.

(b) On a continuing basis: There are no continuing costs associated with these amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Road Funds.

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Fees are not established by this administrative regulation.

(9) TIERING: Is tiering applied? No. Tiering is not applied because all TNC applications for operating authority will be handled the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts procedures in the Division of Motor Carriers and the Department of Vehicle Regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 281.600

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This amendment will not affect expenditures or revenues.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue.

(c) How much will it cost to administer this program for the first year? The initial cost estimates for the first year were \$7,500.

(d) How much will it cost to administer this program for subsequent years? Approximately \$1,000.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Division of Library Services (Amendment)

725 KAR 2:060. Certification of public librarians.

RELATES TO: KRS 171.250, 171.260, 171.270

STATUTORY AUTHORITY: KRS 171.250(1)(2), 171.260, 171.270

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.260 requires certification of public librarians and other full-time

employees. KRS 171.250(1)(2) requires the board to promulgate administrative regulations in order to establish the requirements for the certification of public librarians. This administrative regulation establishes the requirements for certification of public librarians.

Section 1. Definitions. (1) "ALA" means the American Library Association.

(2) "Board" means the Kentucky State Board for the Certification of Librarians.

(3) "Full-time" means working ~~more than~~ 100 or more hours per month.

(4) "Job-related field of study" means an area other than library science that is directly related to the applicant's job duties.

(5) "Library[information] services" means duties performed by library employees that require special skills and knowledge to be performed properly.

(6)(5) "Library work experience" means employment in a library that includes administration, collection development, technical services, public services, or support for public service areas, and excludes IT staff, PR or marketing staff, secretarial, custodial, groundskeeping, security, food service, driver, and messenger duties.

(7) "Part-time" means working less than 100 hours per month.

Section 2. Required Certification by Public Library Position. (1) A full-time or part-time library director serving a population of more than 15,000 shall hold or obtain a professional certificate.

(2) A full-time or part-time library director serving a population of 15,000 or less shall hold or obtain at least the paraprofessional certificate.

(3) An assistant director, bookmobile or outreach staff[librarian], branch head, or department head, whether full-time or part-time, shall hold or obtain at least the paraprofessional certificate.

(4) Any other full-time position providing library[information] services, ~~as assigned by local library personnel,~~ shall hold or obtain the library experience certificate.

Section 3. Types of Certificates. (1) A Professional Certificate I shall be:

(a) Awarded if the applicant has obtained a master's degree in library science from an[a] ALA accredited school; and

(b) Valid for five (5) years.

(2) A Professional Certificate II shall be:

(a) Awarded if the applicant has obtained:

1. A master's degree in library science from a library school that has not been ALA accredited; or

2. A master's degree with at least fifteen (15) graduate college credit hours in library science; and

(b) Valid for five (5) years.

(3) A Professional Certificate III shall be:

(a) Awarded if the applicant has obtained the following requirements prior to[before] July 1, 2011:

1. A bachelor's degree with at least twenty-one (21) college credit hours in library science; or

2. A master's degree with at least twelve (12) college credit hours in library science; and

(b) Valid for five (5) years.

(4)[A Professional Certificate IV shall be:

(a) ~~Awarded if the applicant passed the library certification examination before July 1, 1980; and~~

(b) ~~Valid for five (5) years.~~

(5) A paraprofessional certificate shall be:

(a) Awarded if the applicant has completed or obtained:

1.a. Sixty (60) hours of college credit[training], including at least twelve (12) college credit hours in library science; and

b. Two (2) years of full-time work experience;

2.a. A high school diploma or GED;

b. At least twelve (12) college credit[fifteen (15)] hours in library science, and three (3) college credit hours in a job-related field of study; and

c. Three (3)[Five (5)] years of full-time library work experience;

3. A bachelor's degree with at least twelve (12) college credit

hours in library science; or

4. A master's degree with at least six (6) college credit hours in library science; and

(b) Valid for five (5) years.

(5)(6) A library experience certificate shall be:

(a) Awarded if the applicant has completed or obtained:

1. At least a high school diploma or GED; and

2.a. Six (6) college credit hours in library science and six (6) college credit hours in a job-related field of study[Twelve (12) hours of library science];

b. Nine (9) college credit hours of library science and three (3) college credit hours in a job-related field of study; or

c. Six (6) college credit hours in library science and five (5)[ten (10)] years of full-time library work experience; or

d. A bachelor's degree and six (6) hours in library science; and

(b) Valid for five (5) years.

(6)(7) A professional, paraprofessional or library experience certificate shall be renewed according to 725 KAR 2:070.

(7)(8) A temporary certificate shall be valid for five (5) years and shall be issued to a person who:

(a) Holds or is promoted to a job requiring certification as provided in Section 2 of this administrative regulation;

(b) Does not meet the requirements of Section 2 of this administrative regulation; and

(c) Is promoted to a job requiring a higher level of certification as provided in Section 2 of this administrative regulation.

Section 4. Sources of Education for Initial Certification. (1) The board shall accept academic credit from college credit courses offered by an institution of higher education, which is accredited by its respective regional association.

(2) The board shall accept library and information science credits from courses offered by:

(a) A graduate school[schools] accredited by the Committee on Accreditation of the American Library Association and these courses shall be approved for all types of certificates;

(b) A college[Colleges] whose library and information science department is[departments are] accredited by the[their] respective regional association[associations] and these courses shall be approved for all types of certificates;

(c) An accredited college that offers[colleges that offer] individual library and information science courses and these courses shall be approved for Professional III, Paraprofessional, or[and] Library Experience certificates; or

(d) A community and technical college that offers[colleges that offer] library or information science courses and these courses shall be approved for Professional III, Paraprofessional, or[and] Library Experience certificates.

(3) As an alternative source of education for the paraprofessional or the library experience certificate, the board shall accept completion of a library institute, which[a library institute] shall be an in-depth program of library and information science developed according to the Approved Guidelines for Library Institutes.

(a) The program shall be submitted to the board for approval sixty (60) days in advance of implementation.

(b) One (1) institute shall substitute for a three (3) hour college level library[and information]science course and shall only be substituted once for initial certification.

Section 5. Application for public library certification shall be made to the board by submitting a completed Application for Certification of Librarianship.

Section 6. A fee of twenty (20) dollars shall be charged for each certificate issued.

Section 7. A professional, paraprofessional, or library experience certificate shall be issued to an applicant who meets the requirements and submits the required fee.

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

(a) "Approved Guidelines for Library Institutes", January 8, 2010; and

(b) "Application for Certification of Librarianship", March 1, 2017~~[December 15, 2008]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40602-0537, Monday through Friday, 9[8] a.m. to 4[:30] p.m.

TERRY MANUEL, Commissioner

APPROVED BY AGENCY: April 14, 2017

FILED WITH LRC: April 14, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017, at 10:00 a.m., at the Kentucky Department for Libraries and Archives, Activity Room, 300 Coffee Tree Road, 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. A transcript of 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 May 31, 2017. 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: Terry Manuel, Commissioner, Kentucky Department for Libraries & Archives, P.O. Box 537, 300 Coffee Tree Rd, Frankfort, Kentucky 40602, phone 502-564-8306, fax 502-564-5773 email kdla.certification@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Terry Manuel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (725 KAR 2:060) establishes the certification requirements of some part-time and all full-time public library staff. It also states the fee associated with certification.

(b) The necessity of this administrative regulation: This administrative regulation is required under KRS 171.250 and KRS 171.260.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 171.250 requires the Kentucky State Board for the Certification of Librarians to establish certification requirements. KRS 171.260 requires the certification of full-time public library staff.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: 725 KAR 2:060 provides a structure for the educational requirements for certification of all full-time and some part-time public library staff.

(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: Definitions were added or changed to provide clearer meanings. Clarifications were made as to what full-time and part-time positions shall be certified and that hours are college credit hours. The Professional IV certificate is eliminated as no one qualifies for this level of certification and therefore it is no longer valid. Changes were made to the number and types of college credit hours accepted for Paraprofessional and Library Experience levels of certification.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation adds clarification to certification requirements and creates additional college credit opportunities.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 171.250 requires the Kentucky State Board for the Certification of Librarians to establish certification requirements. KRS 171.260 requires the certification of full-time public library staff.

(d) How the amendment will assist in the effective

administration of the statutes: The amendment provides clarification and options that make administration and compliance less burdensome.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Public library employees of the legally established public libraries in 119 counties. The approximate number of public library staff that are currently certified is 1,488 people.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to take the same actions that they do now with the current KAR, but will have more options in completing the requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Initial certification costs each applicant \$20, but this is an established fee, not a new fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky public libraries will have trained and qualified staff to help assist their community and citizens of the Commonwealth.

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

(a) Initially: No new cost will be incurred.

(b) On a continuing basis: No new cost will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds appropriated by the Institute of Museums and Library Services

(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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation has an already-established fee of \$20, but that existing fee has not been changed with this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied because certification is open to all full-time public library employees of the legally established public libraries 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 Kentucky Department for Libraries and Archives, the Kentucky State Board for the Certification of Librarians, and the legally established public libraries in 119 counties.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 171.250, KRS 171.260, KRS 171.270

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The revenue generated by this administrative regulation is dependent upon how many new employees that are required to be certified are hired by a public library.

(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 make approximately \$3,240 in revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent

years? This administrative regulation will make approximately \$3,240 in revenue.

(c) How much will it cost to administer this program for the first year? There will be little impact on the cost of administering the administrative regulation. This is an ongoing program for the Kentucky State Board for the Certification of Librarians, which has been in place since 1942.

(d) How much will it cost to administer this program for subsequent years? There will be little impact on the cost of administering the administrative regulation. This is an ongoing program for the Kentucky State Board for the Certification of Librarians, which has been in place since 1942.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department for Libraries and Archives
Division of Library Services
(Amendment)

725 KAR 2:070. Certification renewal of public librarians.

RELATES TO: KRS 171.250, 171.260, 171.270

STATUTORY AUTHORITY: KRS 171.250(2), 171.270

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.250(2) authorizes the board to establish the requirements for certificate renewals for public librarians. This administrative regulation establishes the requirements for certificate renewals for public librarians.

Section 1. Definitions. (1) "Board" means the Kentucky State Board for the Certification of Librarians.

(2) "Contact hour" means a unit of measuring continuing education training with one (1) hour of training equal to one (1) contact hour.

(3) "Editorial process" means one (1) or more editors at a publication reviews and approves submitted work.

(4) "Full-time" means working [more than] 100 or more hours per month.

(5) "Job-related course work or continuing education" means instruction other than in library science that is directly related to the applicant's job.

(6) "Job-related professional organization" means a professional organization other than library science that is directly related to the applicant's job.

(7) [(4)] "Learning activity" means a class, institute, seminar, or workshop that is planned, coordinated, administered, and evaluated in terms of learning objectives.

(8) [(5)] "Library[information] services" means[mean] duties performed by library employees that require special skills and knowledge to be performed properly.

(9) "Part-time" means working less than 100 hours per month.

(10) "Presenting" means instructional training that lasts ninety (90) minutes or less.

(11) [(6)] "Professional library association" means an organization of library staff[librarians] and persons interested in libraries.

(12) "Teaching" means instructional training that lasts more than ninety (90) minutes.

Section 2. Required Certification Renewal by Public Library Position. (1) A full-time or part-time library director serving a population of more than 15,000 shall renew the professional certificate every five (5) years. 100 contact hours of continuing education shall be accumulated within the five (5) year period.

(2) A full-time or part-time library director serving a population of 15,000 or[and] less shall renew at least the paraprofessional certificate every five (5) years. Seventy-five (75)[400] contact hours

of continuing education shall be accumulated within the five (5) year period.

(3) A full-time or part-time[An] assistant director, bookmobile or outreach staff[librarian], branch head, or department head shall renew at least the paraprofessional certificate every five (5) years. Seventy-five (75)[400] contact hours of continuing education shall be accumulated within the five (5) year period.

(4) Any other full-time position providing library[information] services[~~as assigned by local library personnel,~~] shall renew the library experience certificate every five (5) years. Fifty (50) contact hours of continuing education shall be accumulated within the five (5) year period.

Section 3. Types of Certificates. The following certificates may be renewed for a period of five (5) years:

- (1) Professional Certificate I;
- (2) Professional Certificate II;
- (3) Professional Certificate III;
- (4)[Professional Certificate IV;
- ~~(5)]~~ Paraprofessional Certificate; or
- ~~(5)[(6)]~~ Library Experience certificate.

Section 4. Sources of Learning Activities that Provide Contact Hours. (1) The board shall accept job-related coursework or continuing education offerings from an institution of higher education as follows:

- (a) Classes;
- (b) Institutes;
- (c) Seminars;
- (d) Workshops;
- (e) Conferences;
- (f) Lecture series;
- (g) Internships; or
- (h) Courses taken for academic credit.[~~(b) Courses taken for academic credit.~~]

(2) The board shall accept activities in a professional library or job-related association as follows:

- (a) Participation in:
 1. Seminars;
 2. Workshops;
 3. Conferences; or
 4. Lecture series; or

(b) The holding of an association office, with a statement specifying the learning activity and derived educational benefit.

(3) The board shall accept participation in job-related seminars, workshops, conferences, or lecture series sponsored or approved by the Kentucky Department for Libraries and Archives.

(4)[~~The board shall accept participation in workshops, lecture series, or training programs that shall be documented as job related. These activities may be sponsored by individual libraries.~~]

(5) The board shall accept the following[self-directed] learning activities that go[.] beyond expected job duties[~~, as follows~~]:

(a) Writing reviews of job-related[library] materials or[~~library-related~~] books, articles, or chapters that are published in statewide, regional, or national library or other job-related professional organization's publications and selected through an editorial process;

(b) Writing or editing an article for a job-related[library] publication with statewide, regional, or national distribution and selected through an[and] editorial process;

(c) Writing or editing a book on a job[library]-related topic selected for publication by a publishing company and published following an editorial process;

(d) Developing and presenting library-related instructional training for library staff, library school students,[~~or~~] library trustees, or other job-related professional organizations;

(e) Preparing and teaching a library or job-related course, workshop, seminar, or institute; or

(f) Listening to or viewing an audio or video recording of a job-related workshop presentation or conference program and submitting a written review indicating what was learned and how it relates to their job.

(5)[(6)] The board shall require[documentation] that each

learning activity incorporates new subject information[matter].

Section 5. [(4)] The conversion calculations for a type of activity to the number of contact hours shall be determined in accordance with the Certification Contact Hours Points Conversion Chart.

Section 6. Application for public librarian certification renewal shall be made to the board by submitting a completed Renewal Application for Certification of Librarianship.

Section 7. A fee of twenty (20) dollars shall be charged for each certificate renewal issued.

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

(a) "Certification Contact Hours Conversion Chart", March 1, 2017[January 8, 2010]; and

(b) "Renewal Application for Certification of Librarianship", March 1, 2017[December 15, 2008].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40602-0537, Monday through Friday, 9[8] a.m. to 4:30 p.m.

TERRY MANUEL, Commissioner

APPROVED BY AGENCY: April 14, 2017

FILED WITH LRC: April 14, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017, at 10:00 a.m., at the Kentucky Department for Libraries and Archives, Activity Room, 300 Coffee Tree Road, 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. A transcript of 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 May 31, 2017. 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: Terry Manuel, Commissioner, Kentucky Dept. for Libraries & Archives, 300 Coffee Tree Rd, P.O. Box 537, Frankfort, Kentucky 40602, phone 502-564-8306, fax 502-564-5773, email kdla.certification@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Terry Manuel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (725 KAR 2:070) establishes the renewal requirements for certification of public library staff. It also states the fee associated with the renewal.

(b) The necessity of this administrative regulation: This administrative regulation is required under KRS 171.250, KRS 171.260 and KRS 171.270.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 171.250 requires the Kentucky State Board for the Certification of Librarians to establish certification requirements. KRS 171.260 requires the certification of full-time public library staff. KRS 171.270 states the fee for certification renewal of public library staff.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: 725 KAR 2:070 provides a structure for the renewal requirements for certification of public library staff.

(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: Five new definitions were added. Renewal hours for the paraprofessional certificate were reduced from 100 hours to

seventy-five (75) hours. Also the list was expanded of what is approved for certification renewal contact hours.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary for clarification of terms listed in the administrative regulation, expanding opportunities to accrue contact hours for renewal, and addressing the varied work that public library staff performs.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 171.250 requires the Kentucky State Board for the Certification of Librarians to establish certification requirements. KRS 171.260 requires the certification of full-time public library staff.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides clarification and options that make administration and compliance less burdensome.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Public library employees of the legally established public libraries in 119 counties. The approximate number of public library staff that are currently certified is 1,488 people.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to take the same actions that they do now with the current KAR, but will have more options in completing the requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Renewal of certification costs each applicant \$20, but this is an established fee, not a new fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky public libraries will continue to have trained and qualified staff to help assist their community and citizens of the Commonwealth.

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

(a) Initially: No new cost will be incurred.

(b) On a continuing basis: No new cost will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds appropriated by the Institute of Museums and Library Services

(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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation has an already-established fee of \$20, but that existing fee has not been changed with this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied because certification is open to all full-time public library employees of the legally established public libraries 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 Kentucky Department for Libraries and Archives, the Kentucky State Board for the Certification of Librarians, and the legally established public libraries in 119 counties.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 171.250, KRS 171.260, KRS 171.270

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 make approximately \$5,956 in revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will make approximately \$5,956 in revenue.

(c) How much will it cost to administer this program for the first year? There will be little impact on the cost of administering the administrative regulation. This is an ongoing program for the Kentucky State Board for the Certification of Librarians, which has been in place since 1942.

(d) How much will it cost to administer this program for subsequent years? There will be little impact on the cost of administering the administrative regulation. This is an ongoing program for the Kentucky State Board for the Certification of Librarians, which has been in place since 1942.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employment and Training
(Amendment)

787 KAR 2:040. Local workforce development area governance.

RELATES TO: KRS 151B.020(6), 29 U.S.C. 3101 et seq.

STATUTORY AUTHORITY: KRS 151B.020(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This administrative regulation establishes the membership criteria and operating guidelines for local workforce development boards, requires interlocal and partnership agreements for local workforce development areas, and establishes the process for the identification of regions and designation of local workforce development areas, establishes the guidelines for the hiring of staff by local workforce development boards, and requires a written agreement for entities that perform multiple functions in a local workforce development area under the Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq. In addition to the minimum federal requirements set forth in 29 U.S.C. 3122, this administrative regulation provides further guidance and clarification necessary for effective local implementation activities.

Section 1. Local workforce development board membership criteria and operating guidelines. Each chief local elected official in a local workforce development area shall appoint members to the local workforce development board and each local workforce development board shall operate in compliance with the Workforce Innovation and Opportunity Act (WIOA) – Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification, Policy Number 15-001.

Section 2. Interlocal agreement. Each local elected official of a unit of general local government within a local workforce

development area shall jointly execute a written interlocal agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act – Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities, Policy Number 15-002.

Section 3. Partnership agreement. Each chief local elected official, representing the local elected officials in a local workforce development area, and each designated chair, representing the local workforce development board, shall jointly execute a written partnership agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act – Local Elected Official(s) and Local Workforce Development Board Partnership Agreement, Policy Number 15-003.

Section 4. Identification of regions and designation of local workforce development areas. The process and procedures for the identification of regions and the designation of local workforce development areas within the Commonwealth of Kentucky shall be in compliance with the Identification of Regions and Designation of Local Workforce Development Areas, Policy Number 15-004.

Section 5. Hiring of staff for local workforce development boards. (1) Local workforce development boards may hire a director and other staff in accordance with Local Workforce Development Board Staff, Policy Number 17-001.

Section 6. Entities performing multiple functions in a local workforce development area. (1) Entities that have been selected or otherwise designated to perform more than one (1) function in a local workforce development area must develop a written agreement in that, at a minimum, complies with Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions, Policy Number 17-002.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Workforce Innovation and Opportunity Act (WIOA) – Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification", Policy Number 15-001, March 31, 2017~~[July 1, 2015]~~;

(b) The "Workforce Innovation and Opportunity Act – Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities", Policy Number 15-002, March 31, 2017~~[March 4, 2015]~~;

(c) The "Workforce Innovation and Opportunity Act – Local Elected Official(s) and Local Workforce Development Board Partnership Agreement", Policy Number 15-003, October 1, 2015;~~[and]~~

(d) The "Identification of Regions and Designation of Local Workforce Development Areas", Policy Number 15-004, May 14, 2015;

(e) The "Local Workforce Development Board Staff", Policy Number 17-001, March 31, 2017; and

(f) The "Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions", Policy Number 17-002, March 31, 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Employment and Training, 275 E. Main Street, 2nd Floor, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

HAL HEINER, Secretary

APPROVED BY AGENCY: March 31, 2017

FILED WITH LRC: March 31, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2017, at 10:00 a.m., at the office of the Kentucky Department of Workforce Investment, 300 Sower Blvd. 4th 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. 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 May 31, 2017. 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: Beth Kuhn, Commissioner; Kentucky Department of Workforce Investment; 300 Sower Blvd., 4th Floor; Frankfort, Kentucky 40601, phone (502) 564-0372, fax (502) 564-9990, email Beth.Kuhn@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Kuhn

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the membership criteria and operating guidelines of local workforce development boards, requires interlocal and partnership agreements for the local workforce development areas, and establishes the process for the identification of regions and designation of local workforce development areas.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3101 et seq.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes in that it provides guidance and clarification regarding local workforce development board membership criteria and operating guidelines and clarification of the roles and responsibilities of the chief local elected officials and the local elected officials with regards to the interlocal and partnership agreements implementing the WIOA. It also establishes the process for the identification of regions and the designation of local workforce development areas consistent with federal law.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist the Cabinet in implementing the WIOA and will help qualify for the continued receipt of federal funds.

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

(a) How the amendment will change this existing administrative regulation: These amendments will more clearly delineate the roles of the LWDB, Local Elected Officials and Chief Local Elected Officials. Additionally, the amendments define unallowable conflict of interest policy. These changes reflect the issuance of 20 C.F.R. 679 on June 30, 2016.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary to comply with the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3101 et seq. and 20 C.F.R. 679.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes in that it provides guidance and clarification regarding local workforce development board membership criteria and operating guidelines and clarification of the roles and responsibilities of the chief local elected officials and the local elected officials with regards to the interlocal and partnership agreements implementing the WIOA. It also establishes the process for the identification of regions and the designation of local workforce development areas consistent with federal law.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will assist the Cabinet in implementing the WIOA and will help qualify for the continued receipt of federal funds.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: The Office of the Governor, Kentucky Workforce Investment Board or its successor, local workforce development areas, along with their workforce development boards, chief local elected officials, and local elected officials, will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The chief local elected official in each local area will have to appoint members of the local boards in accordance with the "Workforce Innovation and Opportunity Act (WIOA) - Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification", Policy Number 15-001 and the local boards will have to operate in accordance with the policy. All local elected officials on behalf of their general unit of local government will have to enter into interlocal agreements that comply with the "Workforce Innovation and Opportunity Act - Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities", Policy Number 15-002 and the conflict of interest provisions of "Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions", Policy Number 17-002. Local Boards will have to hire staff, procure services, and operate according to these policies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are minimal costs to the entities in order to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Local elected officials, chief local elected officials, and local workforce development boards will have a clearer understanding of their roles and responsibilities under WIOA as a result of compliance with this administrative regulation.

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

(a) Initially: It is estimated the costs to the administrative bodies to implement this administrative regulation will be minimal initially. The costs may be covered by federal WIOA funds.

(b) On a continuing basis: It is estimated the costs to the administrative bodies to implement this administrative regulation will be negligible on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Federal WIOA funding will be used for implementation and enforcement.

(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 will not be 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 any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as all chief local elected officials, local elected officials, local workforce development areas, and local workforce development boards will be impacted 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? Office of the Governor, Education and Workforce Development Cabinet, Kentucky Workforce Investment Board or its successor, Local Elected Officials, Chief Local Elected Officials, Local Workforce Development Boards, Local Workforce Development Areas

2. Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. KRS 151B.020(6) and 29 U.S.C. 3101 et seq.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? Costs will be negligible to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The costs will be negligible 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.

Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. §3122 and §3121, 20 C.F.R. 679.430, and Training and Employment Guidance Letter (TEGL) WIOA No. 27-14, TEGL 27-14, Change 1, TEGL 15-16

2. State compliance standards. KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperated with other state and federal agencies for the proper administration of the cabinet and its programs.

3. Minimum or uniform standards contained in the federal mandate. The composition and functions of each local workforce development board and the activities of chief elected officials must be consistent with the minimum criteria set forth in 29 U.S.C. 3122 and 20 C.F.R. 679. Additional guidance is available in USDOL TEGL 15-16.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will impose additional requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The additional requirements provide further guidance and clarification necessary for effective local implementation activities.

PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction Division of Building Code Enforcement (Amendment)

815 KAR 7:120. Kentucky Building Code.

RELATES TO: KRS 132.010, 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.990, 227.300, 227.550(7)

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) and 198B.050 require the department[Kentucky Board

of Housing, Buildings and Construction] to adopt and promulgate a mandatory uniform statewide building code, based on a model code that[, which] establishes standards for the construction of buildings in the state. This administrative regulation establishes the Kentucky Building Code's general provisions.

Section 1. Definitions. (1)[~~"Board of Housing" or "board" means the Kentucky Board of Housing, Buildings and Construction.~~

(2)[~~"Building" is defined by KRS 198B.010(4).~~

(2)[~~(3) "Commissioner" is defined by KRS 198B.010(9).~~

(4)[~~"Department" is defined by KRS 198B.010(11).~~

(3)[~~(5) "Farm" means property:~~

(a) ~~Located outside the corporate limits of a municipality on at least ten (10) acres;~~

(b) ~~Used for purposes established in the definitions of "agricultural land" and "horticultural land", established in KRS 132.010(9) and (10), respectively; and~~

(c) ~~Qualified by and registered with the property valuation administrator in that county.~~

(6) ~~"Fire Code Official" means the State Fire Marshal, fire chief, or other enforcement officer designated by the appointing authority of the jurisdiction for the enforcement of the provisions of KRS 227.300 and the Kentucky Standards of Safety as established in 815-KAR-10:060.~~

(7) ~~"Industrialized building system" or "building system" is defined by KRS 198B.010(16).~~

(4)[~~(8) "KBC" means the Kentucky Building Code as established in this administrative regulation.~~

(9) ~~"Kentucky Residential Code" means the International Residential Code as incorporated by reference and amended for application in Kentucky by 815 KAR 7:125.~~

(10) ~~"Kentucky Standards of Safety" means the requirements established in 815 KAR 10:060, which serve as the fire prevention code for existing buildings as well as a supplement to this code.~~

(11) ~~"Manufactured home" is defined by KRS 227.550(7).~~

(5)[~~(12) "Modular home" means an industrialized building system, which is designed to be used as a residence and that is not a manufactured or mobile home.~~

(13) ~~"Ordinary repair" is defined by KRS 198B.010(19).~~

(14) ~~"Single-family dwelling" or "one (1) family dwelling" means a single unit that:~~

(a) ~~Provides complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and~~

(b) ~~Is not connected to another unit or building.~~

(6)[~~(15) "Townhouse" means a single-family dwelling unit constructed in a group of three (3) or more attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two (2) sides.~~

(7)[~~(16) "Two (2) family dwelling" means a building containing not more than two (2) dwelling units that are connected.~~

Section 2. Adoption[~~Administration and Enforcement~~] of the Building Code. (1) The 2012 International Building Code shall be the mandatory state building code for all buildings constructed in Kentucky except that:

(a) The Kentucky amendments in 2013 Kentucky Building Code shall supersede any conflicting provision in the 2012 International Building Code.[~~Notwithstanding the requirements of the 2012 International Building Code, the Kentucky amendments established in the 2013 Kentucky Building Code shall be mandatory and shall supersede any conflicting provision of the international code.~~

(2)(a) ~~Except as provided in paragraph (b) and (c) of this subsection and as superseded by the provisions of this administrative regulation and the 2013 Kentucky Building Code, the 2012 International Building Code, shall be the mandatory state building code for all buildings constructed in Kentucky.]~~

(b) ~~One (1) family dwellings, and two (2) family dwellings, and townhouses shall be governed by 815 KAR 7:125; and.]~~

(c) ~~Manufactured homes shall be governed by KRS 227.550 through 227.665.~~

VOLUME 43, NUMBER 11 – MAY 1, 2017

Section 3. State Plan Review and Inspection Fees. The fees required by this section shall apply for plan review and inspection by the department. (1) Fast track elective.

(a) A request for expedited site and foundation approval of one (1) week or less, prior to full review of the complete set of construction documents, shall be accompanied by the fee required by Table 121.3.1 in subsection (3) of this section, plus an additional fifty (50) percent of the basic plan review or inspection fee.

(b) The additional fifty (50) percent fee shall not be less than \$400 and not more than \$3,000.

(c) The entire fee shall be paid with the initial plan submission.

(2) New buildings.

(a) The department's inspection fees shall be calculated by multiplying:

1. ~~[Multiplying the total building area under construction by]~~ The cost per square foot of each occupancy type as listed in subsection (3) of this section; and

2. ~~[Computing]~~ The square footage ~~of~~ by the outside dimensions of the building.

(b) The fee for a building with multiple or mixed occupancies shall be calculated using the cost per square foot multiplier of the predominant use.

(c) The minimum fee for review of plans pursuant to this subsection shall be \$285.

(3) Table 121.3.1, Basic Department Fee Schedule. The basic plan review or inspection fee shall be as established in the table in this subsection.

OCCUPANCY TYPE	COST PER SQUARE FOOT
Assembly	Sixteen (16) cents
Business	Fifteen (15) cents
Day care centers	Fifteen (15) cents
Educational	Fifteen (15) cents
High hazard	Sixteen (16) cents
Industrial factories	Fifteen (15) cents
Institutional	Sixteen (16) cents
Mercantile	Fifteen (15) cents
Residential	Fifteen (15) cents
Storage	Fifteen (15) cents
Utility and Miscellaneous	Thirteen (13) cents
Production greenhouse	Ten (10) cents

[:

- (a) Assembly occupancies, sixteen (16) cents;
- (b) Business occupancies, fifteen (15) cents;
- (c) Day care centers, fifteen (15) cents;
- (d) Educational occupancies, fifteen (15) cents;
- (e) High hazard occupancies, sixteen (16) cents;
- (f) Industrial factories, fifteen (15) cents;
- (g) Institutional occupancies, sixteen (16) cents;
- (h) Mercantile occupancies, fifteen (15) cents;
- (i) Residential occupancies, fifteen (15) cents;
- (j) Storage, fifteen (15) cents; or
- (k) Utility and miscellaneous, thirteen (13) cents.]

(4) Additions to existing buildings.

(a) Plan review fees for additions to existing buildings ~~[, which shall not require the entire building to conform to the Kentucky Building Code,]~~ shall be calculated by multiplying the cost per square foot of the occupancy type ~~[in accordance with the schedule]~~ listed in subsection (3) of this section by the measurement of the square footage of the addition, as determined by the outside dimensions of the addition and any other changes made to the existing building.

(b) The minimum fee for review of plans pursuant to this subsection shall be \$285.

(5) Change in use.

(a) Plan review fees for existing buildings in which the use group or occupancy type is changed shall be calculated in accordance with the schedule listed in subsection (3) of this section by using the total square footage of the entire building or structure pursuant to the new occupancy type as determined by the outside dimensions.

(b) The minimum fee for review of plans pursuant to this

subsection shall be \$285.

(6) Alterations and repairs.

(a) Plan review fees for alterations and repairs not otherwise covered by this fee schedule shall be calculated by using the lower result of:

1. Multiplying the cost for the alterations or repairs by 0.0030; or

2. Multiplying the total area being altered or repaired by the cost per square foot of each occupancy type listed in the schedule in subsection (3) of this section.

(b) The total square footage shall be determined by the outside dimensions of the area being altered or repaired.

(c) The minimum fee for review of plans pursuant to this subsection shall be \$285.

(7) Specialized fees. In addition to the fees established by subsections (1) through (6) of this section, the following fees shall be applied for the specialized plan reviews listed in this subsection:

(a) Table 121.3.9, Automatic Sprinkler Review Fee Schedule. The inspection fee for automatic sprinklers shall be as established in the table in this paragraph.

NUMBER OF SPRINKLERS	FEE
Four (4) – twenty-five (25)	\$150
Twenty-six (26) – 100	\$200
101 – 200	\$250
201 – 300	\$275
301 – 400	\$325
401 – 750	\$375
OVER 750	\$375 plus thirty (30) cents per sprinkler over 750

[:

1. An inspection of four (4) through twenty-five (25) sprinklers shall be a fee of \$150;

2. An inspection of twenty-six (26) through 100 sprinklers shall be a fee of \$200;

3. An inspection of 101 through 200 sprinklers shall be a fee of \$250;

4. An inspection of 201 through 300 sprinklers shall be a fee of \$275;

5. An inspection of 301 through 400 sprinklers shall be a fee of \$325;

6. An inspection of 401 through 750 sprinklers shall be a fee of \$375; and

7. An inspection of over 750 sprinklers shall be a fee of \$375 plus thirty (30) cents per sprinkler over 750.]

(b) Fire detection system review fee:

1. Zero through 20,000 square feet shall be \$275; and

2. Over 20,000 square feet shall be \$275 plus thirty (30) dollars for each additional 10,000 square feet in excess of 20,000 square feet.

(c) The standpipe plan review fee shall be \$275. The combination stand pipe and riser plans shall be reviewed pursuant to the automatic sprinkler review fee schedule.

(d) Carbon dioxide suppression system review fee:

1. One (1) through 200 pounds of agent shall be \$275; and

2. Over 200 pounds of agent shall be \$275 plus five (5) cents per pound in excess of 200 pounds.

(e) Clean agent suppression system review fee:

1.a. Up to thirty-five (35) pounds of agent shall be \$275; and

b. Over thirty-five (35) pounds shall be \$275 plus ten (10) cents per pound in excess of thirty-five (35) pounds; and

2. The fee for gaseous systems shall be ten (10) cents per cubic foot and not less than \$150.

(f) Foam suppression system review fee[.:]

1. The fee for review of a foam suppression system shall be fifty (50) cents per gallon of foam concentrate if the system is not part of an automatic sprinkler system.

2. Foam suppression system plans that are submitted as part of an automatic sprinkler system shall be reviewed pursuant to the automatic sprinkler review fee schedule.

3. The fee for review of plans pursuant to subparagraph 1. of this paragraph shall not be less than \$275 or more than \$1,500.

(g) The commercial range hood review fee shall be \$225 per hood.

(h) Dry chemical systems review fee (except range hoods). The fee for review of:

1. One (1) through thirty (30) pounds of agent shall be \$275; and

2. Over thirty (30) pounds of agent shall be \$275 plus twenty-five (25) cents per pound in excess of thirty (30) pounds.

(i) The flammable, combustible liquids or gases, and hazardous materials plan review fee shall be \$100 for the first tank, plus fifty (50) dollars for each additional tank and \$100 per piping system including valves, fill pipes, vents, leak detection, spill and overflow detection, cathodic protection, or associated components. ~~[(j) Boiler and unfired pressure vessel fees. Plan review fees of boiler and unfired pressure vessel installations shall be in accordance with 815 KAR 15:027.]~~

Section 4. General. All plans shall be designed and submitted to conform to this administrative regulation.

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

(a) "2012 International Building Code", First Edition, International Code Council, Inc.; and

(b) "2013 Kentucky Building Code", Fifth Edition~~[Fourth Edition]~~, April 2017~~[December 2015]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.

STEVEN A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: April 13, 2017

FILED WITH LRC: April 13, 2017 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2017, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 May 31, 2017. 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: David Startzman, Staff Attorney, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email david.startzman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Startzman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the uniform Kentucky Building Code as required pursuant to KRS 198B.050.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to adopt the Kentucky Building Code as required pursuant to KRS 198B.050.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation utilizes the International Building Code as the basis for construction standards and allows the Department of Housing, Buildings and Construction to make amendments unique to Kentucky after due consideration of equivalent safety measures as required by KRS 198B.050.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth standards authorized by the statute for the enforcement of the uniform state building code, incorporating all applicable laws into its processes.

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

(a) How the amendment will change this existing administrative regulation: The administrative regulation updates the 2013 Kentucky Building Code to establish new criteria for greenhouses used for growing plants on a production or research basis without public access. These proposed new provisions would not be applicable to commercial greenhouses. This amendment also adopts the National Greenhouse Manufacturers Association Structural Design Manual as the standard as to which production greenhouses shall be constructed. This amendment reduces the fee of the plan review and inspection for production greenhouses to ten (10) cents per square foot.

(b) The necessity of the amendment to this administrative regulation: To implement code changes proposed by the Department of Housing, Buildings and Construction, which have been reviewed and commented on by the Department of Housing, Buildings and Construction Advisory Board during its March 21, 2017 meeting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.050 mandates the Department of Housing, Buildings and Construction to establish a uniform Kentucky Building Code. These amendments were reviewed and commented on by the Department of Housing, Buildings and Construction Advisory Board to update, correct, and amend the current 2013 Kentucky Building Code.

(d) How the amendment will assist in the effective administration of the statutes: These amendments to the 2013 Kentucky Building Code will provide a standard for the construction of production greenhouses in Kentucky to ensure a safe building.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All construction projects of production greenhouses subject to the Kentucky Building Code will be affected by the amendments to this regulation; architects; engineers; contractors; project managers; businesses; and local government.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: The identified entities must comply with the new amendments to the building code.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities are not anticipated to incur any new expenses based on the new amendments, as costs for the fees for plan review and inspection are decreased from what the fees are currently for production greenhouses.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include increased safety and provide the structural guidelines for production greenhouses. The costs of the plan review and the inspections will decrease as a result of the lower fee per square foot for production greenhouses.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the agency. Any agency costs resulting from these administrative amendments will be met with existing agency

funds.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Fees were previously established by this administrative regulation. The fees for plan review and inspection of production greenhouses are decreased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all builders, contractors, local governments and owners will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction and local jurisdiction inspection and plan review programs.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 198B.040(7) and KRS 198B.050.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

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

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

CABINET FOR HEALTH AND FAMILY SERVICES Department for Aging and Independent Living Division of Operations and Support (Amendment)

910 KAR 1:210. Kentucky Long-term Care Ombudsman Program.

RELATES TO: KRS 205.201, 209.030(5), 216.535, 216.540-216.543, 42 U.S.C. 3001 et seq.

STATUTORY AUTHORITY: KRS 194A.050, 205.204

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, requires states to establish and operate, either directly or by contract, a long-term care ombudsman program to protect the rights of older individuals. KRS 194A.050 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) "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) "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) "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) "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) "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) "Long term care facility" is defined by KRS 216.510(1).

(18) "Monitoring" means periodic review measuring ombudsman program's adherence to approved plans, including analysis of non-client specific data relating to program performance.

(19) "Referral" means the appropriate channeling of information so as to effect a desired outcome.

(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) "Resident representative" is defined by 45 C.F.R. 1324.1.

(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, 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;

(s) Conduction of other activities related to the protection and dignity of residents of long-term care facilities;

(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 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 ~~that~~^{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 ~~that~~^{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 ~~an~~^{the} individual involved in the appointment

of a subdivision of the office and that ~~an~~^{the} officer, employee, or other representative of the office is not subject to a conflict of interest;

(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 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 ~~that~~^{which} documents:

1. Participant identification data;
2. Requests for assistance;
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 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 ~~that~~^{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 Aide~~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 October 19, 2016~~the effective date of this administrative regulation~~.

(2) The Kentucky long-term care ombudsman shall meet the qualifications of subsection (1)(a)~~or~~^(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 the following:
 - (a) The Adult Protective Services Caregiver Misconduct Registry;
 - (b) The Kentucky Nurse Aide[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) Program sponsors, sub-contract agency directors, and directors of other sponsoring agencies shall receive basic training whenever possible.
 - (5) 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 councils;
 - (j) Recruiting, screening, selecting, training, placing, and supporting volunteers; and
 - (k) Use of public funds.
 - (6) District ombudsmen shall attend training meetings as established by the Kentucky long-term care ombudsman.
 - (7) 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) 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 established in this section.[:]

- (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, or denied upon a request for copies of all licensing and certification records maintained by the state with respect to long-term care facilities, the ombudsman shall inform the:
 - (a)[the] Administrator or operator[~~shall be informed~~] of the statutory authority for access. If access[entry] is still denied, the ombudsman shall inform the
 - (b) Kentucky long-term care ombudsman;
 - (c)[, the] Office of Inspector General, Division of Health Care; and
 - (d)[, ~~Secure assistance from~~] Local law enforcement officials to secure assistance for entry if entry into a facility is denied.
- (6)(a) 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 long-term care ombudsman program shall be exempt from making 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.

- (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 steps to investigate complaints that adversely affect

the health, safety, welfare, or rights of the resident; and

(b) 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) If [When] the resident is unable to communicate consent and has a resident representative, the ombudsman shall contact the resident representative for consent.

(6) If [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 if [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 section [subsection] shall not affect the continuing duty, full freedom, and independence of the ombudsman to:

(a) Ensure 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) District ombudsmen shall address concerns regarding the investigation or resolution of complaints [referred under subsection (4) of this section] to the Kentucky long-term care ombudsman or designee.

(9) District ombudsmen shall make referrals to county attorneys, legal aid agencies, and legal assistance offices.

(10) 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 choice, free from restraint, interference, coercion, discrimination, or reprisal;

(b) Associate and communicate privately with persons of the resident's 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 individual who is a resident of a long-term care facility relating to action that [which] may adversely affect the health, safety, welfare, and rights of the resident; and

(b) Made by or on behalf of a younger long-term care facility resident if actions will:

1.a. Benefit an older individual residing in the long-term care facility or older individuals residing in 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.

(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 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 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) [a] 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: March 28, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017, at 9:00 a.m. in Suite A & B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Phyllis Sosa, (502) 564-6930, ext. 3481, Phyllis.sosa@ky.gov, and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for administering the Long-Term Care Ombudsman program provided for under the Older Americans Act of 1965 as amended.

(b) The necessity of this administrative regulation: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, provides grants to states to provide assistance in the development of new or improved programs for older persons. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act in Kentucky. KRS 194A.050 authorizes the Cabinet for Health and Family Services to adopt regulations as necessary to implement programs mandated by federal law. This regulation establishes the Long Term Care Ombudsman program in Kentucky as required by the Older Americans Act of 1965.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides the establishment and operation criteria as required pursuant to 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the Long Term Care Ombudsman program responsibilities. This administrative regulation defines the role of the Kentucky Long Term Care Ombudsman, district, regional and volunteer ombudsmen and the qualifications to serve in the role of an Ombudsman. The duties and responsibilities of the program and individual Ombudsmen are provided in the regulation to ensure statewide consistency in carrying out the provisions of the Long Term Care Ombudsman program as required by the Older Americans Act of 1965, as amended.

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

(a) How the amendment will change this existing administrative regulation: This amends Rights of Access of certified representatives of the Kentucky Long-Term Care Ombudsmen Program to comply with the Older Americans Act of 1965, as amended and the Final Rule. This amendment clarifies access to resident's medical and social records with permission of the resident or legal guardian except as provided for under KRS 209.030(7). The amendment also clarifies actions if the ombudsman is denied entry to the long-term care facility or copies of licensing and certification records maintained by the State with respect to long-term care facilities.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with the Final Rule.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides the establishment and operation criteria as required pursuant to 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the requirements under the Older Americans Act of 1965, as amended and the Federal Rule requiring access to resident's of long term care facilities medical and social records with permission of the resident or his legal guardian and access to long-term care facilities.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation provides

for the Long-Term Care Ombudsman program authorized under the Older Americans Act of 1965, as amended for individuals residing in Long-Term Care facilities. There are 524 facilities with 34,000 beds in Kentucky that the Long-Term Care Ombudsman program is responsible for visiting and providing services. This regulation will also affect the fifteen (15) Area Development Districts and the contracted entity designated as the Kentucky Long-Term Care Ombudsman.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The contracted entities that provide the Long-Term Care Ombudsman services will have to establish and comply with policies required by the Final Rule as added to this administrative regulation. The entities operating a long-term care ombudsman program shall comply with the right to access provisions and the long-term care facilities shall provide access to facilities and records as required by the Final Rule.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The residents will have qualified, trained, and professional individuals working to address the needs, complaints, and issues that are voiced by the residents in long term care facilities and have access to the records needed to conduct a full and complete investigation into the complaints. Facilities will be able to address issues and resolve problems before they become a larger issue and potentially avert other enforcement agencies from having to become involved.

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

(a) Initially: It will cost approximately \$250,000 initially to implement this regulation.

(b) On a continuing basis: It will cost approximately \$300,000 in FY 2018 and an additional \$50,000 annually thereafter to implement this regulation due to the additional cost of fringe benefits.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal and state general funds will be used to implement this regulation and operate this program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied since policy is administered the same statewide.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? There are 15 Area Agencies on Aging and Independent Living throughout the state, the contracted entity for the Long Term Care Ombudsman Program and the Department for Aging and Independent Living affected by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 205.204, 13A.221, and 42 U.S.C. 3001et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency

(including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The amendment will not generate additional revenue or an increase in costs or expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment will not generate additional revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment, itself, will not generate additional revenue.

(c) How much will it cost to administer this program for the first year? It will cost approximately \$250,000 initially to implement this regulation.

(d) How much will it cost to administer this program for subsequent years? It will cost approximately \$300,000 in FY 2018 and an additional \$50,000 annually to implement this program due to the increase costs of fringe benefits.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS

**GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(New Administrative Regulation)**

201 KAR 46:035. Practice standards, scopes of practice, and ethical standards.

RELATES TO: 311B.080

STATUTORY AUTHORITY: KRS 311B.050(2), 311B.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Kentucky Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.080 requires the board to recognize and enforce national practice standards and scopes of practice. This administrative regulation establishes uniform standards for the licensure of individuals who perform medical imaging and radiation therapy for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner of the healing arts.

Section 1. Applicability. A licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision as specified by a licensee's practice standards, by a licensee's scope of practice, or in the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures as listed in Section 3 of this administrative regulation.

Section 2. If a licensee's practice standards, by a licensee's scope of practice, or in the ACR-AAPM Technical Standard for the Management of the Use of Radiation in Fluoroscopic Procedures fails to specify who may provide direct or indirect supervision, a licensee shall only perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes while under the direct or indirect supervision of a licensed practitioner of the healing arts.

Section 3. Practice Standards. A licensee shall perform according to practice standards of the discipline for which the licensee holds a credential, as established by the American Society of Radiologic Technologists (ASRT), the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM), and the Society of Nuclear Medicine and Molecular Imaging (SNMMI) and incorporated by reference. These standards include the:

- (1) Radiography Practice Standards;
- (2) Nuclear Medicine Technologist Scope of Practice and Performance Standards;
- (3) Positron Emission Tomography (PET) Technologist Scope of Practice and Performance Standards;
- (4) Scope of Practice for the Nuclear Medicine Advanced Associate;
- (5) Radiation Therapy Practice Standards;
- (6) Bone Densitometry Practice Standards;
- (7) Cardiac Interventional and Vascular Interventional Technology Practice Standards;
- (8) Computed Tomography Practice Standards;
- (9) Limited X-ray Machine Operator Practice Standards;
- (10) Mammography Practice Standards;
- (11) Radiologist Assistant Practice Standards;
- (12) ACR ASRT Joint-Policy Statement-Radiologist Assistant: Roles and Responsibilities; and
- (13) ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures.

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

- (a) "Radiography Practice Standards", revised June 26, 2016;
- (b) "Nuclear Medicine Technologist Scope of Practice and Performance Standards", revised June 2016;
- (c) "Positron Emission Tomography (PET) Technologist Scope

of Practice and Performance Standards", revised January 26, 2013;

(d) "Scope of Practice for the Nuclear Medicine Advanced Associate", created 2009;

(e) "Radiation Therapy Practice Standards", revised June 26, 2016;

(f) "Bone Densitometry Practice Standards", revised June 26, 2016;

(g) "Cardiac Interventional and Vascular Interventional Technology Practice Standards", revised June 26, 2016;

(h) "Computed Tomography Practice Standards", revised June 26, 2016;

(i) "Limited X-ray Machine Operator Practice Standards", revised June 26, 2016;

(j) "Mammography Practice Standards", revised June 26, 2016;

(k) "Radiologist Assistant Practice Standards", revised June 26, 2016;

(l) "ACR ASRT Joint Policy Statement-Radiologist Assistant: Roles and Responsibilities", May 2003;

(m) "ACR-AAPM Technical Standard For Management Of The Use Of Radiation In Fluoroscopic Procedures", revised 2013 (Resolution 44);

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

(a) American Society of Radiologic Technologists, 15000 Central Ave. SE Albuquerque, NM 87123-3909, <http://www.asrt.org/main/standards-regulations/practice-standards>;

(b) Society for Nuclear Medicine and Molecular Imaging, 1850 Samuel Morse Drive Reston, Virginia 20190, <http://www.snmmi.org>; or

(c) The Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

AMY ADKINS, Chair

APPROVED BY AGENCY: April 14, 2017

FILED WITH LRC: April 14, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 22, 2017, at 10:00 a.m., in the office of the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until the end of the day on May 31, 2017. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, phone (502) 782-5687, fax (502) 782-6495, email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the practice standards, scopes of practice, and ethical standards for individuals licensed by the board.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the practice standards, scopes of practice, and ethical standards of licensees who perform

medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the practice standards, scopes of practice, and ethical standards of licensees who perform medical imaging or radiation therapy for diagnostic medical imaging or therapeutic purposes. It assists in knowing the expectations of their scope of practice.

(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: Approximately 300 state health care organizations and approximately 8,000 licensees.

(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: Individuals who seek to be licensed or have an issued license to be renewed must submit an application setting forth the individual's qualifications.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Qualified individuals will be able to be licensed and maintain previously issued licenses.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending this administrative regulation.

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.

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

(9) TIERING: Is tiering applied?: Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of

Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311B.050, 311B.080

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

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

(c) How much will it cost to administer this program for the first year? There is no cost associated with administering this regulation.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division of Water (Repealer)

401 KAR 8:011. Repeal of 401 KAR 8:070, 401 KAR 8:101, 401 KAR 8:550, and 401 KAR 8:600.

RELATES TO: KRS 224.10-100, 224.10-110

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-110(2) authorize the Secretary of the Cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use. These administrative regulations are being repealed because the language of each administrative regulation is being consolidated with other regulations in 401 KAR Chapter 8.

Section 1. The following administrative regulations are hereby repealed:

(1) 401 KAR 8:070, Public notification;

(2) 401 KAR 8:101, Approval Timetable for 401 KAR Chapter 8;

(3) 401 KAR 8:550, Radionuclides; and

(4) 401 KAR 8:600, Secondary standards.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: April 12, 2017

FILED WITH LRC: April 13, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 May 31, 2017. 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: Carole J. Catalfo, Internal Policy Analyst, RPPS, Division of Water, 3rd Floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-9003, email water @ky.gov (Subject line: "Chapter 8 regulations).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo (Subject Line: Chapter 8 Regulations)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 401 KAR 8:070 Public notification, 401 KAR 8:101 Approval timetable for 401 KAR Chapter 8, 401 KAR 8:550 Radionuclides, and 401 KAR 8:600 Secondary standards.

(b) The necessity of this administrative regulation: The language from the administrative regulations being repealed is being consolidated with other regulations in 401 KAR Chapter 8. The administrative regulations are necessary pursuant to the Safe Drinking Water Act and to maintain primary authority over state implementation and enforcement of drinking water regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The language of the administrative regulations being repealed will be consolidated into other regulations in 401 KAR Chapter 8. This will allow streamlined regulations for ease and convenience.

(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 not applicable because this is a repeal of, rather than an amendment to, an existing regulation.

(b) The necessity of the amendment to this administrative regulation: This is not applicable because this is a repeal of, rather than an amendment to, an existing regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not applicable because this is a repeal of, rather than an amendment to, an existing regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not applicable because this is a repeal of, rather than an amendment to, an existing regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulation applies to 491 public water systems.

(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 repeal will not require any additional or different action by the regulated community.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This repeal will not impose any new costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The language of the administrative regulations being repealed will be consolidated into other regulations in 401 KAR Chapter 8. This will allow streamlined regulations for ease and convenience.

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

(a) Initially: This repeal will have no impact on costs.

(b) On a continuing basis: This repeal will have no impact on costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This repeal will have no impact on funding for implementation or enforcement.

(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 repeal will not require an increase in fees.

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

(9) TIERING: Is tiering applied? Tiering is not applied to this repealer administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation applies to public and semipublic water systems. Some units of state or local governments own a public water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(28) and 224.10-110.

(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 repeal will not generate any revenue.

(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 repeal will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This repeal will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No costs will be incurred from this repeal.

(d) How much will it cost to administer this program for subsequent years? No costs will be incurred.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The Division of Water does not anticipate any fiscal impact because this administrative regulation is a repealer.

PUBLIC PROTECTION CABINET Department of Insurance Health and Life Division (New Administrative Regulation)

806 KAR 17:575. Pharmacy Benefit Managers.

RELATES TO: KRS 304.1-050, 304.17A-162

STATUTORY AUTHORITY: KRS 304.2-110, 304.2-160, 304.2-165, 304.9-020, 304.17A-161, 304.17A-162

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17A-162 requires the department to promulgate administrative regulations establishing the manner in which a pharmacy benefit manager shall respond to an appeal regarding maximum allowable cost pricing, the manner in which a pharmacy benefit manager makes available to contracted pharmacies information regarding sources for drug price

data, a comprehensive list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug, and weekly updates to the list. KRS 304.2-160, 304.2-165, 304.9-020, 304.17A-161, 304.17A-162 together provide authority for the department's regulation of pharmacy benefit managers and the specific maximum allowable cost pricing and appeal process considered in this administrative regulation. This administrative regulation establishes the requirements for a pharmacy benefit manager's maximum allowable cost appeals process, the process for the Department's review of a complaint associated with a maximum allowable cost appeal, and the requirements for the cost listings made available by a pharmacy benefit manager.

Section 1. Definitions. (1) "Department" is defined by KRS 304.1-050(2).

(2) "Maximum Allowable Cost" is defined by KRS 304.17A-161(3).

(3) "Pharmacy Benefit Manager" is defined by KRS 304.9-020(15).

Section 2. Maximum Allowable Cost Pricing Appeal Process.

(1) A pharmacy benefit manager shall establish a maximum allowable cost pricing appeal process where a contracted pharmacy or the pharmacy's designee may appeal if:

(a) The maximum allowable cost established for a drug reimbursement is below the cost at which the drug is available for purchase by pharmacists and pharmacies in Kentucky from national or regional wholesalers licensed in Kentucky by the Kentucky Board of Pharmacy; or

(b) The pharmacy benefit manager has placed a drug on the maximum allowable cost list in violation of KRS 304.17A-162(8).

(2) The pharmacy benefit manager's appeal process shall include the following:

(a) The pharmacy benefit manager shall accept an appeal by a contracted pharmacy within sixty (60) days of the initial claim;

(b) Notification of the names, addresses, email addresses, and telephone numbers of the pharmacy benefit manager's contact persons for questions regarding the maximum allowable cost appeal process; and

(c) A provision allowing a contracted pharmacy, pharmacy service administration organization or group purchasing organization, to initiate the appeal process, regardless if an appeal has previously been received by a pharmacy or the pharmacy's designee outside of Kentucky, by contacting the pharmacy benefit manager's designated contact person electronically, by mail, or telephone. If the appeal process is initiated by telephone, the appealing party shall follow up with a written request within three (3) days.

(3) The pharmacy benefit manager's maximum allowable cost pricing appeal process shall be readily accessible to contracted pharmacies electronically through publication on the pharmacy benefit manager's website, and in either the contracted pharmacy's contract with the pharmacy benefit manager or through a pharmacy provider manual distributed to contracted pharmacies, pharmacy service administration organizations, and group purchasing organizations.

(4) For an appeal received from a pharmacy services administration organization or a group purchasing organization related to a dispute regarding maximum allowable cost pricing, a pharmacy benefit manager may request documentation that the pharmacy services administration organization or group purchasing organization is acting on behalf of a contracted pharmacy before responding to the appeal.

(5) The pharmacy benefit manager shall investigate, resolve, and respond the appeal within ten (10) calendar days of receipt of the appeal. Upon resolution, the pharmacy benefit manager's written response to the appealing party shall include the following:

(a) The date of the decision;

(b) The name, phone number, mailing address, email address, and title of the person making the decision; and

(c) A statement setting forth the specific reason for the decision:

1. If the appeal is granted:

(a) The amount of the adjustment to be paid retroactive to the

date of the initial claim to the appealing pharmacy;

(b) The date such payment will occur;

(c) The national drug code and prescription number of the appealed drug; and

(d) The appeal number assigned by the pharmacy benefit manager, if applicable; or

2. If the appeal is denied:

(a) The national drug code or an alternative national drug code of the same dosage, strength, and quantity of the appealed drug;

(b) The Kentucky licensed wholesaler offering the drug at or below maximum allowable cost on the date of fill; and

(c) The price offered by the Kentucky licensed wholesaler on the date of fill.

(6) When a pharmacy benefit manager grants an appeal for which a price update is warranted in accordance with KRS 304.17A-162(2), the pharmacy benefit manager shall individually notify contracted pharmacies of the granted appeal, the appealed drug, and retroactive price update by the time of release of the next scheduled maximum allowable cost update following the appeal decision by:

(a) United States mail;

(b) Electronic mail;

(c) Facsimile; or

(d) Web portal posting for sixty (60) days with corresponding electronic communication to a contracted pharmacy alerting that an appeal has been granted.

(7) All contracted pharmacies permitted to reverse and resubmit claims following a granted appeal pursuant to KRS 304.17A-162(2) shall submit claims to the pharmacy benefit manager within sixty (60) days of the date the appeal was granted.

(8) A pharmacy benefit manager shall submit the maximum allowable cost pricing appeal process and a template response satisfying the requirements of subsection (5) of this section to the department for review and approval.

Section 3. Department Review of Maximum Allowable Cost Pricing Appeal. (1) A contracted pharmacy or the pharmacy's designee may file a complaint following a final decision of the pharmacy benefit manager to the department in accordance with KRS 304.2-160 and 304.2-165.

(2) A complaint shall be submitted to the department no later than thirty (30) calendar days from the date of the pharmacy benefit manager's final decision.

(3) The department shall be entitled to request additional information necessary to resolve a complaint from any party in accordance with KRS 304.2-165 and 304.17A-162(5).

Section 4. Maximum allowable cost list availability and format.

(1) The pharmacy benefit manager shall make available to the contracted pharmacy a comprehensive list of drugs subject to maximum allowable cost pricing.

(2) The comprehensive maximum allowable cost pricing list shall:

(a) Be a complete listing by drug in an electronically accessible format, unless, upon a pharmacy's written request the list be provided in a paper or other agreed format within twenty-four (24) hours of receipt of the request;

(b) Identify the applicable plan for which the pricing is applicable;

(c) Be electronically searchable and sortable by individual drug name, national drug code, and drug classification;

(d) Contain data elements including the drug name, national drug code, package size, per unit price, and strength of drug;

(e) List a specific maximum allowable cost for each drug that will be reimbursed by the pharmacy benefit manager;

(f) Provide the effective date for that maximum allowable cost price; and

(g) Provide the date the maximum allowable cost list was updated.

(3) The pharmacy benefit manager shall retain in accordance with subsection (2)(a) of this section historical pricing data for a minimum of sixty (60) days.

Section 5. Weekly Updates to Maximum Allowable Cost Price List. (1) Pharmacy benefit managers shall make available to all contracted pharmacies weekly updates to the list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug.

(2) The weekly updates shall:

(a) Be in an electronically accessible format, unless, upon written request by the pharmacy the update be provided in paper or other agreed format;

(b) Identify the basis for each drug's inclusion on the update;

(c) If a drug is added to the maximum allowable cost list, the maximum allowable cost price shall be indicated;

(d) Identify all drugs removed from the maximum allowable cost list;

(e) If a change in the maximum allowable cost price is made, include the old price, new price, and percentage difference; and

(f) Identify the effective date of the change.

(3) If a pharmacy benefit manager updates the manager's comprehensive list required under Section 4 of this administrative regulation on a weekly basis, and includes all of the elements set forth in subsection (2) of this section, then a pharmacy benefit manager is not required to publish a separate weekly update.

Section 6. Data Source Availability. Each pharmacy benefit manager shall identify electronically or within contracts to all contracted pharmacies the national drug pricing compendia or sources used to obtain drug price data for those drugs subject to maximum allowable cost provisions. If any changes are made to the data sources following the execution of a contract, the pharmacy benefit manager shall individually notify the contracted pharmacies of the changes either through correspondence submitted electronically, facsimile, or US mail.

Section 7. Annual report. All pharmacy benefit managers licensed to do business in Kentucky shall transmit at least annually by March 31 to the department a Pharmacy Benefit Manager Annual Report.

Section 8. Incorporation by reference. (1) "Pharmacy Benefit Manager Annual Report," April 2017, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

H. BRIAN MAYNARD, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: April 13, 2017

FILED WITH LRC: April 14, 2017 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 24, 2017 at 9:00 a.m. Eastern Time at the Kentucky Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the Kentucky Department of Insurance in writing by May 17, 2017, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2017 at 11:59 p.m.. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Patrick D. O'Connor II, Executive Advisor, Kentucky Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601, phone (502) 564-6026, fax (502) 564-2669, email Patrick.OConnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Patrick D. O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: The administrative regulation expounds upon the Department of Insurance's oversight of the relationship between a pharmacy and pharmacy benefit manager as directed by KRS 304.17A-162. First, the administrative regulation provides further detail on the required internal and external complaint processes for pharmacy benefit managers. These appeals are available to pharmacists contesting the amount of a pharmacy benefit manager's maximum allowable cost payments received for prescriptions. The regulation sufficiently narrows the scope of the department's review in the appeal process to ensure the pharmacy benefit manager has applied the appropriate standards required pursuant to KRS 304.17A-162, while affording the entities the freedom to contract for pricing. Secondly, the administrative regulation describes the maximum allowable cost prescription list and format, and the weekly updates required of the pharmacy benefit manager to provide an easily accessible and searchable list to ensure pharmacies are informed of prescription pricing reimbursements. Lastly, the administrative regulation requires a pharmacy benefit manager to provide the department annual reports to allow for the identification of any issues in this specific process and determine any necessary department action.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to implement the statutory mandates of KRS 304.17A-162 and to increase transparency in the prescription pricing and reimbursement process to prevent potential abuse.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.17A-162 requires the Department to promulgate administrative regulations concerning specific aspects of the relationship between a pharmacy and a pharmacy benefit manager. The administrative regulation considers those specific mandates of the statutes and is narrowly tailored to conform to the legislature's directive.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation clarifies the scope of the Department's review of maximum allowable cost prescription appeals. It also provides a reporting obligation on behalf of pharmacy benefit managers to allow the Department to efficiently oversee pharmacy benefit managers and identify any areas of concern.

(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: Pharmacies, pharmacy benefit managers, and insurers operating within the Commonwealth of Kentucky will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The requirements imposed upon each of the entities are similar to existing requirements already found in other states. Specifically, numerous states have passed nearly identical provisions regarding weekly updates of maximum allowable cost price lists and a process whereby pharmacies can appeal pricing issues. To comply with these Kentucky specific provisions, the pharmacy benefit managers will need to configure their operating systems in such a manner to allow pharmacies sufficient access to

their maximum allowable cost price lists and weekly updates with the required information, which is basic in nature. Pharmacy benefit managers will also need to modify their appeals process according to these regulatory provisions. Pharmacy benefit managers, at a minimum, will adjust the specificity of the information provided to pharmacies for denied appeals and provide individual notification to all impacted pharmacies when a warranted price update follows a granted appeal. Lastly, pharmacy benefit managers will be required to maintain appeal data used in generating the annual reports.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The requirements established in this regulation are very similar to requirements already established in other states. The Department has worked with the regulated entities since the passage of KRS 304.17A-162 to develop these changes. Therefore, the cost of compliance is minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The parties will benefit from greater transparency in the prescription pricing process and the adoption of an official appeal process, with Department oversight, that will prevent parties from taking advantage of each other's position.

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

(a) Initially: The department may incur costs in the event excessive complaints are submitted and the development of software is necessary to capture and retain the appeal information. Currently, existing staff members in the Consumer Protection Division are handling the investigation and determination of complaints within their normal duties.

(b) On a continuing basis: The Consumer Protection Division will continue to handle complaints submitted. The department anticipates over time the complaints submitted will diminish as the parties understand and implement the required system.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The licensing fees generated will cover a portion of the cost, and the Department remains capable of assessing additional fees pursuant to KRS 304.9-054.

(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 department anticipates an increase in the number of appeals from pharmacists received by the Consumer Protection Division once the regulation is finalized. However, following a period of adjustment, the department anticipates the appeals will drop considerably once all parties become accustomed to the requirements and the assessment of any necessary penalties against non-compliant parties. If the number of appeals continue to increase and requires the department to expand the number of existing personnel to process and review the appeals, an increase in fees may be required as provided under KRS 304.9-054.

(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 used as the regulation applies to all entities operating as pharmacy benefit managers.

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 Department of Insurance, Consumer Protection Division.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.17A-162.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for state or local government.

(c) How much will it cost to administer this program for the first year? The current personnel of the Department of Insurance will investigate complaints during the first year as part of their regular job duties. The Department does not anticipate any additional cost.

(d) How much will it cost to administer this program for subsequent years? The Department anticipates the current personnel in the Department of Insurance will continue to investigate complaints. However, in the event the complaints do not reduce following a period, the Department of Insurance may be required to add personnel to investigate the complaints submitted.

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 (Repealer)

902 KAR 20:053. Repeal of 902 KAR 20:054.

RELATES TO: KRS 304.38-010 - 304.38-230, 216B.015(13)

STATUTORY AUTHORITY: KRS 216B.042(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1)(c) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. In accordance with KRS 216B.042(1)(c)3., these administrative regulations shall include the classification of health facilities and health services according to type, size, range of services, and level of care. KRS 216B.015(13) defines the term "health facility" to include "facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need". Accordingly, a health facility or health service owned and operated by a health maintenance organization is subject to licensure in the appropriate level of care established under 902 KAR Chapter 20. A health maintenance organization is subject to regulation by the Kentucky Department of Insurance pursuant to 806 KAR 38:010 through 806 KAR 38:100. This administrative regulation repeals 902 KAR 20:054 because:

(1) 902 KAR 20:054 is unnecessary as all health facilities and health services that do not qualify for the exemption under KRS 216B.020(2) are subject to licensure in the appropriate level of care established under 902 KAR Chapter 20;

(2) The Kentucky Department of Insurance, not the Cabinet for Health and Family Services, maintains responsibility for regulating health maintenance organizations; and

(3) The responsibilities established in 902 KAR 20:054 that give the Commission for Health Economics Control in Kentucky the authority to revoke a health maintenance organization's license are obsolete because the commission is now defunct.

Section 1. 902 KAR 20:054, Health maintenance organizations; operations and services, is hereby repealed.

ROBERT S. SILVERTHORN, JR., Inspector General
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 4, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 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 May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes, Internal Policy Analyst, Office of Inspector General, phone 502-564-2888, email stephanie.brammer@ky.gov., and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in accordance with KRS 13A.310(3)(a), repeals 902 KAR 20:054.

(b) The necessity of this administrative regulation: This administrative regulation repeals 902 KAR 20:054 which is unnecessary because all health facilities and health services that do not qualify for the exemption under KRS 216B.020(2) are subject to licensure in the appropriate level of care under 902 KAR Chapter 20. Such facilities and services are not subject to licensure as a health maintenance organization under 902 KAR 20:054. The Kentucky Department of Insurance, not the cabinet, maintains responsibility for regulating health maintenance organizations. Additionally, the responsibilities established in 902 KAR 20:054 for the Commission for Health Economics Control in Kentucky are obsolete as the Commission is now defunct.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 216B.042 because the Cabinet for Health and Family Services has promulgated administrative regulations under 902 KAR Chapter 20 to establish licensure standards for health facilities and health services according to the type of health care delivered.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is part of the cabinet's effort under Governor Bevin's Red Tape Reduction initiative to repeal obsolete and unnecessary regulations in accordance with KRS 13A.310(3)(a).

(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 not an amendment to an existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal of 902 KAR 20:054 does not

impact any individuals, businesses, organizations, or state and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation repeals 902 KAR 20:054.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as this administrative regulation repeals 902 KAR 20:054.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.310(3)(a)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

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
(Repealer)

902 KAR 22:011. Repeal of 902 KAR 22:010 and 902 KAR 22:030.

RELATES TO: KRS 216.900 – 216.930

STATUTORY AUTHORITY: KRS 216.920

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.920 created the Kentucky Board of Family Health Care Providers and made the board responsible for the certification of midlevel health care practitioners, a position classification created by KRS 216.925 in 1990 to encourage the use of physician extenders. The Board of Family Health Care Providers is now defunct as reported by the Legislative Research Commission, Program Review and Investigations Committee, Research Report No. 394, "Kentucky's Boards, Commissions, and Similar Entities", adopted on December 13, 2012. Accordingly, House Bill 276 from the 2017 Session of the General Assembly repealed KRS 216.920 and KRS 216.925. This administrative regulation repeals 902 KAR 20:010 and 902 KAR 20:030 as these two (2) administrative regulations establish responsibilities for a board that is no longer active.

Section 1. The following administrative regulations are hereby repealed:

(1) 902 KAR 22:010, Kentucky Board of Family Health Care Providers; and

(2) 902 KAR 22:030, Midlevel health care practitioner. 902 KAR 22:011.

ROBERT S. SILVERTHORN, JR., Inspector General

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 4, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 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 May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes, Internal Policy Analyst, Office of Inspector General, phone 502-564-2888, email stephanie.brammer@ky.gov., and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: In accordance with KRS 13A.310(3)(a), this administrative regulation, repeals 902 KAR 22:010 and 902 KAR 20:030.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 902 KAR 22:010 and 902 KAR 20:030 as the Board of Family Health Care Providers is now defunct.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: HB 276 from the 2017 Session of the General Assembly repealed the authorizing statute, KRS 216.920. Therefore, this administrative regulation repeals 902 KAR 22:010 and 902 KAR 22:030 accordingly.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is part of the cabinet's effort under Governor Bevin's Red Tape Reduction initiative to repeal obsolete regulations in accordance with KRS 13A.310(3)(a).

(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 not an amendment to an existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal of 902 KAR 22:010 and 902 KAR 20:030 does not impact any individuals, businesses, organizations, or state and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation repeals 902 KAR 22:010 and 902 KAR 20:030.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as this administrative regulation repeals 902 KAR 22:010 and 902 KAR 20:030.

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 repeal of 902 KAR 22:010 and 902 KAR 20:030 does not impact any entities outside of the Cabinet for Health and Family Services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

regulation. KRS 13A.310(3)(a)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

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 Audits and Investigations
(Repealer)

902 KAR 55:076. Repeal of 902 KAR 55:075 and 902 KAR 55:100.

RELATES TO: KRS 217.952, 311.950 – 311.966, 311.991

STATUTORY AUTHORITY: KRS 217.950, 218A.420(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.420(2) allows for controlled substances that have been forfeited but have a legal use to be sold to a proper buyer as determined in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services. Because controlled substances seized and forfeited under KRS Chapter 218A have no lawful purpose and are ultimately destroyed, this administrative regulation repeals 902 KAR 55:075. KRS 217.950 requires the secretary of the Cabinet for Health and Family Services to adopt administrative regulations that prescribe minimum standards for manufacturers in preparing, compounding, processing, and packaging laetrile. Once promoted as an alternative cancer treatment, the U.S. Food and Drug Administration (FDA) refers to laetrile as a highly toxic product that has not shown any effect on treating cancer. Due to the lack of evidence of laetrile's effectiveness and the toxicity of its side effects, the FDA has not approved laetrile. The FDA also prohibits the interstate shipment of laetrile. Accordingly, House Bill 276 from the 2017 Session of the General Assembly repealed Kentucky's Laetrile Act, KRS 217.950, KRS 217.952, KRS 311.950 – KRS 311.966, and KRS 311.991. Therefore, this administrative regulation repeals 902 KAR 55:100.

Section 1. The following administrative regulations are hereby repealed:

(1) 902 KAR 55:075, Sale of seized and forfeited controlled substances; and

(2) 902 KAR 55:100, Laetrile manufacturing standards.

ROBERT S. SILVERTHORN, JR., Inspector General

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 4, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 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 May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes, Internal Policy Analyst, Office of Inspector General, phone 502-564-2888, email stephanie.brammer@ky.gov., and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: In accordance with KRS 13A.310(3)(a), this administrative regulation repeals 902 KAR 55:075 and 902 KAR 55:100.

(b) The necessity of this administrative regulation: Because controlled substances seized and forfeited under KRS Chapter 218A have no lawful purpose and are ultimately destroyed, this administrative regulation is necessary to repeal 902 KAR 55:075. In addition, HB 276 from the 2017 legislative session repealed Kentucky's Laetrile Act because laetrile is a non-FDA approved substance that is ineffective and highly toxic in oral dose form. Therefore, this administrative regulation is necessary to repeal 902 KAR 55:100.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Because controlled substances seized and forfeited under KRS Chapter 218A have no lawful purpose and are ultimately destroyed, this administrative regulation repeals an unnecessary regulation, 902 KAR 55:075. In addition, HB 276 from the 2017 Session of the General Assembly repealed the authorizing statutes under Kentucky's Laetrile Act. Therefore, this administrative regulation repeals 902 KAR 55:100 accordingly.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is part of the cabinet's effort under Governor Bevin's Red Tape Reduction initiative to repeal obsolete and unnecessary regulations in accordance with KRS 13A.310(3)(a).

(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 not an amendment to an existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal of 902 KAR 55:075 and 902 KAR 55:100 does not impact any individuals, businesses, organizations, or state and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation repeals 902 KAR 55:075 and 902 KAR 55:100.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as this administrative regulation repeals 902 KAR 55:075 and 902 KAR 55:100.

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 repeal of 902 KAR 55:075 and 902 KAR 55:100 does not impact any entities outside of the Cabinet for Health and Family Services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.310(3)(a)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

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 (Repealer)

906 KAR 1:081. Repeal of 906 KAR 1:080.

RELATES TO: KRS 211.461-211.466, 211.990, 304.17-412, 304.18-045, 304.32-147, 304.32-330, 304.38-225, 311.131-311.139, 311.990

STATUTORY AUTHORITY: KRS 194.050, 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.464 and KRS 311.133 previously required the Cabinet for Human Resources, now called the Cabinet for Health and Family Services, to promulgate administrative regulations to implement a program necessary to register private review agents. 2000 Ky. Acts ch. 262, sec. 35 repealed KRS 211.461 to KRS 211.466 and KRS 311.131 to KRS 311.139, thereby rescinding the cabinet's authority to certify private review agents that conduct utilization reviews in connection with health benefit plans. The Department for Insurance is currently responsible for the registration of private review agents pursuant to 806 KAR 17:280. In accordance with KRS 13A.310(3)(a), this administrative regulation repeals 906 KAR 1:080 because the Office of Inspector General is no longer responsible for the certification of private review agents.

Section 1. 906 KAR 1:080, Standards for utilization review, is hereby repealed.

ROBERT S. SILVERTHORN, JR., Inspector General

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 4, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 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 May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes, Internal Policy Analyst, Office of Inspector General, phone 502-564-2888, email stephanie.brammer@ky.gov., and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: In accordance with KRS 13A.310(3)(a), this administrative regulation repeals 906 KAR 1:080.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 906 KAR 1:080 because the cabinet is no longer responsible for the certification of private review agents that conduct utilization reviews in connection with health benefit plans. This administrative regulation is part of the cabinet's effort under Governor Bevin's Red Tape Reduction initiative to repeal obsolete regulations.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: House Bill 390 from the 2000 Session of the General Assembly repealed the authorizing statutes KRS 211.461 to KRS 211.466 and KRS 311.131 to KRS 311.139. Therefore, this administrative regulation repeals 906 KAR 1:080 accordingly.

(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 repealing 906 KAR 1:080 consistent with repeal of the authorizing statutes during the 2000 Session of the General Assembly.

(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 not an amendment to an existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal of 906 KAR 1:080 does not impact any individuals, businesses, organizations, or state and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation repeals 906 KAR 1:080.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as this administrative regulation repeals 906 KAR 1:080.

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 does not impact any entity outside of the Cabinet for Health and Family Services.

2. Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. KRS 13A.310(3)(a)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

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 Audits and Investigations (Repealer)

906 KAR 1:091. Repeal of 906 KAR 1:090.

RELATES TO: KRS 194A.030(1)(c)

STATUTORY AUTHORITY: KRS 194A.030(1)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.030(1)(c) charges the Office of Inspector General with responsibility for conducting audits and investigations to detect the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted. In accordance with KRS 13A.310(3)(a), this administrative regulation repeals 906 KAR 1:090 because the Office of Inspector General is no longer responsible for conducting audits to determine allowable costs and reimbursement under Kentucky's Medicaid Program for those services listed in 906 KAR 1:090, Section 3. The reason that the audit process described by 906 KAR 1:090 has been discontinued is because the type of audit previously performed pertains to a reimbursement methodology no longer used by the Department for Medicaid Services. Medicaid provider appeal rights are established in 907 KAR 1:671, further eliminating any need for 906 KAR 1:090.

Section 1. 906 KAR 1:090, Postaudit appeal procedures of programs and vendors of services with whom the Cabinet for Human Resources has contracted, is hereby repealed.

ROBERT S. SILVERTHORN, JR., Inspector General
VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: April 4, 2017

FILED WITH LRC: April 13, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 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 May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes, Internal Policy Analyst, Office of Inspector General, phone 502-564-2888, email stephanie.brammer@ky.gov., and Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: In accordance with KRS 13A.310(3)(a), this administrative regulation repeals 906 KAR 1:090.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 906 KAR 1:090 because the Office of Inspector General is no longer responsible for conducting audits to determine allowable costs and reimbursement under Kentucky's Medicaid Program for those services listed in 906 KAR 1:090, Section 3. The reason that the audit process described by 906 KAR 1:090 has been discontinued is because the type of audit previously performed pertains to a reimbursement methodology no longer used by the Department for Medicaid Services. Medicaid provider appeal rights are established in 907 KAR 1:671, further eliminating any need for 906 KAR 1:090.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms with KRS 13A.310 by repealing an obsolete regulation that is no longer enforced by the Office of Inspector General.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: As part of the cabinet's effort under Governor Bevin's Red Tape Reduction initiative to repeal obsolete regulations, this administrative regulation assists in the effective administration of the statutes by repealing 906 KAR 20:090 in accordance with KRS 13A.310.

(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 not an amendment to an existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal of 906 KAR 1:090 does not impact any individuals, businesses, organizations, or state and local governments.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

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

administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation repeals 906 KAR 1:090.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee or funding increase is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as this administrative regulation repeals 906 KAR 1:090.

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 does not impact any entity outside of the Cabinet for Health and Family Services.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.310(3)(a)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 23:001. Definitions for 907 KAR Chapter 23.

RELATES TO: KRS 205.560, 205.561, 205.5631, 205.5632, 205.5634, 205.5636, 205.5638, 205.5639, 205.6316(4), 217.015, 42 C.F.R. 440.120, 447.500 - 447.520, 42 U.S.C. 256b, 1396a -

1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the definitions for 907 KAR Chapter 23.

Section 1. Definitions. (1) "340B ceiling price" means the maximum statutory price established under Section 340B of the Public Health Service Act (340B Program), 42 U.S.C. 256b, and as calculated according to 42 C.F.R. 10.10.

(2) "Actual 340B acquisition cost" means the actual price paid for a drug purchased through the 340B program.

(3) "Average sales price" or "ASP" means the average sales price reported quarterly by the drug manufacturer to the Centers for Medicare and Medicaid Services (CMS).

(4) "Brand name drug" means the registered trade name of a drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

(5) "Commissioner" is defined by KRS 205.5631(1).

(6) "Covered drug" means a drug for which the Department for Medicaid Services provides reimbursement if medically necessary, not otherwise excluded, and provided in accordance with 907 KAR 23:010.

(7) "Covered outpatient drug" is defined by 42 U.S.C. 1396r-8(k)(2), unless excluded by 907 KAR 23:010 or 907 KAR 23:020.

(8) "Department" means the Department for Medicaid Services or its designated agent.

(9) "Department's pharmacy webpage" means the site maintained by the Department for Medicaid Services and accessible at <http://www.chfs.ky.gov/dms/Pharmacy>.

(10) "Department's pharmacy web portal" means the portal that:

- (a) Provides online access to prescription and Kentucky specific plan information as well as supporting documentation; and
- (b) Is accessible through the department's pharmacy webpage.

(11) "Dosage form" means the type of physical formulation used to deliver a drug to the intended site of action and includes a tablet, an extended release tablet, a capsule, an elixir, a solution, a powder, a spray, a cream, an ointment, or any other distinct physical formulation recognized as a dosage form by the Food and Drug Administration.

(12) "Drug Management Review Advisory Board" or "DMRAB" means the advisory board established pursuant to KRS 205.5636.

(13) "Effective" or "effectiveness" means a finding that a pharmaceutical agent does or does not have a significant, clinically-meaningful therapeutic advantage in terms of safety, usefulness, or clinical outcome over the other pharmaceutical agents based on pertinent information from a variety of sources determined by the department to be relevant and reliable.

(14) "Emergency supply" means a seventy-two (72) hour supply.

(15) "Enrollee" means a recipient who is enrolled with a managed care organization.

(16) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(17) "Federal upper limit" or "FUL" means the upper payment limit for multiple source drugs for which a limit has been established by CMS as defined by 42 C.F.R. 447.512, 447.514, and 447.516.

(18) "Food and Drug Administration" or "FDA" means the Food and Drug Administration of the United States Department of Health and Human Services.

(19) "Generic drug" or "generic form" means a drug that contains identical amounts of the same active drug ingredients in the same dosage form and that meets official compendia or other applicable standards of strength, quality, purity, and identity in

comparison with the brand name drug.

(20) "Kentucky Medicaid Fee-for-Service Outpatient Drug List" or "Outpatient Drug List" means each list available through the department's pharmacy webpage that:

- (a) Specifies drugs, drug categories, and related covered items;
- (b) Indicates prior authorization requirements or special prescribing or dispensing restrictions;
- (c) Identifies excluded medical uses; and
- (d) Includes other drug related information, such as:

1. Formulary status, drug coverage, and other plan limitations (prior authorization, quantity limits, step therapy, and diagnosis) associated with a drug;

2. The selected drugs available to fee-for-service recipients that have been included based on proven clinical and cost effectiveness and that prescribers are encouraged to prescribe if medically appropriate;

3. Physician administered drugs that may be billed to the fee-for-service medical benefit using appropriate Healthcare Common Procedure Coding System codes, National Drug Codes, and appropriate units;

4. Over-the-counter drugs that, if prescribed, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

5. Legend cold and cough drugs and legend vitamin products that, if prescribed and FDA indicated for the intended use, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

6. Over-the-counter drugs that, if provided to a Medicaid nursing facility service recipient, are included in the nursing facility's standard price or daily per diem rate and are not otherwise reimbursed by the department;

7. Covered drugs that have a quantity limit consistent with the maximum dosage that the FDA has approved to be both safe and effective; and

8. Covered drugs that require a diagnosis code or a prerequisite to therapy, or both.

(21) "Legend drug" means a drug so defined by the FDA and required to bear the statement: "Caution: Federal law prohibits dispensing without prescription".

(22) "Managed care organization" means an entity for which the department has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.

(23) "Manufacturer" is defined by 42 U.S.C. 1396r-8(k)(5).

(24) "Maximum allowable cost" or "MAC" means a Kentucky-specific maximum amount that:

- (a) May be established for any drug for which there are two (2) or more A-rated therapeutically equivalent, multiple-source, non-innovator drugs, as established in 907 KAR 23:020, Section 5; and
- (b) Is an acquisition cost based model that includes all types of medications, including specialty and hemophilia products.

(25) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(26) "National Average Drug Acquisition Cost" or "NADAC" means the average acquisition cost for drug ingredients for prescribed and covered outpatient drugs determined by a survey of retail community pharmacy providers as published by CMS.

(27) "Official compendia" or "compendia" is defined by 42 U.S.C. 1396r-8(g)(1)(B)(i).

(28) "Over-the-counter" or "OTC" means a drug approved by the FDA to be sold without bearing the statement "Caution: Federal law prohibits dispensing without prescription".

(29) "Pharmacy and Therapeutics Advisory Committee" or "P&T Committee" means the pharmacy advisory committee established by KRS 205.564 and in compliance with 45 C.F.R. 156.122.

(30) "Pharmacy provider" means a pharmacy that is:

- (a) Within the scope of practice under Kentucky licensing laws and has the legal authority to operate as a pharmacy;
- (b) Enrolled in the Medicaid Program pursuant to 907 KAR 1:672; and
- (c) Currently participating in the Medicaid Program pursuant to

907 KAR 1:671.

(31) "Physician administered drug" or "PAD" means any rebateable covered outpatient drug that is:

(a) Provided or administered to a Medicaid recipient;

(b) Billed by a provider other than a pharmacy provider through the medical benefit, including providers who are physician offices or another outpatient clinical setting; and

(c) An injectable or non-injectable drug furnished incident to provider services that are billed separately to Medicaid.

(32) "Prescribed drug" is defined by 42 U.S.C. 1396r-8(k)(4).

(33) "Prescriber" means a health care professional who:

(a) Within the scope of practice under Kentucky licensing laws, has the legal authority to write or order a prescription for the drug that is ordered;

(b) Is enrolled in the Medicaid Program pursuant to 907 KAR 1:672; and

(c) Is currently participating in the Medicaid Program pursuant to 907 KAR 1:671.

(34) "Prior authorization request form" means a form that is:

(a) Used to request prior authorization for a prescription as established by 907 KAR 23:010; and

(b) Called either the:

1. Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products; or

2. Kentucky Medicaid Pharmacy Prior Authorization Form.

(35) "Professional dispensing fee" means the fee paid to reimburse a pharmacy provider for professional costs associated with dispensing as defined by 42 C.F.R. 447.502.

(36) "Rebateable drug" means a drug for which the drug manufacturer has entered into and has in effect a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

(37) "Recipient" is defined by KRS 205.8451(9).

(38) "Supplemental rebate" means a cash rebate that offsets a Kentucky Medicaid expenditure and that supplements the Centers for Medicare and Medicaid Services National Rebate Program.

(39) "Therapeutically equivalent" means determined to be therapeutically equivalent by the FDA.

(40) "Usual and customary price" means the provider's usual and customary charge to the public, as identified by the claim charge.

(41) "Wholesale acquisition cost" or "WAC" means the list price paid by a wholesaler, distributor, or other direct accounts for drugs purchased from the wholesaler's supplier as listed in a nationally recognized comprehensive drug data file for which the department has contracted.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 at 9:00 a.m. in Suites A & B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the definitions for 907 KAR Chapter 23. The definitions were previously included in 907 KAR 1:018 and 907 KAR 1:019 and have been updated to comply with the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions for terms used in 907 KAR Chapter 23.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing definitions for terms used in DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing definitions for DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This is a definitions administrative regulation so actions are not needed to comply with this administrative regulation. The requirements are established in 907 KAR 23:010 and 907 KAR 23:020.

(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 experienced by affected providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be no benefits to entities from this administrative regulation as it merely establishes definitions.

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

(a) Initially: This is a definitions administrative regulation and it will not cost anything to implement.

(b) On a continuing basis: This is a definitions administrative regulation and it will not cost anything to implement.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: This is a definitions administrative regulation and does not need a source of funding for implementation and enforcement.

(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 establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because this administrative regulation establishes definitions that apply equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 1396r-8

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 establishes definitions and is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation establishes definitions and is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation establishes definitions and is not expected to cost anything to administer.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation establishes definitions and is not expected to cost anything to administer.

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. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. This administrative regulation establishes the definitions for 907 KAR Chapter 23.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). This administrative regulation establishes the definitions for 907 KAR Chapter 23.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 23:010. Outpatient pharmacy program.

RELATES TO: KRS Chapter 13B, 205.510, 205.560, 205.561, 205.5631-205.5639, 205.564, 205.6316, 205.8451, 205.8453, 217.015, 217.822, 42 C.F.R. 430.10, 431.54, 440.120, 447.331, 447.332, 447.333, 447.334, 42 U.S.C. 1396a, 1396b, 1396c, 1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.561, 205.5632, 205.5634, 205.5639(2), 205.564(10), (13)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. KRS 205.560 provides that the scope of medical care for which Medicaid shall pay is determined by administrative regulations promulgated by the cabinet. This administrative regulation establishes the provisions for coverage of outpatient drugs through the Medicaid outpatient pharmacy program for fee-for-service recipients and managed care enrollees.

Section 1. Covered Drugs. A covered drug shall be:

- (1) Medically necessary;
- (2) Approved by the FDA;
- (3) Prescribed for an indication that has been approved by the FDA or for which there is documentation in official compendia or peer-reviewed medical literature supporting its medical use;
- (4) A rebateable drug; and
- (5) A covered outpatient drug.

Section 2. Diabetic Supplies. Except if Medicare is the primary payer, the department shall cover the diabetic supplies listed in this section via the department's pharmacy program and not via the department's durable medical equipment program established in 907 KAR 1:479:

- (1) A syringe with needle (sterile, 1cc or less);
- (2) Urine test or reagent strips or tablets;
- (3) Blood ketone test or reagent strip;
- (4) Blood glucose test or reagent strips;
- (5) Calibrating solutions;
- (6) Lancet device;
- (7) Lancets; or
- (8) Home blood glucose monitor.

Section 3. Tamper-Resistant Prescription Pads. (1) Each covered drug or diabetic supply shall be prescribed on a tamper-resistant prescription pad, except if the prescription is:

- (a) An electronic prescription;
- (b) A faxed prescription; or

(c) A prescription telephoned by a prescriber or authorized agent.

(2) To qualify as a tamper-resistant prescription, the prescription pad shall contain one (1) or more of each industry-recognized feature designed to prevent:

(a) Unauthorized copying of a completed or blank prescription form;

(b) The erasure or modification of information written by the prescriber on the prescription; and

(c) The use of counterfeit prescription forms.

Section 4. Kentucky Medicaid Fee-for-Service Outpatient Drug List. (1) The department shall maintain each Outpatient Drug List to include drug coverage and availability information in the following formats:

(a) Kentucky Medicaid Provider Drug Portal Lookup, which shall be an online searchable drug database that functionally affords users the ability to perform a search of the Kentucky specific fee-for-service drug formulary for the purpose of ascertaining formulary status, drug coverage, and other plan limitations (prior authorization, quantity limits, step therapy, and diagnosis) associated with a drug;

(b) Kentucky Preferred Drug Listing (PDL), which shall be a listing of selected drugs available to fee-for-service recipients that have been included based on proven clinical and cost effectiveness and that prescribers are encouraged to prescribe if medically appropriate;

(c) Physician Administered Drug List (PAD), which was formerly known as the Physician Injectable Drug List (PIDL), and which shall indicate the list of physician administered drugs that can be billed to the fee-for-service medical benefit using appropriate Healthcare Common Procedure Coding System codes, National Drug Codes, and appropriate units;

(d) Over-the-Counter (OTC) Drug List, which shall be a list of OTCs that, if prescribed, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

(e) Covered Prescription Cold, Cough, and Vitamin Product List, which shall indicate the legend drugs that, if prescribed and FDA indicated for the intended use, are eligible for fee-for-service coverage and reimbursement through the pharmacy benefit;

(f) Long Term Care Per Diem List, which shall indicate OTC drugs that, if provided to a Medicaid nursing facility service recipient, are included in the nursing facility's standard price or daily per diem rate, and are not otherwise reimbursed by the department;

(g) Maximum Quantity Limits List, which shall indicate covered drugs that have a quantity limit consistent with the maximum dosage that the FDA has approved to be both safe and effective; and

(h) Kentucky Medicaid Diagnosis Drug List, which shall indicate covered drugs that require a diagnosis code or a prerequisite to therapy, or both.

(3) Each Outpatient Drug List shall be updated by the department at least quarterly or otherwise as needed.

(4) Each Outpatient Drug List shall be accessible through the department's pharmacy webpage.

Section 5. Exclusions to Coverage. The following drugs shall be excluded from coverage and shall not be reimbursed:

(1) A drug that the FDA considers to be:

(a) A less-than-effective drug; or

(b) Identical, related, or similar to a less-than-effective drug;

(2) A drug or its medical use in one (1) of the following categories unless the drug or its medical use is designated as covered by an Outpatient Drug List:

(a) A drug if used for anorexia, weight loss, or weight gain;

(b) A drug if used to promote fertility;

(c) A drug if used for cosmetic purposes or hair growth;

(d) A drug if used for the symptomatic relief of cough and colds;

(e) A vitamin or mineral product other than prenatal vitamins and fluoride preparations;

(f) An OTC drug provided to a Medicaid nursing facility service

recipient and included in the nursing facility's standard price or daily per diem rate;

(g) A drug that the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee; or

(h) A drug utilized for erectile dysfunction therapy unless the drug is used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the FDA;

(3) A drug that is not rebateable, unless there has been a review and determination by the department that it is in the best interest of a recipient for the department to make payment for the drug and federal financial participation is available for the drug;

(4) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service;

(5) A drug for which the department requires prior authorization if prior authorization has not been approved;

(6) A drug that shall no longer be dispensed by a pharmacy provider because it has reached the manufacturer's termination date or is 365 days past the manufacturer's obsolete date; and

(7) Investigational drugs or drugs utilized for non-FDA indications or other investigational treatments.

Section 6. Limitations to Coverage. (1) All dispensing and administration of covered drugs shall comply with applicable federal and state law.

(2) Refills.

(a) A controlled substance in Schedule II shall not be refilled.

(b) If authorized by a prescriber, a prescription for a:

1. Controlled substance in Schedule III, IV, or V may be refilled up to five (5) times within a six (6) month period from the date the prescription was written or ordered, at which time a new prescription shall be required; or

2. Noncontrolled substance, except as provided in subsection (3)(a) of this section, may be refilled up to eleven (11) times within a twelve (12) month period from the date the prescription was written or ordered, at which time a new prescription shall be required.

(3) Days Supply. For each initial fill or refill of a prescription, a pharmacist shall dispense the drug in the quantity prescribed not to exceed a thirty-two (32) day supply unless:

(a) The drug is indicated as a noncontrolled maintenance drug per the department's nationally recognized comprehensive drug data file as a drug exempt from the thirty-two (32) day dispensing limit, in which case the pharmacist shall dispense the quantity prescribed not to exceed a three (3) month supply or 100 units, whichever is greater;

(b) A prior authorization request has been submitted on a Kentucky Medicaid prior authorization request form and approved by the department because the recipient needs additional medication while traveling or for a valid medical reason, in which case the pharmacist shall dispense the quantity prescribed not to exceed a three (3) month supply or 100 units, whichever is greater; or

(c) The drug is prepackaged by the manufacturer and is intended to be dispensed as an intact unit, and it is not feasible for the pharmacist to dispense only a month's supply because one (1) or more units of the prepackaged drug will provide more than a thirty-two (32) day supply.

(4) A refill of a prescription shall not be covered unless at least ninety (90) percent of the prescription time period has elapsed.

(5) Compounded Drugs. The department may require prior authorization for a compounded drug that requires preparation by mixing two (2) or more individual drugs.

(6) Emergency Fills. In an emergency situation, a pharmacy provider may dispense an emergency supply of a prescribed drug to a recipient in accordance with this subsection.

(a) An emergency situation shall exist if, based on the clinical judgment of the dispensing pharmacist, it would reasonably be expected that a delay in providing the drug to the recipient would place the recipient's health in serious jeopardy or the recipient would experience substantial pain and suffering.

(b) At the time of dispensing the emergency supply, the

pharmacist shall:

1. Submit a prior authorization request form to the department using the urgent fax number or the department's pharmacy webpage; or

2. Notify the prescriber as soon as possible that an emergency supply was dispensed and that the prescriber is required to obtain prior authorization for the requested drug from the department.

(c) An emergency supply shall not be provided for:

1. An OTC drug;

2. A controlled substance; or

3. A drug excluded from coverage by this administrative regulation.

(d) The quantity of an emergency supply shall be:

1. The lesser of a seventy-two (72) hour supply of the drug or the amount prescribed; or

2. The amount prescribed if the drug is prepackaged by the manufacturer and is intended to be dispensed as an intact unit and it is not feasible for the pharmacist to dispense in a smaller quantity.

Section 7. Confirming Receipt of Prescription. (1) A recipient, or a designee of the recipient, shall sign his or her name in a format that allows the signature to be reproduced or preserved by the pharmacy provider confirming that the recipient received the prescription.

(2) A pharmacy provider shall maintain, or be able to produce a copy of, the recipient's signature referenced in subsection (1) of this section for six (6) years.

Section 8. Exemptions to Kentucky Enrolled Prescriber Requirements. The department shall reimburse for a full prescription or an emergency supply of a prescription, prescribed by a provider who is not enrolled in the Kentucky Medicaid Program, if the department determines it is in the best interest of the recipient to receive the prescription.

Section 9. Utilization Management. Utilization management techniques shall be applied by the department to support medically appropriate and cost effective access to covered drugs and shall include prior authorization, step therapy, quantity limitations, generic substitution, therapeutic substitution protocols, and clinical edits.

(1) Step therapy.

(a) The department may implement step therapy drug treatment protocols by requiring the use of a medically-appropriate drug that is available without prior authorization before the use of a drug that requires prior authorization.

(b) The department may approve a request from the prescriber or a pharmacist for exemption of a specific recipient from step therapy based on documentation that a drug available without prior authorization:

1. Was used and was not an effective medical treatment or lost its effectiveness;

2. Is reasonably expected to not be an effective medical treatment;

3. Resulted in, or is reasonably expected to result in, a clinically-significant adverse reaction or drug interaction; or

4. Is medically contraindicated.

(2) Prior authorization.

(a)1. If prior authorization is required for a drug, the applicable prior authorization request form shall be completed and submitted to the department by fax, mail service, telephone, or the department's pharmacy web portal.

2. The applicable prior authorization request form shall be the:

a. Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products if prior authorization is being requested for buprenorphine products for substance use treatment; or

b. Kentucky Medicaid Pharmacy Prior Authorization Form if the prior authorization is being requested for a drug that is not a buprenorphine product for substance use treatment.

(b) If a recipient presents a prescription to a pharmacy provider for a drug that requires prior authorization, the pharmacist shall:

1. Complete and submit a prior authorization request form in accordance with this subsection; or

2. Notify the prescriber or the prescriber's authorized representative that the drug requires prior authorization.

a. If the prescriber indicates that an alternative available without prior authorization is acceptable and provides a new prescription, the pharmacist shall dispense the alternative.

b. If the prescriber indicates that an alternative available without prior authorization has been tried and failed or is clinically inappropriate or if the prescriber is unwilling to consider an alternative, the pharmacist shall request that the prescriber obtain prior authorization from the department.

(c) The department's notification of a decision on a request for prior authorization shall be made in accordance with this paragraph.

1. If the department approves a prior authorization request, notification of the approval shall be provided by telephone, fax, or the department's pharmacy web portal to the party requesting the prior authorization and, if known, to the pharmacist.

2. If the department denies a prior authorization request, the department shall provide a denial notice:

a. By mail to the recipient and in accordance with 907 KAR 1:563; and

b. By fax, telephone, or, if notification cannot be made by fax or telephone, by mail to the party who requested the prior authorization.

(d) Prior authorization time limits.

1. The department may grant approval of a prior authorization request for a drug for a specific recipient for a period of time not to exceed 365 calendar days.

2. Approval of a new prior authorization request shall be required for continuation of therapy subsequent to the expiration of a time-limited prior authorization request.

Section 10. Drug Review Process. The drug review process to determine if a drug requires prior authorization or other utilization management, or is otherwise restricted or excluded by the department, shall be in accordance with this section.

(1) Drug review considerations. Drug review shall be based upon available and relevant clinical information to assess appropriate use of medications and include:

(a) A review of clinically-significant adverse side effects, drug interactions and contraindications, and an assessment of the likelihood of significant abuse of the drug; and

(b) An assessment of the cost of the drug compared to other drugs used for the same therapeutic indication and if the drug offers a substantial clinically-meaningful advantage in terms of safety, effectiveness, or clinical outcome over other available drugs used for the same therapeutic indication. Cost shall be based on the net cost of the drug after federal rebate and supplemental rebates have been subtracted.

(2) New drugs. Except as provided by subsections (3) and (4) of this section, upon initial coverage by the Kentucky Medicaid Program, a drug that is newly approved for marketing by the FDA under a product licensing application, new drug application, or a supplement to a new drug application and that is a new chemical or molecular entity and not otherwise excluded shall be subject to prior authorization in accordance with KRS 205.5632.

(3) Product line. If a drug, which has been determined to require prior authorization, becomes available on the market in a new strength, package size, or other form that does not meet the definition of a new drug, the new strength, package size, or other form shall require prior authorization.

(4) Generic equivalency for prescribed brands. A brand name drug for which there is a generic form that contains identical amounts of the same active drug ingredients in the same dosage form and that meets compendia or other applicable standards of strength, quality, purity, and identity in comparison with the brand name drug shall require prior authorization, unless there has been a review and determination by the department that it is in the best interest of a recipient for the department to cover the drug without prior authorization.

(5) Advisory recommendation. Drugs subject to review by the

Pharmacy and Therapeutics Advisory Committee (P&T Committee) shall be reviewed in accordance with KRS 205.564 and this administrative regulation. Upon review, the P&T Committee shall make a recommendation to the department regarding utilization management of the drug including prior authorization and the recommendation shall be advisory to the commissioner in making the final determination.

(6) The department may exclude from coverage or require prior authorization for a drug that is subject to coverage limitations in accordance with 42 U.S.C. 1396r-8(d).

Section 11. Pharmacy and Therapeutics Advisory Committee (P&T Committee) Meeting Procedures. P&T Committee meetings, processes, and procedures shall be in accordance with KRS 205.564 and this administrative regulation.

(1) Drug review considerations. The P&T Committee shall consider the drug review information specified in Section 10(1) of this administrative regulation when developing recommendations.

(2) Meeting processes and procedures.

(a) Public presentations. A public presentation at a P&T Committee meeting shall comply with this paragraph.

1. A presentation shall be limited to an agenda item.

2. A verbal presentation by pharmaceutical industry representatives shall not exceed three (3) minutes in aggregate per drug per drug manufacturer with two (2) additional minutes allowed for questions from the P&T Committee. Pharmaceutical industry representatives shall be limited to presenting:

a. Information on a new product; or

b. New information on a previously reviewed current agenda topic (package insert changes, new indications, or peer-reviewed journal articles).

3. A verbal presentation by an individual other than a pharmaceutical industry representative shall not exceed five (5) minutes.

4. A request to make a verbal presentation shall be submitted in writing via fax or e-mail to the department no later than five (5) business days in advance of the P&T Committee meeting date.

(b) Nonverbal comments, documents, or electronic media material (limited to package insert changes, new indications, or peer reviewed journal articles) shall be e-mailed to the department in a Microsoft compatible format or mailed to the department as a package including twenty-five (25) printed copies. All materials shall be received by the department no later than seven (7) business days prior to the P&T Committee meeting date.

(3) Postings.

(a) P&T Committee meeting documents shall be published in accordance with KRS 205.564(6), and shall include the:

1. Meeting agenda;

2. Options, including any department recommendations, for drug review and drug review placements,

3. P&T Committee recommendations; and

4. Commissioner's final determination.

Section 12. Exceptions to P&T Committee Recommendations.

(1)(a) An interested party who is adversely affected by a recommendation of the P&T Committee may submit a written exception to the commissioner.

(b) The written exception shall be received by the commissioner within seven (7) calendar days of the date of the P&T Committee meeting at which the recommendation was made.

(c) Only information that was not available to be presented at the time of the P&T Committee meeting shall be included in the written exception.

(2) After the time for filing written exceptions has expired, the commissioner shall consider each recommendation of the P&T Committee and all exceptions that were filed in a timely manner prior to making a final determination.

Section 13. Final Determination. The commissioner shall issue and post a final determination in accordance with KRS 205.564(9) and (11).

(1) A decision of the commissioner to remand any recommendation to the P&T Committee shall not constitute a final

decision or final determination for purposes of an appeal pursuant to KRS Chapter 13B.

(2) If any recommendation of the P&T Committee is not accepted, the commissioner or commissioner's designee shall inform the P&T Committee of the basis for the final determination in accordance with KRS 205.564(9).

Section 14. Appeals. An appeal request shall:

(1) Be in writing;

(2) Be sent by mail, messenger, carrier service, or express-delivery service to the commissioner in a manner that safeguards the information;

(3) State the specific reasons the final determination of the commissioner is alleged to be erroneous or not based on the facts and law available to the P&T Committee and the commissioner at the time of the decision;

(4) Be received by the commissioner within the deadline established by KRS 205.564(12); and

(5) Be forwarded by the commissioner to the Division of Administrative Hearings of the Cabinet for Health and Family Services for processing in accordance with the provisions of KRS Chapter 13B.

Section 15. Drug Management Review Advisory Board Meeting Procedures and Appeals. (1) A person may address the DMRAB if:

(a) The presentation is directly related to an agenda item; and

(b) The person gives notice to the department by fax or email at least five (5) business days prior to the meeting.

(2) A verbal presentation:

(a) In aggregate per drug per drug manufacturer shall not exceed three (3) minutes with two (2) additional minutes allowed for questions from the DMRAB, if required; or

(b) By an individual on a subject shall not exceed three (3) minutes with two (2) additional minutes allowed for questions from the DMRAB, if required.

(3) The proposed agenda shall be posted on the department's pharmacy webpage at least fourteen (14) calendar days prior to the meeting.

(4) An appeal of a final decision by the commissioner by a manufacturer of a product shall be in accordance with KRS 205.5639(5). The appeal request shall:

(a) Be in writing;

(b) State the specific reasons the manufacturer believes the final decision to be incorrect;

(c) Provide any supporting documentation; and

(d) Be received by the department within thirty (30) calendar days of the manufacturer's actual notice of the final decision.

Section 16. Medicaid Program Participation Compliance. (1) A provider shall comply with:

(a) 907 KAR 1:671;

(b) 907 KAR 1:672; and

(c) All applicable state and federal laws.

(2)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

Section 17. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 18. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 19. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 20. Appeal Rights. (1) An appeal of an adverse action taken by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

Section 21. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Medicaid Substance Use Treatment Pharmacy Prior Authorization Form for Buprenorphine Products", 1-3-17; and
(b) "Kentucky Medicaid Pharmacy Prior Authorization Form", 1-3-17.

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

(a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 at 9:00 a.m. in Suites A & B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573, email

tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the Department for Medicaid Services' (DMS's) coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. The provisions were previously included in 907 KAR 1:018 and 907 KAR 1:019 and have been updated to establish the Department for Medicaid Services' (DMS's) coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are enrolled with a managed care organization have not changed.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(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 DMS's coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing DMS's coverage provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional or new actions are needed to comply with this administrative regulation.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be no additional benefits to entities from this administrative regulation as it makes no changes to drug coverage policy.

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

this administrative regulation:

(a) Initially: The required system changes are of no cost to DMS as a result of the CMS mandate to implement an AAC based methodology.

(b) On a continuing basis: Please see (5)(a) above

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by the amendment to this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.561, 205.5632, 205.5634, 205.5639(2), 205.564(10), (13), 42 U.S.C. 1396a(a)(30), 1396r-8

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 is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? Because the system changes are pursuant to a CMS mandate, the fiscal agent as well as the pharmacy benefit manager are required to make the necessary changes at no cost to DMS.

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be

imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology but retain its coverage policy for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Revising reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization shall not change compliance standards or Medicaid coverage of outpatient drugs.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 23:020. Reimbursement for outpatient drugs.

RELATES TO: KRS 205.560, 205.561, 205.5631, 205.5632, 205.5634, 205.5636, 205.5638, 205.5639, 205.6316(4), 217.015, 42 C.F.R. 440.120, 447.500 - 447.520, 42 U.S.C. 256b, 1396a - 1396d, 1396r-8

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. KRS 205.561(2) and 205.6316(4) require the department to promulgate an administrative regulation to establish the professional dispensing fee for covered drugs. This administrative regulation establishes the Medicaid Program reimbursement requirements, including the professional dispensing fee, for covered outpatient drugs dispensed to Medicaid recipients who are not enrolled with a managed care organization.

Section 1. Reimbursement. Reimbursement to a pharmacy or medical provider participating in the Medicaid Program for a covered outpatient drug provided to an eligible recipient shall be determined in accordance with the requirements established in this section. (1) A rebate agreement in accordance with 42 U.S.C. 1396r-8(a) shall be signed by the drug manufacturer, or the drug shall be provided based on an exemption from the rebate requirement established by 907 KAR 23:010, Section 5(3).

(2) A pharmacy claim shall meet the point of sale (POS) requirements for services in accordance with 907 KAR 1:673.

(3) Reimbursement shall not be made for more than one (1) prescription to the same recipient during the same time period for a drug with the same:

(a) National Drug Code (NDC); or

(b) Drug or active ingredient name, strength, and dosage form.

(4) A timely claim payment shall be processed in accordance with 42 C.F.R. 447.45.

(a) In accordance with 42 C.F.R. 447.45, a claim shall be

submitted to the department within twelve (12) months of the date of service.

(b) The department shall not reimburse for a claim submitted to the department after twelve (12) months from the date of service unless the claim is for a drug dispensed to an individual who was retroactively determined to be eligible for Medicaid.

(c) The department shall not reimburse a claim for a drug dispensed to an individual who was retroactively determined to be eligible for Medicaid after 365 days have lapsed from the date that the department issued the notice of retroactive eligibility.

(5) Reimbursement shall be denied if:

(a) The recipient is ineligible on the date of service;

(b) The drug is excluded from coverage in accordance with 907 KAR 23:010; or

(c) Prior authorization is required by the department and the request for prior authorization has not been approved prior to dispensing the drug, except in an emergency supply situation.

(6) Pursuant to KRS 205.622, prior to billing the department, a provider shall submit a bill to a third party payer if the provider has knowledge that the third party payer may be liable for payment.

(a) If a provider is aware that a Medicaid recipient has additional insurance or if a recipient indicates in any manner that the recipient has additional insurance, the provider shall submit a bill to the third party in accordance with KRS 205.622.

(b) A provider who is aware that a recipient may have other insurance, but the other insurance is not identified on the medical assistance identification card or by the recipient, shall notify the department's fiscal agent of the potential third-party liability.

(7) Drug copayment requirements and provisions shall be as established in 907 KAR 1:604.

(8) If a payment is made for a drug that was not administered or dispensed in accordance with 907 KAR 23:010 or the payment was not appropriately reimbursed as required by this administrative regulation, the provider shall refund the amount of the payment to the department or the department may, at its discretion, recoup the amount of the payment.

(9) Adherence to the requirements established in this section shall be monitored through an on-site audit, post payment review of the claim, a computer audit, or an edit of the claim.

Section 2. Reimbursement Methodology. (1) Drug cost shall be determined in the pharmacy program using drug pricing and coding information obtained from nationally recognized comprehensive drug data files with pricing based on the actual package size utilized.

(2) Lowest of Logic. Except as provided in Section 4 of this administrative regulation, covered outpatient drug cost shall be reimbursed at the lowest of the:

(a) National Average Drug Acquisition Cost or NADAC;

(b) Wholesale acquisition cost or WAC;

(c) Federal upper limit or FUL;

(d) Maximum allowable cost or MAC; or

(e) Usual and customary price.

Section 3. Professional Dispensing Fee. Effective April 1, 2017, the professional dispensing fee for a covered outpatient drug prescribed by an authorized prescriber and dispensed by a participating pharmacy provider in accordance with 907 KAR 23:010, and pursuant to a valid prescription shall be \$10.64 per provider per recipient per drug per month.

Section 4. Reimbursement Limitations. (1) Emergency supply. Dispensing of an emergency supply of a drug shall be made outside of the prescriber's normal business hours and as permitted in accordance with 907 KAR 23:010.

(2) Partial fill. If the dispensing of a drug results in partial filling of the quantity prescribed, including an emergency supply, reimbursement for the drug ingredient cost for the actual quantity dispensed in the partial fill and the completion fill for the remainder of the prescribed quantity shall:

(a) Utilize the lowest of logic established by Section 2 of this administrative regulation; and

(b) Include payment of only one (1) professional dispensing

fee, which shall be paid at the time of the completion fill.

(3) Maintenance drugs. The department shall not reimburse for a refill of a maintenance drug prior to the end of the dispensing period established by 907 KAR 23:010 unless the department determines that it is in the best interest of the recipient.

(4) For a nursing facility resident meeting Medicaid nursing facility level of care criteria, and in accordance with 201 KAR 2:190 and 902 KAR 55:065, an unused drug paid for by Medicaid shall be returned to the originating pharmacy and the department shall be credited for the drug ingredient cost.

(5) For a Medicaid recipient participating in a hospice program, payment for a drug shall be in accordance with 907 KAR 1:340.

(6) 340B Pharmacy Transactions.

(a) A pharmacy dispensing drugs purchased through the 340B Program pursuant to a 340B eligible prescription from a covered entity shall bill the department no more than the actual 340B acquisition cost, plus the professional dispensing fee.

(b) For a 340B purchased drug dispensed by a pharmacy, the lowest of logic shall include the 340B ceiling price.

(c) A drug dispensed by a 340B contract pharmacy shall not be eligible as a 340B transaction and shall be reimbursed in accordance with the lowest of logic as required by Section 2 of this administrative regulation plus the professional dispensing fee.

(7) Physician administered drugs (PAD).

(a) Federal rebate required. Only covered PAD products that are federally rebateable pursuant to a manufacturer rebate agreement shall be reimbursed.

(b) Non-340B purchased PAD. Reimbursement for drug cost for a drug administered by a physician or the physician's authorized agent in an office or outpatient clinic setting, not purchased through the 340B Program, and submitted for reimbursement as a medical benefit shall be reimbursed only for the drug cost by the lowest of logic required by Section 2 of this administrative regulation, which shall include the average sales price (ASP) plus six (6) percent. A professional dispensing fee shall not be paid for PAD.

(c) 340B purchased PAD. For a drug purchased through the 340B Program and administered by a physician or the physician's authorized agent in an office or outpatient clinic setting, and submitted for reimbursement as a medical benefit, the lowest of logic required by Section 2 of this administrative regulation shall include the 340B ceiling price. The covered entity shall bill no more than the actual 340B acquisition cost. A professional dispensing fee shall not be paid for PAD.

(8) Non-340B hemophilia products. Clotting factors acquired outside of the 340B Program shall be reimbursed by the lowest of logic required by Section 2 of this administrative regulation, which shall include the average sales price (ASP) plus six (6) percent. The professional dispensing fee established by Section 3 of this administrative regulation shall also be paid.

Section 5. The maximum allowable cost, or MAC, shall be determined by taking into account each drug's cost, rebate status (non-rebateable or rebateable) in accordance with 42 U.S.C. 1396r-8(a), marketplace status (obsolete, terminated, or regional availability), equivalency rating (A-rated), and relative comparable pricing. Other factors considered shall include clinical indications of drug substitution, utilization, and availability in the marketplace.

(1) Drug pricing resources used to compare estimated acquisition costs for multiple-source drugs shall include comprehensive data files maintained by a vendor under contract to the department, such as:

(a) NADAC as published by CMS;

(b) WAC, manufacturer's price list, or other nationally recognized sources;

(c) The Average Manufacturers Price for 5i Drugs as reported by CMS;

(d) ASP as published by CMS;

(e) Nationally recognized drug file vendors, such as First Data Bank or Medispan;

(f) Pharmacy providers; or

(g) Wholesalers.

(2) The department shall maintain a current listing of drugs and

their corresponding MAC prices accessible through the department's pharmacy webpage.

(3) The process for a pharmacy provider to appeal a MAC price for a drug shall be as established in this subsection.

(a) The pharmacy provider shall email or fax a completed Kentucky Medicaid MAC Price Research Request Form to Kentucky's authorized agent in accordance with the instructions on the form.

(b) An appeal of a MAC price for a drug shall be investigated and resolved within three (3) business days.

(c) If available, the provider shall be supplied with the name of one (1) or more manufacturers who have a price comparable to the MAC price.

(d) The MAC price and effective date of that price shall be adjusted accordingly, retroactive to the date of service for the claim in question, if:

1. It is determined that a manufacturer does not exist in the price range referenced in paragraph (c) of this subsection; or

2. The provider is able to document that despite reasonable efforts to obtain access, he or she does not have access to the one (1) or more manufacturers supplied to the provider.

(e) If an adjusted MAC price becomes effective, the provider shall be informed that the claim may be rebilled for the price adjustment.

Section 6. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 7. Incorporation by Reference. (1) "Kentucky Medicaid MAC Price Research Request Form", 2012, is incorporated by reference.

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

(a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

STEPHEN P. MILLER, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: March 28, 2017

FILED WITH LRC: March 31, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 22, 2017 at 9:00 a.m. in Suites A & B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing May 15, 2017, 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 May 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donna Little, (502) 564-4321, extension 2015; donna.little@ky.gov or Tricia Orme

(1) Provide a brief summary of:

(a) What this administrative regulation does: This new administrative regulation establishes the Department for Medicaid Services' (DMS's) reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. The provisions were previously included in 907 KAR 1:018 and 907 KAR 1:019. This administrative regulation introduces a new actual acquisition cost (AAC) based reimbursement utilizing the National Average Drug Acquisition Cost (NADAC) as published by CMS as part of the pharmacy program lowest of logic reimbursement methodology, and establishes reimbursement for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. Reimbursement pursuant to this administrative regulation only applies to pharmacy services rendered to Medicaid "fee-for-service" recipients. These are Medicaid recipients who are not enrolled with a managed care organization. Managed care organizations are not required to reimburse for covered outpatient drugs in accordance with this administrative regulation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization. This administrative regulation establishes a new AAC based reimbursement methodology that results from a mandate from the CMS. DMS reimbursement of outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization is necessary to comply with the Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447. State Medicaid agencies must comply with the new COD Final Rule by submitting a State Plan Amendment no later than April 1, 2017 followed by necessary regulatory changes.

(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 revising DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization in a manner that complies with a federal mandate.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by revising DMS's reimbursement provisions and requirements regarding outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: All participating pharmacy providers dispensing covered drugs (approximately 1,500) and all participating medical providers administering covered drugs (approximately 43,400) will be affected by the administrative regulation.

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

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: In order to be reimbursed by the DMS, participating providers will have to submit pharmacy or medical claims for covered outpatient drugs in accordance with this administrative regulation and applicable billing rules.

(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 experienced by affected providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicable providers will benefit by receiving a true drug ingredient cost based reimbursement along with a professional dispensing fee from DMS for dispensing covered outpatient drugs to Medicaid recipients who are not enrolled with a managed care organization.

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

(a) Initially: Because the system changes are pursuant to a CMS mandate, the fiscal agent as well as the pharmacy benefit manager are required to make the necessary changes at no cost to DMS.

(b) On a continuing basis: Please see (5)(a) above

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? DMS will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.561(2), 205.6316(4), 42 U.S.C. 1396a(a)(30), 42 U.S.C. 1396r-8

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 is not expected to generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? Because the system changes are pursuant to a CMS mandate, the fiscal agent as well as the pharmacy benefit manager are required to make the necessary changes at no cost to DMS.

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

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

regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Medicaid Program; Covered Outpatient Drugs; Final Rule (CMS-2345-FC) amending 42 C.F.R. Part 447 (the CMS COD Final Rule).

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect." The CMS COD Final Rule mandates that the Medicaid Program revise its reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization.

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid). Revising reimbursement methodology for outpatient drugs dispensed or administered to Medicaid recipients who are not enrolled with a managed care organization shall not change compliance standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of April 11, 2017

Call to Order and Roll Call

The April meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, April 11, 2017, at 1 p.m. in Room 149 of the Capitol Annex. Representative Upchurch, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the March 2017 meeting were approved.

Present were:

Members: Senators Perry Clark, Alice Forgy Kerr, Ernie Harris, and Julie Raque-Adams; and Representatives Marylou Marzian, Jason Petrie, Tommy Turner, and Ken Upchurch.

LRC Staff: Sarah Amburgey, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

Guests: Melissa Bell, Travis Powell, Council on Postsecondary Education; Lesley Bilby, Personnel Cabinet; Leann Diakov, Board of Medical Licensure; Louis Kelly, Board of Physical Therapy; Nicole Sergent Biddle, Paul Hatcher, Board of Prosthetics, Orthotics and Pedorthics; Matthew James, Board of Licensed Diabetes Educators; Steve Beam, Gabe Jenkins, Karen Waldrop, David Wicker, Department of Fish and Wildlife; Amy Barker, Department of Corrections; Katie Embree-Cleveland, Amy Peabody, Matt Ross, Department of Education; Corey Henderson, School Facilities Construction Commission; Mike Pettit, Kristi Redmon, Michael Swansburg, Labor Cabinet; Steve Humphress, Department of Alcoholic Beverage Control; Patrick O'Conner II, Department of Insurance; Stephanie Brammer-Barnes, Veronica Cecil, Robert Silverthorn Jr., Office of Inspector General; Stephanie Craycraft, Tanya Dickinson, Department for Behavioral Health, Developmental, and Intellectual Disabilities; Mary Sparrow, Department for Income Support; Elizabeth Caywood, Steven Fisher, Department for Community Based Services; Sarah Nicholson, Kentucky Hospital Association.

The Administrative Regulation Review Subcommittee met on Tuesday, April 11, 2017, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

13 KAR 2:110. Advanced practice doctoral degree programs at comprehensive universities. Melissa Bell, academic affairs vice president, and Travis Powell, general counsel and council associate vice president, represented the council.

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:046. Applying for employment, qualifications and examinations. Mary Bailey, commissioner, Department of Human Resources Administration, and Lesley Bilby, executive director, Office of Legal Services, represented the cabinet.

101 KAR 2:056. Registers.

In response to a question by Co-Chair Harris, Ms. Bilby stated that removing the application from incorporation by reference simplified, expedited, and modernized the process for applying for employment.

101 KAR 2:066. Certification and selection of eligible applicants for appointment.

GENERAL GOVERNMENT CABINET: Board of Medical Licensure

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Leanne Diakov, general counsel, represented the board.

In response to questions by Co-Chair Harris, Ms. Diakov stated that Buprenorphine-Combined-with-Naloxone (Suboxone) was

used, along with behavioral modification, to treat opioid dependence. The amendments to this administrative regulation were primarily related to Buprenorphine-Mono-Product, which was used for chronic or acute pain management. While one (1) of these drugs included Naloxone in the formulary, these drugs were not used to reverse opioid overdoses.

Board of Physical Therapy

201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants. Louis Kelly, general counsel, represented the board.

In response to questions by Representative Petrie, Mr. Kelly stated that KRS 367.4082 prohibited medical providers from soliciting car accident victims. The prohibition was added to this administrative regulation for consistency with the authorizing statutes, not because the board had encountered this as a disciplinary issue. This administrative regulation was also revised to make discharge summaries optional, rather than required, and to clarify documentation provisions.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add a Section 6 to reorganize requirements. Without objection, and with agreement of the agency, the amendments were approved.

Board of Prosthetics, Orthotics and Pedorthics

201 KAR 44:040. Professional conduct and code of ethics. Nicole Biddle, assistant attorney general, and Paul Hatcher, chair, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 3, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Diabetes Educators

201 KAR 45:100. Fees for licensure of diabetes educators. Matt James, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. James stated that the board was not seeking a sponsor to amend the board's authorizing statute to allow a reactivation fee. The board only had one (1) or two (2) licensees in voluntary inactive status. To return to active status, an inactive licensee would need to demonstrate compliance with continuing education requirements and pay the licensure application fee, which was the same amount as the proposed reactivation fee. Compliance with continuing education requirements included meeting the cumulative minimum number of continuing education hours for each year the license was inactive. The continuing education hours may all be achieved during the year preceding a return to active status and did not necessarily need to be achieved for each year's deadline during the inactive period.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to: (a) insert conforming language; (b) comply with the drafting requirements of KRS Chapter 13A; and (c) delete the reactivation fee; and (2) to amend the TITLE for clarity. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 45:110. Supervision and work experience.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to insert conforming language; and (2) to amend Section 4 to update a form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 45:120. Renewal, reinstatement, and inactive status.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 4 to insert conforming language; (2) to amend Section 3 to delete the reference to the reactivation fee; and (3) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 45:130. Continuing education.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 3 through 5 to insert conforming language; and (2) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:132. Elk hunting seasons, permits, zones, and requirements. Steve Beam, wildlife division director; Gabe Jenkins, deer and elk coordinator; and David Wicker, general counsel, represented the department.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. Amy Barker, assistant general counsel, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that 501 KAR 6:030 and 6:060 were amended as part of the annual review and update of policies and procedures.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) comply with the drafting requirements of KRS Chapter 13A; (2) specify that inmates shall be present for administrative review of protective custody status for consistency with other types of administrative review; (3) correct citations; (4) specify search procedures and documentation requirements for transgender and intersex inmates; and (5) revise inmate account procedures to: (a) prohibit money of any dollar amount from being sent outside the institution; (b) allow an inmate to request an exception to the \$1,000 account limit in exceptional circumstances; and (c) freeze any amount in an inmate's account that exceeds the \$1,000 balance limit. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:030. Kentucky State Reformatory.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:060. Northpoint Training Center.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) clarify documentation requirements for an inmate requesting approval for marriage; (2) correct citations; and (3) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Food Service Programs

702 KAR 6:090. Minimum nutritional standards for foods and beverages available on public school campuses during the school day; required nutrition and physical activity reports. Katie Cleveland, administrative section supervisor; Amy Peabody, staff attorney; and Matt Ross, executive advisor, represented the department.

In response to questions by Co-Chair Harris, Ms. Cleveland stated that this administrative regulation addressed snack (a la carte) items, which were available in addition to the reimbursable

meals (school lunch program). Statistics were not available to determine how many Kentucky students purchased extra foods, such as a la carte or vending machine options. This administrative regulation eased requirements to the minimum federal standards.

FINANCE AND ADMINISTRATION CABINET: School Facilities Construction Commission: Procedures

750 KAR 1:030. Emergency and targeted investment fund. Corey Henderson, administrative assistant, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete a term that is not used in the administrative regulation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

LABOR CABINET: Department of Workplace Standards: Division of Occupational Safety and Health Compliance: Division of Occupational Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:320. Toxic and hazardous substances. Mike Pettit, safety standards specialist; Kristi Redmon, occupational safety and health standards specialist; and Michael Swansburg, general counsel, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) delete two (2) definitions that were not referenced in this administrative regulation; and (2) comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 2:403. Occupational health and environmental controls.

803 KAR 2:425. Toxic and hazardous substances.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

803 KAR 2:500. Maritime employment.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Fair Trade; Pricing and Sales

804 KAR 3:100. License may be suspended or revoked for accepting Supplemental Needs Assistance Program ("SNAP") benefits for alcohol purchases. Steve Humphress, general counsel, represented the department.

In response to a question by Representative Petrie, Mr. Humphress stated that this administrative regulation was being revised and modernized for consistency with federal standards.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and Section 1 to correct the name of the referenced federal program; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Insurance: Agent Licensing Division: Group and Blanket Health Insurance

806 KAR 18:020. Preferred and exclusive provider arrangements. Patrick O'Connor II, executive advisor, represented the division.

In response to questions by Co-Chair Harris, Mr. O'Connor stated that Section 3 of this administrative regulation listed service organizations and exempted those service organizations from the requirements established in Section 2 of this administrative regulation. The regulated community understood these provisions.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:081. Operations and services; home health agencies. Stephanie Brammer – Barnes, regulation coordinator, and Robert Silverthorn, Jr., inspector general, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 4 to clarify what types of personnel may serve as supervisors for therapy services and home health aides. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Division of Community Alternatives: Behavioral Health

907 KAR 15:005 & E. Definitions for 907 KAR Chapter 15. Veronica Cecil, deputy commissioner, represented the department. Sarah Nicholson, vice president, Kentucky Hospital Association, appeared in opposition to 907 KAR 17:035 & E.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Section 1 to: (a) make technical corrections; (b) delete two (2) definitions; (c) add a definition; and (d) clarify two (2) definitions. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:010 & E. Coverage provisions and requirements regarding behavioral health services provided by individual behavioral health providers, behavioral health provider groups, and behavioral health multi-specialty groups.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the TITLE and Sections 1 and 3 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 3 to: (a) add physician assistants to the lists of covered service providers; (b) clarify provider groups; and (c) clarify intensive outpatient program services requirements. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 15:015 & E. Reimbursement provisions and requirements for behavioral health services provided by individual behavioral health providers, behavioral health provider groups, or behavioral health multi-specialty groups.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 2: (a) to reorganize requirements to avoid unnecessary redundancy; and (b) for consistency with the State Plan Amendment. Without objection, and with agreement of the agency, the amendments were approved.

Commissioner's Office: Managed Care

907 KAR 17:015 & E. Managed care organization requirements and policies relating to providers.

In response to a question by Co-Chair Harris, Ms. Cecil stated that the department expected a cost savings because streamlining of the process allowed providers to have a third-party review to appeal denials.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; and (2) to amend Sections 1, 4, 7, 8, 11, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 17:035 & E. External independent third-party review.

In response to questions by Co-Chair Harris, Ms. Cecil stated that the Kentucky Hospital Association requested to bundle cases for multiple individuals within a case; however, doing so would create numerous administrative logistical problems. Multiple claims were allowable, but only for one (1) individual within a case. The department agreed to reconsider bundling for multiple individuals in the future if processing time became a concern. A future change to bundling would require an administrative regulation, rather than a statutory, amendment. Ms. Nicholson stated that the Kentucky Hospital Association appreciated the department committing to working with them on this matter.

In response to questions by Representative Petrie, Ms. Cecil stated that the department believed the Kentucky Hospital Association's concerns would be adequately addressed without multiple bundling, but would consider that form of bundling in the future if necessary. Bundling multiple claims for multiple individuals would create administrative logistical problems, including problems with HIPAA compliance.

In response to a question by Co-Chair Upchurch, Ms. Cecil stated that the department should be able to determine if processing time was a concern within approximately thirty (30) to sixty (60) days. It would take approximately six (6) month to a year to make a change to the bundling provisions.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 17:040 & E. Appeal and administrative hearing post external independent third-party review.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Section 2 to add citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Program Integrity: Institutional Care

908 KAR 3:051 Repeal of 908 KAR 3:050. Stephanie Craycraft, executive advisor, and Tanya Dickinson, division director, represented the division.

908 KAR 3:060. "Means test" for determining patient liability and per diem rates.

Department for Income Support: Child Support Enforcement: Child Support

921 KAR 1:430. Child support administrative hearings. Mary Sparrow, internal policy analyst, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a citation; and (2) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:400. Supportive services. Elizabeth Caywood, executive advisor, and Steven Fisher, branch manager, Adult Protective Services, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Block Grants

922 KAR 3:011. Repeal of 922 KAR 3:010 and 922 KAR 3:020.

Adult Services

922 KAR 5:120. Caregiver misconduct registry and appeals.

In response to a question by Co-Chair Harris, Ms. Caywood stated that this administrative regulation applied to employees, volunteers, contractors, and anyone related to caregiving.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Co-Chair Upchurch introduced Sarah Amburgey as the Subcommittee's newly appointed committee staff administrator. Co-Chair Upchurch also welcomed to the Subcommittee meeting guest legislator, Representative Kevin Bratcher, House Majority Whip.

The following administrative regulations were deferred or removed from the April 11, 2017, Subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Assessment

16 KAR 6:020. Assessment requirements for occupation-based career and technical education teachers. (Deferred from April)

GENERAL GOVERNMENT CABINET: Office of Occupations and Professions: Board of Interpreters for the Deaf and Hard of Hearing

201 KAR 39:001. Definitions for 201 KAR Chapter 39. (Comments Received)

201 KAR 39:030. Application; qualifications for licensure; and certification levels. (Comments Received)

201 KAR 39:070. Application and qualifications for temporary licensure. (Comments Received)

Board of Medical Imaging and Radiation Therapy

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses. (Comments Received)

201 KAR 46:060. Continuing education requirements. (Deferred from April)

201 KAR 46:070. Violations and enforcement. (Comments Received)

201 KAR 46:090. Complaint process and administrative hearings. (Comments Received)

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

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands and federally controlled areas. (Deferred from April)

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock. ("E" expires 4/25/2017) (Not Amended After Comments) (Deferred from February)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim. (Not Amended After Comments) (Deferred from February)

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:060. Immunization schedules for attending child day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private primary and secondary schools. (Comments Received, SOC ext. due 3/15)

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:065. Payments for price-based nursing facility services. (Comments Received, SOC ext. due 3/15)

The Subcommittee adjourned at 2 p.m. until May 9, 2017, at 1 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

NONE

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

K - 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

K - 14

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

K - 28

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

K - 31

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:			200 KAR 30:060		
* Statement of Consideration not filed by deadline			Repealed	2997	10-7-2016
** Withdrawn, not in effect within 1 year of publication			200 KAR 30:070		
*** Withdrawn before being printed in Register			Amended	2919	
**** Emergency expired after 180 days			Withdrawn		7-29-2016
(r) Repealer regulation: KRS 13A.310-on the effective date of			201 KAR 9:016		
an administrative regulation that repeals another, the			Amended	2796	7-20-2016
regulations compiler shall delete the repealed administrative			201 KAR 9:025		
regulation and the repealing administrative regulation.			Amended	2798	See 43 Ky.R.
			201 KAR 9:081		
			Amended	2800	See 43 Ky.R.
			201 KAR 9:240		
			Amended	2804	See 43 Ky.R.
			201 KAR 9:250		
			Amended	2807	See 43 Ky.R.
			201 KAR 13:040		
			Amended	2621	
			AmComments	2906	See 43 Ky.R.
			201 KAR 13:050		
			Amended	2624	See 43 Ky.R.
			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
			201 KAR 23:075		
			Amended	2812	See 43 Ky.R.
			201 KAR 29:015		
			Amended	2628	See 43 Ky.R.
			201 KAR 32:030		
			Amended	2817	See 43 Ky.R.
			201 KAR 44:020		
			Repealed	2685	7-1-2016
			201 KAR 44:021(r)	2685	7-1-2016
			201 KAR 44:030		
			Repealed	2685	7-1-2016
			201 KAR 45:110		
			Amended	855	See 43 Ky.R.
			201 KAR 46:020		
			Amended	2932	See 43 Ky.R.
			201 KAR 46:070		
			Amended	2933	See 43 Ky.R.
EMERGENCY ADMINISTRATIVE REGULATIONS:					
(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)					
9 KAR 1:040E	2866	5-13-2016			
Replaced		See 43 Ky.R.			
301 KAR 2:221E	1699	11-3-2015			
Resubmitted	2868	5-11-2016			
Replaced		See 43 Ky.R.			
301 KAR 2:222E	1701	11-3-2015			
Resubmitted	2870	5-11-2016			
Replaced		See 43 Ky.R.			
301 KAR 2:225E	1111	8-21-2015			
Resubmitted	2875	5-11-2016			
Replaced	2944	8-4-2016			
401 KAR 31:040E	2877	4-26-2016			
Replaced		See 43 Ky.R.			
601 KAR 2:030E	1114	9-1-2015			
Resubmitted	2702	3-29-2016			
Expired		10-25-2016			
921 KAR 3:035E	2708	4-1-2016			
Replaced		See 43 Ky.R.			
922 KAR 1:320E	2530	2-26-2016			
Replaced		See 43 Ky.R.			
922 KAR 2:020E	2534	2-26-2016			
Replaced		See 43 Ky.R.			
922 KAR 2:160E	2540	2-26-2016			
Replaced		See 43 Ky.R.			
922 KAR 2:260E	2550	2-26-2016			
Replaced		See 43 Ky.R.			
ORDINARY ADMINISTRATIVE REGULATIONS:					
9 KAR 1:040					
Amended	2911	See 43 Ky.R.			
11 KAR 4:080					
Amended	2611	7-1-2016			
11 KAR 5:145					
Amended	2612	7-1-2016			
103 KAR 3:050					
Amended	2614				
As Amended	2881	7-1-2016			
200 KAR 30:010					
Amended	2913	See 43 Ky.R.			
200 KAR 30:020					
Amended	2914	See 43 Ky.R.			
200 KAR 30:030					
Amended	2916	See 43 Ky.R.			
200 KAR 30:040					
Amended	2918	See 43 Ky.R.			
200 KAR 30:050					
Repealed	2997	10-7-2016			
200 KAR 30:051(r)	2997	10-7-2016			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	42 Ky.R. Page No.	Effective Date	Regulation Number	42 Ky.R. Page No.	Effective Date
301 KAR 2:095			780 KAR 4:030		
Amended	2819	7-19-2016	Repealed	2999	9-2-2016
301 KAR 2:122			780 KAR 4:031	2999	9-2-2016
Amended	2820	See 43 Ky.R.	780 KAR 7:060		
301 KAR 2:176			Amended	2951	See 43 Ky.R.
Amended	2935	See 43 Ky.R.	780 KAR 7:070		
301 KAR 2:221			Repealed	3000	9-2-2016
Amended	2937	See 43 Ky.R.	780 KAR 7:071(r)	3000	9-2-2016
301 KAR 2:222			803 KAR 2:300		
Amended	2940	See 43 Ky.R.	Amended	2953	9-2-2016
301 KAR 2:225			803 KAR 2:307		
Amended	2944	8-4-2016	Amended	2955	See 43 Ky.R.
301 KAR 2:226			803 KAR 2:308		
Amended	2822	See 43 Ky.R.	Amended	2957	9-2-2016
301 KAR 5:040			803 KAR 2:317		
Amended	2947	See 43 Ky.R.	Amended	2958	9-2-2016
401 KAR 31:040			803 KAR 2:318		
Amended	2949	See 43 Ky.R.	Amended	2960	9-2-2016
401 KAR 51:010			803 KAR 2:320		
Amended	2824	See 43 Ky.R.	Amended	2962	9-2-2016
401 KAR 53:010			803 KAR 2:400		
Amended	2830	See 43 Ky.R.	Amended	2968	See 43 Ky.R.
501 KAR 6:020			803 KAR 2:403		
Amended	2630		Amended	2970	9-2-2016
AmComments	2908	See 43 Ky.R.	803 KAR 2:404		
501 KAR 6:170			Amended	2972	9-2-2016
Amended	2632		803 KAR 2:421		
As Amended	2890	7-1-2016	Amended	2974	9-2-2016
600 KAR 1:030			803 KAR 2:425		
Repealed	2846	8-2-2016	Amended	2976	9-2-2016
600 KAR 1:031(r)	2846	8-2-2016	803 KAR 2:500		
600 KAR 1:045			Amended	2978	9-2-2016
Repealed	2846	8-2-2016	803 KAR 25:010		
600 KAR 2:010			Amended	2634	See 43 Ky.R.
Repealed	2847	8-2-2016	803 KAR 25:009		
600 KAR 2:011(r)	2847	8-2-2016	Repealed	2686	10-7-2016
600 KAR 2:020			803 KAR 25:014(r)	2686	10-7-2016
Repealed	2847	8-2-2016	803 KAR 25:089		
600 KAR 2:030			Amended	2980	10-7-2016
Repealed	2847	8-2-2016	804 KAR 4:400		
600 KAR 2:040			Amended	2839	
Repealed	2847	8-2-2016	Withdrawn		7-13-2016
601 KAR 1:030			804 KAR 9:040		
Repealed	2849	8-2-2016	Amended	2648	9-2-2016
601 KAR 1:031			808 KAR 9:050	2852	See 43 Ky.R.
Repealed	2849	8-2-2016	815 KAR 6:010		
601 KAR 1:032(r)	2849	8-2-2016	Amended	2265	
601 KAR 1:045			AmComments	2596	
Repealed	2849	8-2-2016	As Amended	2891	7-1-2016
601 KAR 1:050			815 KAR 6:040		
Repealed	2849	8-2-2016	Amended	2269	
601 KAR 1:065			As Amended	2894	7-1-2016
Repealed	2849	8-2-2016	815 KAR 6:080		
601 KAR 1:070			Amended	2270	
Repealed	2849	8-2-2016	As Amended	2895	7-1-2016
601 KAR 2:030			815 KAR 6:090		
Amended	2833		Amended	2272	
Withdrawn by agency		10-27-2016	AmComments	2600	
601 KAR 9:055			As Amended	2895	7-1-2016
Repealed	2850	8-2-2016	815 KAR 7:120		
601 KAR 9:056(r)	2850	8-2-2016	Amended	2650	6-22-2016
601 KAR 15:010			815 KAR 7:125		
Repealed	2851	8-2-2016	Amended	2653	6-22-2016
601 KAR 15:020			815 KAR 8:095	2687	
Repealed	2851	8-2-2016	As Amended	2897	6-22-2016
601 KAR 15:030(r)	2851	8-2-2016	815 KAR 20:084	2688	
704 KAR 3:470			As Amended	2898	6-22-2016
Repealed	2998	9-2-2016	815 KAR 20:191		
704 KAR 3:471(r)	2998	9-2-2016	Amended	2655	
			As Amended	2899	6-22-2016

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	42 Ky.R. Page No.	Effective Date	Regulation Number	42 Ky.R. Page No.	Effective Date
815 KAR 20:195			Amended	2841	See 43 Ky.R.
Amended	2661		922 KAR 1:320		
As Amended	2904	6-22-2016	Amended	2663	See 43 Ky.R.
902 KAR 4:120			922 KAR 2:020		
Amended	2982	See 43 Ky.R.	Amended	2668	See 43 Ky.R.
902 KAR 100:030			922 KAR 2:160		
Amended	2985	See 43 Ky.R.	Amended	2673	See 43 Ky.R.
902 KAR 100:080			922 KAR 2:260	2690	See 43 Ky.R.
Amended	2990	See 43 Ky.R.			
902 KAR 100:085					
Amended	2993	See 43 Ky.R.			
921 KAR 3:035					

VOLUME 43

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn before being printed in Register
- *** Emergency expired after 180 days
- ‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))
- (r) Repealer regulation: KRS 13A.310 - on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS:

(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

9 KAR 1:040E		See 42 Ky.R.
Replaced	392	10-7-2016
13 KAR 4:010E	657	10-14-2016
Replaced	1163	1-30-2017
101 KAR 2:034E	873	11-15-2016
Replaced	1004	3-3-2017
101 KAR 2:180E	877	11-15-2016
Replaced	1008	3-3-2017
101 KAR 3:045E	880	11-15-2016
Replaced	1011	3-3-2017
101 KAR 2:210E	517	9-15-2016
Replaced	599	1-6-2017
103 KAR 15:180E	168	
Replaced	266	11-4-2016
200 KAR 2:006E	659	9-15-2016
Replaced	1164	2-3-2017
201 KAR 47:010E	519	8-25-2016
Replaced	1170	2-3-2017
201 KAR 47:020E	522	8-25-2016
Replaced	1172	2-3-2017
202 KAR 10:030E	1120	11-14-2016
Replaced	1553	3-31-2017
301 KAR 2:221E		See 42 Ky.R.
Replaced	202	8-4-2016
301 KAR 2:222E		See 42 Ky.R.
Replaced	203	8-4-2016
401 KAR 31:040E		See 42 Ky.R.
Replaced	207	8-4-2016
787 KAR 2:040E	1922	3-31-2017
601 KAR 2:030E	888	10-27-2016
Expired		4-15-2017
804 KAR 4:400E	171	7-15-2016
Replaced	546	11-4-2016
804 KAR 4:410E	172	7-15-2016
Replaced	547	11-4-2016
804 KAR 11:010E	174	7-15-2016
Replaced	752	1-6-2017
806 KAR 9:360E	894	10-25-2016

900 KAR 5:020E	665	9-27-2016
Replaced	1420	3-31-2017
900 KAR 10:200E	896	11-1-2016
Replaced	1125	3-3-2017
902 KAR 2:020E	5	6-15-2016
Replaced	568	11-16-2016
902 KAR 20:091E	901	11-1-2016
902 KAR 55:015E	912	11-15-2016
Replaced	1381	3-3-2017
907 KAR 1:041E(r)	1924	3-31-2017
907 KAR 1:045E	915	11-1-2016
907 KAR 1:047E	921	11-1-2016
907 KAR 3:206E(r)	1925	3-31-2017
907 KAR 7:010E	176	6-30-2016
Withdrawn		9-15-2016
907 KAR 7:015E	187	6-30-2016
Withdrawn		9-15-2016
907 KAR 15:005E	925	11-1-2016
907 KAR 15:010E	928	11-1-2016
907 KAR 15:015E	941	11-1-2016
907 KAR 17:015E	1144	12-1-2016
907 KAR 17:035E	1149	12-1-2016
907 KAR 17:040E	1152	12-1-2016
907 KAR 23:001E	1927	3-31-2017
907 KAR 23:010E	1930	3-31-2017
907 KAR 23:020E	1935	3-31-2017
921 KAR 2:015E	1154	12-14-2016
Replaced	1321	3-31-2017
921 KAR 3:035E		See 42 Ky.R.
Replaced	218	8-17-2016
922 KAR 1:320E		See 42 Ky.R.
Replaced	45	8-17-2016
922 KAR 1:360E	666	9-28-2016
Replaced	826	2-3-2017
922 KAR 2:020E		See 42 Ky.R.
Replaced	221	8-17-2016
922 KAR 2:160E		See 42 Ky.R.
Replaced	225	8-17-2016
922 KAR 2:260E		See 42 Ky.R.
Replaced	65	8-17-2016

ORDINARY ADMINISTRATIVE REGULATIONS:

2 KAR 2:010		
Amended	69	10-7-2016
2 KAR 2:020		
Amended	70	
As Amended	390	10-7-2016
2 KAR 2:040		
Amended	72	
As Amended	390	10-7-2016
2 KAR 2:050	145	
As Amended	391	10-7-2016

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
2 KAR 2:060	146		As Amended	674	12-2-2016
As Amended	391	10-7-2016	Amended	2013	
2 KAR 2:070	148	10-7-2016	40 KAR 2:150		
9 KAR 1:010			Amended	251	
Amended	997		AmComments	556	
As Amended	1367	3-3-2017	As Amended	675	12-2-2016
9 KAR 1:040		See 42 Ky.R.	Amended	2015	
As Amended	392	10-7-2016	40 KAR 2:250		
9 KAR 1:060			Recodified as 40 KAR 2:155		6-30-2016
Amended	754		101 KAR 1:325		
AmComments	1390		Amended	1001	3-3-2017
As Amended	1504	3-31-2017	101 KAR 2:034		
10 KAR 6:010			Amended	1004	3-3-2017
Amended	756		101 KAR 2:046		
As Amended	1161	2-3-2017	Amended	1631	
11 KAR 4:080			101 KAR 2:056		
Amended	998	3-3-2017	Amended	1633	
11 KAR 15:090			101 KAR 2:066		
Amended	73		Amended	1634	
As Amended	525	11-4-2016	101 KAR 2:180		
12 KAR 1:116			Amended	1008	3-3-2017
Amended	428	12-2-2016	101 KAR 2:210		
12 KAR 1:140			Amended	599	1-6-2017
Amended	429	12-2-2016	101 KAR 3:045		
12 KAR 1:155			Amended	1011	3-3-2017
Amended	431		101 KAR 1:015		
As Amended	673	12-2-2016	Repealed	1114	3-3-2017
13 KAR 2:110			101 KAR 5:016(r)	1114	3-3-2017
Amended	1625		102 KAR 1:165		
13 KAR 2:060			Amended	258	
Amended	758		As Amended	528	11-4-2016
As Amended	1162	1-30-2017	102 KAR 1:290		
13 KAR 4:010	833		Amended	260	
As Amended	1163	1-30-2017	As Amended	530	11-4-2016
16 KAR 1:010			102 KAR 1:320		
Amended	1205	3-31-2017	Amended	262	
16 KAR 1:030			As Amended	530	11-4-2016
Amended	585		103 KAR 3:010		
AmComments	1185		Repealed	1115	3-3-2017
As Amended	1367	3-3-2017	103 KAR 3:011(r)	1115	3-3-2017
16 KAR 2:020			103 KAR 3:020		
Amended	2005		Repealed	1115	3-3-2017
16 KAR 4:040			103 KAR 3:030		
Amended	1207		Repealed	1115	3-3-2017
As Amended	1714		103 KAR 3:040		
16 KAR 4:080	1330		Repealed	1115	3-3-2017
As Amended	1715		103 KAR 3:050		
16 KAR 4:090	1331		Repealed	1115	3-3-2017
As Amended	1715		103 KAR 5:121(r)	1333	
16 KAR 5:020			103 KAR 8:160	360	
Amended	2008		AmComments	563	12-2-2016
16 KAR 6:010			103 KAR 15:021(r)	1334	
Amended	588		103 KAR 15:180		
AmComments	1188		Amended	266	11-4-2016
As Amended	1505		103 KAR 16:031(r)	1335	
16 KAR 6:020			103 KAR 16:221(r)	1336	
Amended	1627		103 KAR 19:031(r)	1337	
16 KAR 7:010			103 KAR 20:011(r)	1338	
Amended	592		103 KAR 28:040		
AmComments	1192	3-3-2017	Repealed	947	1-6-2017
As Amended	1370		103 KAR 28:041(r)	636	
16 KAR 8:040			As Amended	947	1-6-2017
Amended	2011		103 KAR 41:020		
30 KAR 7:010			Repealed	947	1-6-2017
Amended	250	11-4-2016	103 KAR 41:021(r)	637	
30 KAR 7:020	1113	3-3-2017	As Amended	947	1-6-2017
31 KAR 4:170			103 KAR 44:130		
Amended	1000		Repealed	947	1-6-2017
As Amended	1375	3-3-2017	103 KAR 44:131(r)	638	
40 KAR 2:145	358		As Amended	947	1-6-2017

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
106 KAR 1:081			As Amended	194	9-2-2016
Amended	1211		201 KAR 14:030		See 42 Ky.R.
As Amended	1506	3-31-2017	As Amended	195	9-2-2016
106 KAR 1:091			201 KAR 14:045		See 42 Ky.R.
Amended	1224		As Amended	195	9-2-2016
As Amended	1519	3-31-2017	201 KAR 14:090		See 42 Ky.R.
106 KAR 1:101			As Amended	195	9-2-2016
Amended	1229		201 KAR 14:110		See 42 Ky.R.
As Amended	1524	3-31-2017	As Amended	196	9-2-2016
106 KAR 1:111			201 KAR 14:125		
Amended	1231		Amended	269	
As Amended	1524	3-31-2017	AmComments	566	
106 KAR 1:121			As Amended	681	12-2-2016
Amended	1232		201 KAR 14:150		See 42 Ky.R.
As Amended	1525	3-31-2017	As Amended	197	9-2-2016
106 KAR 1:131			201 KAR 14:180		See 42 Ky.R.
Amended	1234		As Amended	198	9-2-2016
As Amended	1526	3-31-2017	201 KAR 18:050		
200 KAR 2:006			Repealed	640	1-6-2017
Amended	761		201 KAR 18:051(r)	640	1-6-2017
As Amended	1164		201 KAR 20:056		
200 KAR 5:355	477		Amended	1799	
AmComments	704		201 KAR 20:057		
As Amended	947	1-6-2017	Amended	1802	
200 KAR 30:010		See 42 Ky.R.	201 KAR 20:215		
As Amended	393	10-7-2016	Amended	1015	3-3-2017
200 KAR 30:020		See 42 Ky.R.	201 KAR 20:220		
As Amended	394	10-7-2016	Amended	1018	
200 KAR 30:030		See 42 Ky.R.	As Amended	1375	3-3-2017
As Amended	395	10-7-2016	201 KAR 20:411		
200 KAR 30:040		See 42 Ky.R.	Amended	433	11-16-2016
As Amended	395	10-7-2016	201 KAR 20:520		See 42 Ky.R.
201 KAR 1:015			As Amended	19	7-20-2016
Amended	600	1-6-2017	201 KAR 21:025		
201 KAR 1:065			Amended	766	
Amended	601		As Amended	1169	2-3-2017
As Amended	949	1-6-2017	201 KAR 21:041		
201 KAR 1:100			Amended	768	2-3-2017
Amended	603		201 KAR 22:020		
As Amended	950	1-6-2017	Amended	1237	
201 KAR 2:045			As Amended	1528	3-31-2017
Amended	606		201 KAR 22:045		
As Amended	952	12-14-2016	Amended	270	
201 KAR 2:050			As Amended	533	10-19-2016
Amended	607		201 KAR 22:053		
As Amended	953	12-14-2016	Amended	1240	
201 KAR 2:074			As Amended	1940	
Amended	1796		201 KAR 22:070		
201 KAR 2:076			Amended	2022	
Amended	609		201 KAR 23:055		See 42 Ky.R.
Withdrawn		11-7-2016	AmComments	234	
201 KAR 2:350			As Amended	395	9-21-2016
Repealed	639	12-14-2016	201 KAR 23:075		See 42 Ky.R.
201 KAR 2:351(r)	639	12-14-2016	AmComments	235	
201 KAR 9:025		See 42 Ky.R.	Withdrawn		7-29-2016
As Amended	12	7-20-2016	Amended	1021	
201 KAR 9:081		See 42 Ky.R.	AmComments	1580	
As Amended	12	7-20-2016	As Amended	1716	
201 KAR 9:240		See 42 Ky.R.	201 KAR 26:125		
As Amended	15	7-20-2016	Amended	1805	
201 KAR 9:250		See 42 Ky.R.	201 KAR 26:130		
As Amended	192	8-17-2016	Amended	1807	
201 KAR 9:270			201 KAR 26:140		
Amended	1435		Amended	1809	
AmComments	1777		201 KAR 26:145		
201 KAR 13:040		See 42 Ky.R.	Amended	1811	
As Amended	17	7-20-2016	201 KAR 26:155		
201 KAR 13:050		See 42 Ky.R.	Amended	1814	
As Amended	19	7-20-2016	201 KAR 26:160		
201 KAR 14:015		See 42 Ky.R.	Amended	1816	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
201 KAR 26:165			201 KAR 27:065		
Amended	1818		Repealed	366	1-6-2017
201 KAR 26:171			201 KAR 27:070		
Amended	1819		Repealed	366	1-6-2017
201 KAR 26:175			201 KAR 27:090		
Amended	1823		Repealed	366	1-6-2017
201 KAR 26:180			201 KAR 27:100		
Amended	1826		Repealed	366	1-6-2017
201 KAR 26:185			201 KAR 27:105	367	
Amended	1827		AmComments	748	
201 KAR 26:190			As Amended	979	1-6-2017
Amended	1829		201 KAR 28:090		
201 KAR 26:200			Amended	1026	
Amended	1831		As Amended	1720	
201 KAR 26:210			201 KAR 28:200		
Amended	1833		Amended	1028	
201 KAR 26:215			Withdrawn		3-2-2017
Amended	1834		201 KAR 28:230	1116	
201 KAR 26:225	1900		201 KAR 29:015		See 42 Ky.R.
201 KAR 26:250			As Amended	198	8-17-2016
Amended	1836		201 KAR 30:030		
201 KAR 26:280			Amended	312	
Amended	1838		As Amended	535	11-4-2016
201 KAR 26:290			201 KAR 32:030		See 42 Ky.R.
Amended	1840		AmComments	240	
201 KAR 27:005			As Amended	536	10-19-2016
Amended	273		201 KAR 32:050		
AmComments	706	1-6-2017	Amended	1841	
201 KAR 27:007			201 KAR 32:060		
Amended	275		Amended	1843	
AmComments	708	1-6-2017	201 KAR 34:020		
201 KAR 27:008			Amended	2023	
Amended	276		201 KAR 34:030		
AmComments	710		Amended	2025	
As Amended	953	1-6-2017	201 KAR 34:050		
201 KAR 27:011			Amended	2029	
Amended	280		201 KAR 35:016(r)	1339	
AmComments	713		201 KAR 35:020		
As Amended	955	1-6-2017	Amended	1243	
201 KAR 27:012			As Amended	1721	
Amended	291		201 KAR 35:025	1340	
AmComments	724	1-6-2017	As Amended	1722	
201 KAR 27:016			201 KAR 35:030		
Amended	294		Amended	1245	
AmComments	727		AmComments	1585	
As Amended	965	1-6-2017	As Amended	1723	
201 KAR 27:017			201 KAR 35:050		
Amended	304		Amended	1248	
AmComments	737		AmComments	1588	
As Amended	974	1-6-2017	As Amended	1725	
201 KAR 27:020			201 KAR 35:070		
Amended	309		Amended	1250	
AmComments	741	1-6-2017	As Amended	1726	
201 KAR 27:021	364		201 KAR 36:005	835	
AmComments	744		As Amended	1529	3-31-2017
As Amended	978	1-6-2017	201 KAR 36:020		
201 KAR 27:035			Amended	770	
Repealed	366	1-6-2017	AmComments	1392	3-31-2017
201 KAR 27:036(r)	366	1-6-2017	201 KAR 36:030		
201 KAR 27:040			Amended	771	
Amended	311		As Amended	1531	3-31-2017
AmComments	746	1-6-2017	201 KAR 36:040		
201 KAR 27:045			Amended	774	
Repealed	366	1-6-2017	AmComments	1393	
201 KAR 27:050			As Amended	1533	3-31-2017
Repealed	366	1-6-2017	201 KAR 36:045	837	
201 KAR 27:055			As Amended	1540	3-31-2017
Repealed	366	1-6-2017	201 KAR 36:050		
201 KAR 27:060			Amended	781	
Repealed	366	1-6-2017	AmComments	1400	3-31-2017

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
201 KAR 36:055	838	3-31-2017	201 KAR 46:090		
201 KAR 36:060			Amended	1654	
Amended	783		201 KAR 46:020		See 42 Ky.R.
AmComments	1402		As Amended	199	8-17-2016
As Amended	1540	3-31-2017	201 KAR 46:070		See 42 Ky.R.
201 KAR 36:065	840		As Amended	200	8-17-2016
AmComments	1405	3-31-2017	201 KAR 47:010	641	
201 KAR 36:070			As Amended	1170	2-3-2017
Amended	786		201 KAR 47:020	644	
AmComments	1407	3-31-2017	As Amended	1172	2-3-2017
As Amended	1543	3-31-2017	202 KAR 7:501		
201 KAR 36:075	841`	3-31-2017	Amended	78	
AmComments	1410		Withdrawn		9-15-2016
As Amended	1545		202 KAR 7:520		
201 KAR 36:090	843		Amended	94	
AmComments	1412		Withdrawn		9-15-2016
As Amended	1546	3-31-2017	202 KAR 7:810	1118	
201 KAR 38:020			As Amended	1551	3-31-2017
Amended	1254		202 KAR 10:010	844	
As Amended	1547	3-31-2017	AmComments	1199	3-31-2017
201 KAR 38:030			202 KAR 10:020	847	
Amended	1255		As Amended	1553	3-31-2017
As Amended	1548	3-31-2017	202 KAR 10:030	1120	
201 KAR 38:070			As Amended	1553	3-31-2017
Amended	1259		301 KAR 1:015		
As Amended	1550	3-31-2017	Amended	315	10-6-2016
201 KAR 39:001			301 KAR 1:152		
Amended	1636		Amended	1440	
201 KAR 39:030			301 KAR 1:201		
Amended	1639		Amended	317	
201 KAR 39:050			As Amended	538	10-6-2016
Amended	1846		301 KAR 2:049		
201 KAR 39:070			Amended	436	
Amended	1640		As Amended	1173	2-3-2017
201 KAR 42:020			301 KAR 2:075		
Amended	790		Amended	1848	
As Amended	1729		301 KAR 2:083		
201 KAR 42:040			Amended	1850	
Amended	792		301 KAR 2:122		See 42 Ky.R.
As Amended	1729		As Amended	20	7-19-2016
201 KAR 43:110	149	10-7-2016	301 KAR 2:132		
201 KAR 44:040			Amended	322	10-6-2016
Amended	1438		Amended	1656	
As Amended	1942		301 KAR 2:172		
201 KAR 44:090			Amended	1442	
Amended	2031		As Amended	1731	
201 KAR 45:100			301 KAR 2:176		See 42 Ky.R.
Amended	1642		As Amended	200	8-4-2016
As Amended	1943		301 KAR 2:178		
201 KAR 45:110		See 42 Ky.R.	Amended	1661	
As Amended	537	11-4-2016	301 KAR 2:221		See 42 Ky.R.
Amended	1643		As Amended	202	8-4-2016-
As Amended	1944		Amended	2032	
201 KAR 45:120			301 KAR 2:222		See 42 Ky.R.
Amended	1644		As Amended	203	8-4-2016
As Amended	1944		301 KAR 2:226		See 42 Ky.R.
201 KAR 45:130			As Amended	21	7-19-2016
Amended	1646		301 KAR 2:251		
As Amended	1945		Amended	440	
201 KAR 46:020		See 42 Ky.R.	As Amended	1176	
As Amended	199	8-17-2016	301 KAR 2:300		
201 KAR 46:035	2077		Amended	2034	
201 KAR 46:040			301 KAR 3:015		
Amended	1648		Amended	1261	
AmComments	1987		As Amended	1555	3-31-2017
201 KAR 46:060			301 KAR 3:022		
Amended	1651		Amended	2038	
201 KAR 46:070		See 42 Ky.R.	301 KAR 5:040		See 42 Ky.R.
As Amended	200	8-17-2016	As Amended	206	8-4-2016
Amended	1653		302 KAR 39:020		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	1031		501 KAR 6:040		
As Amended	1377	3-3-2017	Amended	1889	
307 KAR 1:031(r)	1493		501 KAR 6:060		
400 KAR 1:001			Amended	1669	
Amended	1853		As Amended	1948	
400 KAR 1:031(r)	1901		501 KAR 6:110		
400 KAR 1:090			Amended	99	
Amended	1855		As Amended	402	10-7-2016
400 KAR 1:100	1902		501 KAR 6:150		
401 KAR 4:070	848		Amended	797	
401 KAR 8:010			As Amended	1179	2-3-2017
Amended	2040		501 KAR 6:160		
401 KAR 8:011(r)	2078		Amended	101	10-7-2016
401 KAR 8:020			501 KAR 6:170		
Amended	2043		Amended	1450	
401 KAR 8:040			503 KAR 5:090		
Amended	2047		Amended	446	
401 KAR 8:075			As Amended	682	12-2-2016
Amended	2049		600 KAR 5:011 (r)	479	
401 KAR 8:100			Withdrawn		10-4-2016
Amended	2051		600 KAR 6:061 (r)	480	
401 KAR 8:250			Withdrawn		9-22-2016
Amended	2055		601 KAR 1:018		
401 KAR 31:040		See 42 Ky.R.	Amended	1890	
As Amended	207	8-4-2016	601 KAR 1:029		
401 KAR 45:010			Repealed	684	12-2-2016
Amended	794		601 KAR 1:060		
As Amended	1557		Repealed	684	12-2-2016
401 KAR 45:060			601 KAR 1:075		
Amended	796		Repealed	684	12-2-2016
As Amended	1558		601 KAR 1:095		
401 KAR 46:101	850		Repealed	684	12-2-2016
AmComments	1413		601 KAR 1:101		
As Amended	1558-		Repealed	684	12-2-2016
401 KAR 46:110	852		601 KAR 1:110		
401 KAR 46:120	854		Repealed	684	12-2-2016
AmComments	1415		601 KAR 1:113		
As Amended	1559		Amended	2056	
401 KAR 50:060			601 KAR 1:145		
Amended	1866		Repealed	684	12-2-2016
Withdrawn		3-30-2017	601 KAR 1:190		
401 KAR 51:010		See 42 Ky.R.	Repealed	684	12-2-2016
AmComments	242		601 KAR 1:230		
As Amended	396	10-6-2016	Repealed	684	12-2-2016
401 KAR 53:010		See 42 Ky.R.	601 KAR 1:231 (r)	481	
As Amended	22	7-19-2016	As Amended	684	12-2-2016
401 KAR 60:005			601 KAR 2:010		
Amended	1033		Repealed	482	12-2-2016
As Amended	1378	3-3-2017	601 KAR 2:011 (r)	482	12-2-2016
401 KAR 63:002			601 KAR 2:030		
Amended	1037	3-3-2017	Amended	1049	
401 KAR 63:060			601 KAR 9:010		
Amended	1043	3-3-2017	Repealed	483	12-2-2016
401 KAR 100:011(r)	1906		601 KAR 9:020		
405 KAR 5:095			Repealed	483	12-2-2016
Amended	1869		601 KAR 9:060		
405 KAR 7:092			Repealed	483	12-2-2016
Amended	1876		601 KAR 9:065		
405 KAR 7:093(r)	1907		Repealed	483	12-2-2016
501 KAR 6:020		See 42 Ky.R.	601 KAR 9:095		
As Amended	24	8-5-2016	Repealed	483	12-2-2016
Amended	444		601 KAR 9:105		
AmComments	749		Repealed	483	12-2-2016
As Amended	980	1-6-2017	601 KAR 9:111 (r)	483	12-2-2016
Amended	1446		601 KAR 40:010		
AmComments	1780		Repealed	484	12-2-2016
As Amended	1946		601 KAR 40:011 (r)	484	12-2-2016
501 KAR 6:030			602 KAR 15:011 (r)	486	
Amended	1448		Withdrawn		11-2-2016
As Amended	1947		602 KAR 20:090		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
Repealed	487	12-2-2016	739 KAR 2:140	153	
602 KAR 20:091(r)	487	12-2-2016	As Amended	403	9-28-2016
603 KAR 1:030			750 KAR 1:030		
Repealed	488	12-2-2016	Amended	1673	
603 KAR 1:031(r)	488	12-2-2016	As Amended	1949	
603 KAR 2:020	856		755 KAR 1:080	369	11-14-2016
AmComments	1418		780 KAR 4:010		
As Amended	1561	3-31-2017	Repealed	496	1-30-2017
603 KAR 4:045			780 KAR 4:010		
Repealed	489	12-2-2016	Repealed	496	1-30-2017
603 KAR 4:046(r)	489	12-2-2016	780 KAR 4:012(r)	496	1-30-2017
603 KAR 5:020			780 KAR 7:060		See 42 Ky.R.
Repealed	684	12-2-2016	As Amended	208	9-2-2016
603 KAR 5:030			787 KAR 1:070		
Repealed	684	12-2-2016	Amended	612	
603 KAR 5:080			787 KAR 2:040		
Repealed	684	12-2-2016	Amended	2065	
603 KAR 5:090			789 KAR 1:010		
Repealed	684	12-2-2016	Amended	613	
603 KAR 5:301			As Amended	983	1-6-2017
Repealed	684	12-2-2016	803 KAR 2:180		
603 KAR 5:311(r)	490		Amended	330	
As Amended	684	12-2-2016	As Amended	685	12-2-2016
603 KAR 7:010			803 KAR 2:300		
Repealed	491	12-2-2016	Amended	1265	3-31-2017
603 KAR 7:040			803 KAR 2:303		
Repealed	491	12-2-2016	Amended	1267	
603 KAR 7:050			As Amended	1562	3-31-2017
Repealed	491	12-2-2016	803 KAR 2:305		
603 KAR 7:060			Amended	1269	3-31-2017
Repealed	491	12-2-2016	803 KAR 2:308		
603 KAR 7:070			Amended	1271	
Repealed	491	12-2-2016	As Amended	1562	3-31-2017
603 KAR 7:071(r)	491	12-2-2016	803 KAR 2:313		
603 KAR 8:011(r)	492		Amended	1273	
Withdrawn		10-4-2016	As Amended	1563	3-31-2017
603 KAR 9:021(r)	493		803 KAR 2:317		
Withdrawn		11-2-2016	Amended	1275	
605 KAR 1:010			As Amended	1563	3-31-2017
Repealed	494	12-2-2016	803 KAR 2:307		See 42 Ky.R.
605 KAR 1:011(r)	494	12-2-2016	As Amended	209	9-2-2016
702 KAR 3:170			803 KAR 2:320		
Repealed	495	1-30-2017	Amended	1675	
702 KAR 3:170			As Amended	1950	
Repealed	495	1-30-2017	803 KAR 2:400		See 42 Ky.R.
702 KAR 3:171(r)	495	1-30-2017	As Amended	210	9-2-2016
702 KAR 6:090			803 KAR 2:403		
Amended	1671		Amended	1681	
702 KAR 7:065			803 KAR 2:412		
Amended	102		Amended	106	
AmComments	418		As Amended	985	1-6-2017
As Amended	542	10-10-2016	803 KAR 2:425		
703 KAR 4:040			Amended	1683	
Repealed	150	11-4-2016	As Amended	1954	
703 KAR 4:041(r)	150	11-4-2016	803 KAR 2:500		
703 KAR 5:070			Amended	1685	
Amended	1264	3-31-2017	803 KAR 25:010		See 42 Ky.R
704 KAR 3:340			AmComments	28	
Repealed	152	11-4-2016	As Amended	404	10-7-2016
704 KAR 3:342(r)	152	11-4-2016	804 KAR 1:071(r)	498	
705 KAR 4:231			AmComments	996	2-3-2017
Amended	449		804 KAR 1:090		
As Amended	1180	1-30-2017	Repealed	996	2-3-2017
725 KAR 2:060			804 KAR 1:120		
Amended	2060		Repealed	996	2-3-2017
725 KAR 2:070			804 KAR 3:080		
Amended	2063		Repealed	499	12-2-2016
739 KAR 2:040			804 KAR 3:081(r)	499	12-2-2016
Amended	327		804 KAR 3:100		
As Amended	981	1-6-2017	Amended	1687	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
As Amended	1954		AmComments	1590	
804 KAR 4:040			As Amended	1735	
Repealed	500	12-2-2016	806 KAR 17:575	2079	
804 KAR 4:041(r)	500	12-2-2016	806 KAR 18:020		
804 KAR 4:050			Amended	1291	
Repealed	500	12-2-2016	808 KAR 1:080		
804 KAR 4:150			Repealed	371	11-4-2016
Repealed	500	12-2-2016	808 KAR 1:081(r)	371	11-4-2016
804 KAR 4:310			808 KAR 1:100		
Repealed	500	12-2-2016	Repealed	371	11-4-2016
804 KAR 4:340			808 KAR 1:110		
Repealed	500	12-2-2016	Repealed	1344	3-31-2017
804 KAR 4:370			808 KAR 1:111(r)	1344	3-31-2017
Amended	1452		808 KAR 1:160	372	
As Amended	1733		As Amended	547	11-4-2016
804 KAR 4:380			808 KAR 3:020		
Repealed	370	11-4-2016	Amended	1292	3-31-2017
804 KAR 4:381(r)	370	11-4-2016	808 KAR 3:030		
804 KAR 4:385			Repealed	1345	3-31-2017
Repealed	500	12-2-2016	808 KAR 3:031(r)	1345	3-31-2017
804 KAR 4:390			808 KAR 4:020		
Amended	332		Repealed	375	11-4-2016
As Amended	545	11-4-2016	808 KAR 4:021(r)	375	11-4-2016
804 KAR 4:400			808 KAR 5:010		
Amended	334		Repealed	1346	3-31-2017
As Amended	546	11-4-2016	808 KAR 5:011(r)	1346	3-31-2017
804 KAR 4:410			808 KAR 5:020		
Amended	336		Repealed	1346	3-31-2017
As Amended	547	11-4-2016	808 KAR 5:030		
804 KAR 5:030			Repealed	1346	3-31-2017
Repealed	501	12-2-2016	808 KAR 7:030		
804 KAR 5:031(r)	501	12-2-2016	Repealed	1347	3-31-2017
804 KAR 5:050			808 KAR 7:031(r)	1347	3-31-2017
Repealed	501	12-2-2016	808 KAR 7:040		
804 KAR 7:050			Repealed	1347	3-31-2017
Repealed	502	12-2-2016	808 KAR 9:050		See 42 Ky.R.
804 KAR 7:051(r)	502	12-2-2016	As Amended	25	8-5-2016
804 KAR 8:040			808 KAR 11:010		
Repealed	503	12-2-2016	Repealed	376	11-4-2016
804 KAR 8:041(r)	503	12-2-2016	808 KAR 11:011(r)	376	11-4-2016
804 KAR 8:060			808 KAR 12:021		
Repealed	503	12-2-2016	Amended	110	11-4-2016
804 KAR 9:010			808 KAR 12:055	155	
Amended	1055	3-3-2017	As Amended	548	11-4-2016
804 KAR 9:020			810 KAR 1:009		
Repealed	504	12-2-2016	Amended	114	9-9-2016
804 KAR 9:021(r)	504	12-2-2016	811 KAR 1:215		
804 KAR 9:030			Amended	1294	3-31-2017
Repealed	504	12-2-2016	811 KAR 1:220		
804 KAR 10:010			Amended	1299	
Amended	1277	3-31-2017	As Amended	1564	3-31-2017
804 KAR 10:020			811 KAR 2:190		
Repealed	1341	3-31-2017	Amended	118	10-7-2016
804 KAR 10:021(r)	1341	3-31-2017	815 KAR 7:120		
804 KAR 10:025			Amended	452	
Repealed	1341	3-31-2017	Withdrawn		8-24-2016
804 KAR 11:010			Amended	2067	
Amended	338		815 KAR 20:010		
AmComments	752	1-6-2017	Amended	615	
804 KAR 11:020			As Amended	987	1-6-2017
Repealed	505	12-2-2016	815 KAR 20:020		
804 KAR 11:021(r)	505	12-2-2016	Amended	455	
806 KAR 2:011(r)	1342		As Amended	685	11-16-2016
As Amended	1734		815 KAR 20:060		
806 KAR 2:097			Amended	621	1-6-2017
Amended	1278		815 KAR 20:080		
806 KAR 3:210			Amended	460	11-16-2016
Amended	1280		815 KAR 20:090		
Withdrawn by agency		2-1-2017	Amended	461	11-16-2016
806 KAR 9:360	1123		815 KAR 20:120		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	466		As Amended	217	8-17-2016
As Amended	689	11-16-2016	906 KAR 1:081(r)	2086	
815 KAR 20:130			906 KAR 1:091(r)	2087	
Amended	624	1-6-2017	906 KAR 1:150		
900 KAR 5:020			Repealed	859	3-31-2017
Amended	800		906 KAR 1:151(r)	859	3-31-2017
AmComments	1420	3-31-2017	906 KAR 1:190		
900 KAR 6:055			Amended	806-	
Amended	1302	3-31-2017	AmComments	1427	
900 KAR 6:060			As Amended	1574	3-31-2017
Amended	1304		907 KAR 1:045		
As Amended	1566	3-31-2017	Amended	1071	
900 KAR 6:065			AmComments	1594	
Amended	1306		As Amended	1768	
As Amended	1567	3-31-2017	907 KAR 1:047	1130	
900 KAR 6:095			AmComments	1600	
Amended	1310	3-31-2017	As Amended	1772	
900 KAR 10:041(r)	1908		907 KAR 1:065		
900 KAR 10:200	1125	3-3-2017	Amended	1485	
902 KAR 2:020			AmComments	1997	
Amended	122		907 KAR 3:030		
AmComments	568	11-16-2016	Repealed	1133	3-3-2017
902 KAR 2:060			907 KAR 3:031(r)	1133	3-3-2017
Amended	1454		907 KAR 4:020		
AmComments	1989		Amended	1077	
902 KAR 4:120		See 42 Ky.R.	As Amended	1774	
As Amended	210	8-17-2016	907 KAR 4:030		
902 KAR 10:085			Amended	1080	
Amended	1462		As Amended	1775	
As Amended	1736		907 KAR 7:010		
902 KAR 20:008			Amended	339	
Amended	801		Withdrawn		9-15-2016
AmComments	1421		907 KAR 7:015		
As Amended	1569	3-31-2017	Amended	351	
902 KAR 20:013(r)	858	3-31-2017	Withdrawn		9-15-2016
902 KAR 20:014			907 KAR 15:005		
Repealed	858	3-31-2017	Amended	1082	
902 KAR 20:053(r)	2082		AmComments	1603	
902 KAR 20:058			As Amended	1958	
Amended	129		907 KAR 15:010		
AmComments	575		Amended	1085	
As Amended	695	11-16-2016	AmComments	1606	
902 KAR 20:081			As Amended	1959	
Amended	1311		907 KAR 15:015		
AmComments	1782		Amended	1098	
As Amended	1955		AmComments	1619	
902 KAR 20:091			As Amended	1971	
Amended	1057		907 KAR 17:015		
As Amended	1752		Amended	1316	
902 KAR 20:280			As Amended	1974	
Amended	1479		907 KAR 17:035	1350	
As Amended	1762		AmComments	1786	
902 KAR 21:020	1348		As Amended	1978	
AmComments	1592		907 KAR 17:040	1353	
As Amended	1767		AmComments	1789	
902 KAR 21:030	1910		As Amended	1980	
902 KAR 22:011(r)	2084		907 KAR 23:001	2088	
902 KAR 23:010			907 KAR 23:010	2091	
Recodified from 920 KAR 3:010		4-12-2017	907 KAR 23:020	2096	
902 KAR 55:015			908 KAR 2:040		
Amended	1068		Amended	813	
As Amended	1381	3-3-2017	As Amended	1182	2-3-2017
902 KAR 55:035			908 KAR 3:051(r)	1699	
Amended	629	3-3-2017	908 KAR 3:060		
902 KAR 55:076(r)	2085		Amended	1689	
902 KAR 100:030		See 42 Ky.R.	908 KAR 3:080		
As Amended	212	8-17-2016	Repealed	861	2-3-2017
902 KAR 100:080		See 42 Ky.R.	908 KAR 3:081(r)	861	2-3-2017
As Amended	216	8-17-2016	908 KAR 3:090		
902 KAR 100:085		See 42 Ky.R.	Repealed	861	2-3-2017

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
908 KAR 3:100			922 KAR 1:400		
Repealed	861	2-3-2017	Amended	1695	
908 KAR 3:110			As Amended	1982	
Repealed	861	2-3-2017	922 KAR 1:500		
908 KAR 3:120			Amended	142	
Repealed	861	2-3-2017	AmComments	582	11-16-2016
908 KAR 3:130			922 KAR 2:020		See 42 Ky.R.
Repealed	861	2-3-2017	AmComments	50	
908 KAR 3:140			As Amended	221	8-17-2016
Repealed	861	2-3-2017	922 KAR 2:160		See 42 Ky.R.
908 KAR 3:150			AmComments	55	
Repealed	861	2-3-2017	As Amended	225	8-17-2016
908 KAR 3:150			922 KAR 2:260		See 42 Ky.R.
Repealed	861	2-3-2017	AmComments	65	8-17-2016
908 KAR 3:160			922 KAR 3:011(r)	1355	
Repealed	861	2-3-2017	AmComments	1791	
908 KAR 3:180			922 KAR 3:040		
Repealed	861	2-3-2017	Recodified as 922 KAR 6:045		11-17-2016
910 KAR 1:210			922 KAR 5:080		
Amended	136		Repealed	159	9-21-2016
AmComments	421		922 KAR 5:081(r)	159	9-21-2016
As Amended	550	10-19-2016	922 KAR 5:120		
Amended	2070		Amended	1327	
920 KAR 2:040			AmComments	1792	
Amended	1103		As Amended	1985	
As Amended	1383	3-3-2017	922 KAR 6:010		
920 KAR 3:010			Amended	1108	
Recodified to 902 KAR 23:010		4-12-2017	As Amended	1386	3-3-2017
921 KAR 1:001			922 KAR 6:045		
Amended	815	3-3-2017	Recodified from 922 KAR 3:040		11-17-2016
921 KAR 1:380					
Amended	473				
As Amended	701	11-16-2016-			
921 KAR 1:410					
Amended	631				
As Amended	992	12-14-2016			
921 KAR 1:420					
Amended	354	10-19-2016			
921 KAR 1:430					
Amended	1692				
As Amended	1981				
921 KAR 2:015					
Amended	1321	3-31-2017			
921 KAR 3:030					
Amended	817				
As Amended	1182	2-3-2017			
921 KAR 3:035		See 42 Ky.R.			
AmComments	42				
As Amended	218	8-17-2016			
921 KAR 3:050					
Amended	819	2-3-2017			
921 KAR 4:118					
Repealed	157	10-6-2016			
921 KAR 4:119(r)	157	10-6-2016			
922 KAR 1:140					
Amended	823				
AmComments	1201	3-3-2017			
922 KAR 1:150					
Repealed	377	11-16-2016			
922 KAR 1:151(r)	377	11-16-2016			
922 KAR 1:170					
Repealed	377	11-16-2016			
922 KAR 1:210					
Repealed	377	11-16-2016			
922 KAR 1:230					
Repealed	377	11-16-2016			
922 KAR 1:320		See 42 Ky.R.			
AmComments	45	8-17-2016			
922 KAR 1:360					
Amended	826	2-3-2017			

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn before being printed in Register
- *** Emergency expired after 180 days
- ‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))
- (r) Repealer regulation: KRS 13A.310 - on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
2.015	922 KAR 1:140	18A.113	101 KAR 2:066
	922 KAR 1:400	18A.120	101 KAR 2:046
6.611	2 KAR 2:040		101 KAR 2:056
	2 KAR 2:050	18A.135	101 KAR 2:066
	2 KAR 2:060	18A.150	101 KAR 2:046
	2 KAR 2:070	18A.155	101 KAR 3:045
6.666	2 KAR 2:010	18A.165	101 KAR 2:034
	2 KAR 2:040		101 KAR 2:066
6.681	2 KAR 2:070	18A.202	101 KAR 3:045
6.686	2 KAR 2:050	18A.225	101 KAR 2:210
	2 KAR 2:070	18A.2254	101 KAR 2:210
6.787	2 KAR 2:020	18A.0751	101 KAR 1:325
6.793	2 KAR 2:020	23A.010	922 KAR 1:320
6.807	2 KAR 2:010		922 KAR 2:020
	2 KAR 2:040		922 KAR 2:260
6.821	2 KAR 2:010	39E.010	106 KAR 1:131
	2 KAR 2:040	39E.020	106 KAR 1:081
6.824	2 KAR 2:010	39E.030	106 KAR 1:081
6.827	2 KAR 2:010	39E.040	106 KAR 1:081
	2 KAR 2:040		106 KAR 1:091
6.829	2 KAR 2:010		106 KAR 1:111
	2 KAR 2:040		106 KAR 1:131
6.691	2 KAR 2:060	39E.050	106 KAR 1:081
11A	600 KAR 6:061		106 KAR 1:121
11A.010	9 KAR 1:010		106 KAR 1:091
	9 KAR 1:060		106 KAR 1:101
11A.045	9 KAR 1:060		106 KAR 1:111
11A.050	9 KAR 1:010		106 KAR 1:131
11A.055	9 KAR 1:060	39E.080	106 KAR 1:111
12.355	201 KAR 22:045		106 KAR 1:131
13B	10 KAR 6:010	39E.110	106 KAR 1:081
	201 KAR 36:030		106 KAR 1:111
	906 KAR 1:190	39E.120	106 KAR 1:081
	907 KAR 23:010		106 KAR 1:131
	908 KAR 3:060	39E.130	106 KAR 1:081
	920 KAR 2:040		106 KAR 1:131
	921 KAR 1:430	39E.140	106 KAR 1:081
	922 KAR 5:081		106 KAR 1:111
	922 KAR 1:320	39E.150	106 KAR 1:081
	922 KAR 1:360		106 KAR 1:111
	922 KAR 1:500	39E.160	106 KAR 1:081
	922 KAR 2:020	39E.170	106 KAR 1:081
	922 KAR 2:260	39E.190	106 KAR 1:081
	922 KAR 5:120		106 KAR 1:131
13B.010	921 KAR 1:410	39E.200	106 KAR 1:131
	921 KAR 1:420	39E.210	106 KAR 1:131
13B.170	921 KAR 1:420	39E.220	106 KAR 1:081
15.055	921 KAR 1:410		106 KAR 1:131
	921 KAR 1:430	39E.230	106 KAR 1:081
15.440	503 KAR 5:090		106 KAR 1:091
15.450	503 KAR 5:090		106 KAR 1:101
15A.060	921 KAR 1:430	39E.990	106 KAR 1:131
17.165	920 KAR 2:040	44.060	200 KAR 2:006
17.500	201 KAR 47:010	45.101	200 KAR 2:006
	201 KAR 47:020	45.237-45.241	922 KAR 1:400
	601 KAR 1:113		922 KAR 2:020
	902 KAR 20:091	45.357	922 KAR 6:010
18A.005	101 KAR 1:325	45.360	603 KAR 1:031
	101 KAR 2:056	45A	202 KAR 10:010
18A.030	101 KAR 2:034		601 KAR 2:030
	101 KAR 2:046	45A.030	200 KAR 5:355
	101 KAR 2:066	45A.070	603 KAR 2:020
	101 KAR 2:210	45A.077	200 KAR 5:355
18A.032	101 KAR 2:046		603 KAR 2:020
18A.110	101 KAR 2:034	45A.085	200 KAR 5:355
	101 KAR 2:046		202 KAR 10:020
	101 KAR 2:056		603 KAR 2:020
	101 KAR 2:066	45A.090	200 KAR 5:355
	101 KAR 2:180	45A.180	200 KAR 5:355
	101 KAR 3:045	45A.183	200 KAR 5:355
18A.111	101 KAR 1:325	45A.455	922 KAR 6:010

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
45A.494	603 KAR 2:020	141.433	103 KAR 15:180
45A.800-45A.835	600 KAR 6:061	141.434	103 KAR 15:180
61.315	202 KAR 7:810	141.445	902 KAR 21:030
	739 KAR 2:040	142.361	907 KAR 1:065
61.805-61.850	702 KAR 7:065	142.363	907 KAR 1:065
61.870-884	922 KAR 6:010	146.200-146.360	400 KAR 1:001
61.878	601 KAR 1:113		400 KAR 1:031
61.930	601 KAR 1:113		400 KAR 1:090
61.931	601 KAR 1:113		400 KAR 1:100
65.245	202 KAR 10:030		401 KAR 100:011
67.750	30 KAR 7:010	146.200-146.990	401 KAR 4:070
	30 KAR 7:020	146.450	400 KAR 1:001
67.767	30 KAR 7:010		400 KAR 1:090
	30 KAR 7:020	146.530	400 KAR 1:001
67A.620	921 KAR 1:410		400 KAR 1:090
95.620	921 KAR 1:410	146.990	400 KAR 1:001
95.878	921 KAR 1:410		400 KAR 1:031
91A.080	806 KAR 2:097		400 KAR 1:090
95A	739 KAR 2:040		400 KAR 1:100
	739 KAR 2:140		401 KAR 100:011
96A	603 KAR 7:071	148.853	804 KAR 4:370
116.048	921 KAR 3:030	149.344	400 KAR 1:001
117.015	31 KAR 4:170		400 KAR 1:090
117.235	31 KAR 4:170		400 KAR 1:100
131.081	103 KAR 15:021		401 KAR 100:011
131.110	103 KAR 15:021	149.346	400 KAR 1:001
131.130	103 KAR 3:011		400 KAR 1:090
	103 KAR 41:021		400 KAR 1:100
	103 KAR 44:131		401 KAR 100:011
131.131	103 KAR 3:011	149.348	400 KAR 1:001
	103 KAR 15:180		400 KAR 1:090
131.570	921 KAR 1:410		400 KAR 1:100
132.010	815 KAR 7:120		401 KAR 100:011
	815 KAR 20:010	150.010	301 KAR 1:152
132.020	103 KAR 8:160		301 KAR 1:201
132.200	103 KAR 8:160		301 KAR 2:049
134.160	103 KAR 5:120		301 KAR 2:083
136.070	103 KAR 20:011		301 KAR 2:132
136.320	103 KAR 15:180		301 KAR 2:172
136.330	103 KAR 15:180		301 KAR 2:178
136.340	103 KAR 15:180		301 KAR 2:221
136.350	103 KAR 15:180		301 KAR 2:300
136.370	103 KAR 15:180	150.015	301 KAR 2:075
136.390	103 KAR 15:180	150.021	301 KAR 2:075
136.392	739 KAR 2:040	150.025	301 KAR 2:221
138.130	103 KAR 41:021		301 KAR 3:015
138.207	103 KAR 41:021		301 KAR 3:022
138.455-138.470	601 KAR 1:231	150.090	301 KAR 1:015
138.510	811 KAR 2:190	150.092	301 KAR 2:049
138.4602	103 KAR 44:131		301 KAR 2:300
138.4603	103 KAR 44:131	150.170	301 KAR 1:152
139.050	103 KAR 28:041		301 KAR 1:201
139.100	103 KAR 28:041		301 KAR 2:049
141.010	103 KAR 15:021		301 KAR 2:132
	103 KAR 26:221		301 KAR 2:178
	103 KAR 19:031		301 KAR 2:251
141.0101	103 KAR 15:021		301 KAR 2:300
141.012	103 KAR 16:031	150.175	301 KAR 1:152
141.020	103 KAR 15:021		301 KAR 1:201
	103 KAR 15:180		301 KAR 2:300
141.0205	103 KAR 15:021	150.177	301 KAR 2:172
141.040	103 KAR 15:021	150.180	301 KAR 2:132
	103 KAR 15:180		301 KAR 2:172
	103 KAR 16:221		301 KAR 2:251
141.0401	103 KAR 15:180		301 KAR 3:022
141.050	103 KAR 3:011	150.183	301 KAR 2:075
	103 KAR 15:180		301 KAR 3:022
141.068	103 KAR 3:011	150.190	301 KAR 2:132
141.200	103 KAR 15:021	150.195	301 KAR 2:075
141.206	103 KAR 19:031	150.240	301 KAR 3:022
141.420	103 KAR 15:021	150.275	301 KAR 3:022
141.432	103 KAR 15:180	150.280	301 KAR 3:022

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
150:290	301 KAR 3:022	154A.130	11 KAR 15:090
	301 KAR 2:083	156.01	11 KAR 15:090
150.305	301 KAR 2:221	156.029	705 KAR 4:231
150.330	301 KAR 2:221	156.031	702 KAR 3:171
150.340	301 KAR 1:201	156.035	702 KAR 6:090
	301 KAR 2:178	156.070	704 KAR 3:342
	301 KAR 2:221	156.074	702 KAR 3:171
150.370	301 KAR 2:049	156.095	16 KAR 2:020
	301 KAR 2:178		16 KAR 8:040
	301 KAR 2:251	156.101	16 KAR 7:010
150.399	301 KAR 2:049	156.160	702 KAR 6:090
	301 KAR 2:251		704 KAR 3:342
150.411	301 KAR 2:172	156.200	702 KAR 6:090
150.415	301 KAR 2:251	156.802	705 KAR 4:231
150.416	301 KAR 2:251		780 KAR 4:012
150.445	301 KAR 1:152	156.850	780 KAR 4:012
150.450	301 KAR 1:152	156.852	780 KAR 4:012
	301 KAR 3:022	157.070	702 KAR 7:065
150.485	301 KAR 3:022	157.618	750 KAR 1:030
150.520	301 KAR 3:022	158.007	11 KAR 15:090
150.525	301 KAR 3:022	158.030	703 KAR 4:041
150.600	301 KAR 3:022	158.031	703 KAR 4:041
150.603	301 KAR 3:022	158.035	902 KAR 2:060
150.620	301 KAR 1:201	158.070	16 KAR 2:020
150.625	301 KAR 1:015	158.115	600 KAR 5:011
150.660	301 KAR 3:022	158.6451	703 KAR 4:041
150.720	301 KAR 3:022		703 KAR 5:070
150:725	301 KAR 2:083	158.6453	703 KAR 5:070
150:740	301 KAR 2:083	158.6455	703 KAR 5:070
150.990	301 KAR 1:015	158.816	16 KAR 2:020
	301 KAR 1:152		16 KAR 6:020
	301 KAR 1:201	158.854	702 KAR 6:090
	301 KAR 2:049	158.856	702 KAR 6:090
	301 KAR 2:132	160.345	702 KAR 6:090
	301 KAR 2:172	160.380	16 KAR 2:020
	301 KAR 2:178		702 KAR 7:065
	301 KAR 2:221	160.445	702 KAR 7:065
	301 KAR 2:251	161.020	16 KAR 1:010
	301 KAR 2:300		16 KAR 2:020
150.995	301 KAR 2:049		16 KAR 4:040
	301 KAR 2:251		16 KAR 4:080
151.110	401 KAR 4:070		16 KAR 4:090
151.125	400 KAR 1:001		16 KAR 5:020
	400 KAR 1:090		16 KAR 6:010
	401 KAR 4:070		16 KAR 6:020
151.182	400 KAR 1:001		16 KAR 8:040
	400 KAR 1:031	161.027	16 KAR 4:040
	400 KAR 1:090		16 KAR 4:080
	400 KAR 1:100		16 KAR 4:090
	401 KAR 100:011	161.028	16 KAR 1:010
151.184	400 KAR 1:001		16 KAR 1:030
	400 KAR 1:031		16 KAR 2:020
	400 KAR 1:090		16 KAR 4:040
	400 KAR 1:100		16 KAR 4:080
	401 KAR 100:011		16 KAR 4:090
151.250	401 KAR 4:070		16 KAR 5:020
151.297	400 KAR 1:001		16 KAR 6:010
	400 KAR 1:031		16 KAR 6:020
	400 KAR 1:090		16 KAR 7:010
	400 KAR 1:100		16 KAR 8:040
	401 KAR 100:011	161.030	16 KAR 1:010
151.634	401 KAR 8:100		16 KAR 2:020
151.990	400 KAR 1:001		16 KAR 4:040
	400 KAR 1:031		16 KAR 4:080
	400 KAR 1:090		16 KAR 4:090
	400 KAR 1:100		16 KAR 5:020
	401 KAR 100:011		16 KAR 6:010
151B.020	787 KAR 2:040		16 KAR 6:020
151B.450-151B.475	789 KAR 1:010		16 KAR 7:010
154.1-750	202 KAR 10:020		16 KAR 8:040
154.22-010 - 154.22-102	307 KAR 1:031	161.046	16 KAR 4:040
154.45-096	601 KAR 1:231		16 KAR 4:080

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
161.048	16 KAR 4:090	175B.005	202 KAR 10:010
	16 KAR 1:010		202 KAR 10:020
	16 KAR 4:040		603 KAR 2:020
	16 KAR 4:080	175B.010	202 KAR 10:010
	16 KAR 4:090		202 KAR 10:020
161.053	16 KAR 5:020		202 KAR 10:030
	16 KAR 4:040		603 KAR 2:020
	16 KAR 4:080	175B.015	202 KAR 10:010
	16 KAR 4:090		202 KAR 10:030
161.120	16 KAR 7:010	175B.020	202 KAR 10:010
	16 KAR 1:010		202 KAR 10:020
	16 KAR 1:030		603 KAR 2:020
161.095	16 KAR 1:010	175B.030	202 KAR 10:010
161.220	102 KAR 1:320		202 KAR 10:020
161.520	102 KAR 1:165		603 KAR 2:020
161.661	102 KAR 1:290	175B.035	202 KAR 10:010
161.700	102 KAR 1:320		202 KAR 10:020
	921 KAR 1:410		202 KAR 10:030
161.716	102 KAR 1:320		603 KAR 2:020
161.1211	16 KAR 8:040	175B.037	202 KAR 10:010
164.001	13 KAR 2:060		202 KAR 10:020
	13 KAR 2:110		603 KAR 2:020
164.002	11 KAR 15:090	175B.040	202 KAR 10:010
164.020	13 KAR 2:060		202 KAR 10:020
	13 KAR 2:110		202 KAR 10:030
	13 KAR 4:010	175B.095	202 KAR 10:010
164.295	13 KAR 2:110		202 KAR 10:020
164.518	11 KAR 4:080	176	603 KAR 8:011
164.772	804 KAR 4:400	176.050	603 KAR 7:071
164.744	11 KAR 4:080	176.070	603 KAR 1:031
164.748	11 KAR 4:080	176.080	603 KAR 2:020
164.753	11 KAR 4:080	176.130	603 KAR 1:031
164.769	11 KAR 4:080	176.140	603 KAR 1:031
164.772	301 KAR 2:083		603 KAR 2:020
164.780	11 KAR 4:080	176.240	603 KAR 7:071
164.785	11 KAR 4:080	177.220-177.240	603 KAR 5:311
164.945	13 KAR 4:010	177.390-177.570	601 KAR 1:018
164.946	13 KAR 4:010	177.9771	601 KAR 1:018
164.947	13 KAR 4:010	183.090	602 KAR 20:091
164.992	13 KAR 4:010		603 KAR 9:021
164.2847	922 KAR 1:500	183.200-183.213	602 KAR 15:011
164.7535	11 KAR 4:080	186	601 KAR 2:011
164.772	201 KAR 22:020		601 KAR 9:111
164.7871	11 KAR 15:090	186.010	601 KAR 1:018
164.7874	11 KAR 15:090		601 KAR 2:030
164.7877	11 KAR 15:090	186.050	601 KAR 1:018
164.7879	11 KAR 15:090		601 KAR 1:113
164.7881	11 KAR 15:090	186.053	601 KAR 9:111
164.7885	11 KAR 15:090	186.276	601 KAR 9:111
164.7889	11 KAR 15:090	186.281	601 KAR 1:113
164.7890	11 KAR 4:080		601 KAR 1:231
164.7894	11 KAR 4:080		601 KAR 9:111
164A.560	755 KAR 1:080	186.440	601 KAR 2:030
164A.565	755 KAR 1:080	186.442	601 KAR 2:030
164A.575	755 KAR 1:080	186.480	601 KAR 2:030
164A.580	755 KAR 1:080	186.531	601 KAR 2:030
164A.585	755 KAR 1:080	186.560	601 KAR 2:030
164A.590	755 KAR 1:080	186.570	601 KAR 2:030
164A.595	755 KAR 1:080		921 KAR 1:410
164A.600	755 KAR 1:080	186.650	601 KAR 9:111
165A.320-165A.450	13 KAR 4:010	186A.145	601 KAR 9:111
168.100	702 KAR 3:171	186A.160	601 KAR 9:111
171.250	725 KAR 2:060	189.010	603 KAR 4:046
	725 KAR 2:070	189.221	601 KAR 1:018
171.260	725 KAR 2:060		603 KAR 5:311
	725 KAR 2:070	189.222	601 KAR 1:018
171.270	725 KAR 2:060		603 KAR 5:311
	725 KAR 2:070	189.231	603 KAR 5:311
174.080	603 KAR 7:071	189.270	601 KAR 1:018
174.400-174.425	601 KAR 1:231	189.271	601 KAR 1:018
174.450	601 KAR 40:011	189.290	601 KAR 1:113
175.450	601 KAR 1:018	189.337	603 KAR 4:046

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
189.338	603 KAR 5:311	198B.080	815 KAR 7:120
189.2225	601 KAR 1:018	198B.110	815 KAR 7:120
189.2715	601 KAR 1:018	198B.260	815 KAR 7:120
189.2716	601 KAR 1:018		902 KAR 20:091
189.2717	601 KAR 1:018		902 KAR 20:280
189A.005	601 KAR 2:030	198B.990	815 KAR 7:120
189A.010	601 KAR 1:113	199	922 KAR 1:151
	601 KAR 2:030		922 KAR 3:011
189A.040	601 KAR 2:030	199.011	922 KAR 1:140
189A.070	601 KAR 2:030		922 KAR 1:360
189A.085	601 KAR 2:030		922 KAR 1:400
189A.090	601 KAR 2:030	199.555	101 KAR 3:045
189A.103	601 KAR 2:030		922 KAR 1:140
189A.105	601 KAR 2:030		922 KAR 1:320
189A.107	601 KAR 2:030	199.557	922 KAR 1:140
189A.200	601 KAR 2:030		922 KAR 1:320
189A.240	601 KAR 2:030	199.640-199.680	922 KAR 1:360
189A.250	601 KAR 2:030	199.801	922 KAR 1:140
189A.340	601 KAR 2:030		922 KAR 1:360
189A.345	601 KAR 2:030	199.892	922 KAR 2:160
189A.400	601 KAR 2:030	199.894	922 KAR 2:160
189A.410	601 KAR 2:030	199.896	922 KAR 2:160
189A.420	601 KAR 2:030	199.898	922 KAR 2:160
189A.440	601 KAR 2:030	199.899	922 KAR 2:160
189A.500	601 KAR 2:030	199.8982	922 KAR 2:160
190.058	605 KAR 1:011	199.8994	922 KAR 2:160
194.540	201 KAR 32:060	199.8996	10 KAR 6:010
194A	921 KAR 2:015	200.151	10 KAR 6:010
	922 KAR 1:151	200.700	10 KAR 6:010
	922 KAR 3:011	200.703	10 KAR 6:010
194A.005	922 KAR 1:320	200.705	10 KAR 6:010
	922 KAR 1:400	200.707	10 KAR 6:010
	922 KAR 2:260	200.709	10 KAR 6:010
194A.025	907 KAR 15:005	200.711	10 KAR 6:010
	907 KAR 17:015	202A	908 KAR 2:040
	907 KAR 17:035		908 KAR 3:081
	907 KAR 17:040	202A.011	902 KAR 20:091
194A.030	906 KAR 1:091(r)		921 KAR 2:015
	921 KAR 4:119	202B	908 KAR 3:081
	922 KAR 1:320	202B.010	902 KAR 20:091
	922 KAR 2:260	205.201	910 KAR 1:210
194A.050	900 KAR 10:041	205.211	922 KAR 1:400
	900 KAR 10:200	205.2003	922 KAR 1:400
	902 KAR 10:085	205.510	907 KAR 23:010
	921 KAR 1:001	205.510-205.647	907 KAR 4:020
194A.060	922 KAR 2:020	205.520	902 KAR 21:020
	922 KAR 2:160		907 KAR 1:045
	922 KAR 6:010		907 KAR 1:047
194A.095	902 KAR 21:030		907 KAR 7:010
194A.540	201 KAR 36:030		907 KAR 15:010
196	501 KAR 6:020		907 KAR 15:015
	501 KAR 6:030	205.560	907 KAR 1:041E
	501 KAR 6:040		907 KAR 23:001
	501 KAR 6:060		907 KAR 23:010
	501 KAR 6:110		907 KAR 23:020
	501 KAR 6:150	205.561	907 KAR 1:041E
	501 KAR 6:160		907 KAR 23:001
	501 KAR 6:170		907 KAR 23:010
	501 KAR 6:999		907 KAR 23:020
197	501 KAR 6:020	205.564	907 KAR 23:010
	501 KAR 6:030	205.594	921 KAR 1:410
	501 KAR 6:040	205.595	921 KAR 1:410
	501 KAR 6:060	205.5605	907 KAR 7:010
	501 KAR 6:110	205.5606	907 KAR 7:010
	501 KAR 6:150	205.5607	907 KAR 7:010
	501 KAR 6:160	205.5631	907 KAR 23:001
	501 KAR 6:170		907 KAR 23:020
	501 KAR 6:999	205.5631-205.5639	907 KAR 23:010
198B.010	815 KAR 7:120	205.5632	907 KAR 1:041E
198B.040	815 KAR 7:120		907 KAR 23:001
198B.050	815 KAR 7:120		907 KAR 23:020
198B.060	815 KAR 7:120	205.5634	907 KAR 1:041E

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	907 KAR 23:001	211.180	902 KAR 2:020
	907 KAR 23:020		902 KAR 21:020
205.5636	907 KAR 1:041E	211.220	902 KAR 2:060
	907 KAR 23:001	211.350-211.380	902 KAR 10:085
	907 KAR 23:020	211.350-211.392	401 KAR 8:020
205.5638	907 KAR 1:041E	211.461 - 211.466	906 KAR 1:081(r)
	907 KAR 23:001	211.595-597	902 KAR 21:030
	907 KAR 23:020	211.990	902 KAR 10:085
205.5639	907 KAR 1:041E		906 KAR 1:081(r)
	907 KAR 23:001	213.046	921 KAR 1:380
	907 KAR 23:020	214.010	902 KAR 2:020
205.635	907 KAR 7:010	214.032-214.036	902 KAR 2:060
205.6313	902 KAR 20:091	214.036	922 KAR 2:160
205.6316	907 KAR 1:041E	214.540-214.544	902 KAR 21:020
	907 KAR 23:001	214.645	902 KAR 2:020
	907 KAR 23:010	216.2925	902 KAR 20:008
	907 KAR 23:020	216.530	902 KAR 20:008
205.6481-205.6497	907 KAR 4:020		921 KAR 2:015
	907 KAR 4:030	216.535	910 KAR 1:210
205.646	907 KAR 17:035	216.540 - 216.543	910 KAR 1:210
	907 KAR 17:040	216.557	921 KAR 2:015
205.703	922 KAR 1:400	216.750	921 KAR 2:015
205.705	921 KAR 1:380	216.765	921 KAR 2:015
205.710	921 KAR 1:430	216.875	902 KAR 20:280
205.710-205.800	921 KAR 1:001	216.880	902 KAR 20:280
	921 KAR 1:380	216.885	902 KAR 20:280
	921 KAR 1:410	216.900 - 216-930	902 KAR 22:011(r)
205.712	601 KAR 2:030	216B	921 KAR 2:015
	921 KAR 1:430	216B.010	902 KAR 20:008
205.720	921 KAR 1:420		902 KAR 20:013
205.745	921 KAR 1:430		902 KAR 20:058
205.750	921 KAR 1:420		902 KAR 20:091
205.755	921 KAR 1:420	216B.010-216B.130	900 KAR 5:020
205.778	921 KAR 1:430		902 KAR 20:081
205.795	921 KAR 1:420	216B.015	900 KAR 6:055
205.992	921 KAR 1:380		900 KAR 6:060
205.7685	921 KAR 1:410		900 KAR 6:065
	921 KAR 1:430		900 KAR 6:095
205.769	921 KAR 1:430		902 KAR 20:008
205.8451	907 KAR 23:010		902 KAR 20:013
205.8453	907 KAR 23:010		902 KAR 20:053(r)
209	201 KAR 47:010		902 KAR 20:058
	201 KAR 47:020		902 KAR 20:091
	922 KAR 3:011	216B.020	202 KAR 7:501
	922 KAR 5:120	216B.030	902 KAR 20:091
209.020	921 KAR 2:015	216B.040	900 KAR 6:060
	922 KAR 1:320		900 KAR 6:065
	922 KAR 1:400		902 KAR 20:008
209.030	910 KAR 1:210		902 KAR 20:058
209.200	922 KAR 5:081	216B.042	902 KAR 20:008
209A	922 KAR 3:011		902 KAR 20:013
209A.020	922 KAR 1:320		902 KAR 20:058
210	908 KAR 3:081	216B.045-216B.055	902 KAR 20:008
210.300	908 KAR 2:040		902 KAR 20:058
210.366	201 KAR 26:175	216B.061	900 KAR 6:095
	201 KAR 32:060	216B.062	900 KAR 6:065
	201 KAR 36:030	216B.075	902 KAR 20:008
	201 KAR 38:070		902 KAR 20:058
210.370	902 KAR 20:091	216B.085	900 KAR 6:065
	907 KAR 1:045	216B.095	900 KAR 6:060
210.410	902 KAR 20:091		900 KAR 6:065
	907 KAR 1:047	216B.105	902 KAR 20:013
210.450	902 KAR 20:091		902 KAR 20:091
210.710	908 KAR 3:051	216B.105-216B.131	902 KAR 20:008
	908 KAR 3:060		902 KAR 20:058
210.720	908 KAR 3:051	216B.155	906 KAR 1:151
	908 KAR 3:060	216B.176	902 KAR 20:058
210.730	908 KAR 3:051	216B.177	902 KAR 20:058
	908 KAR 3:060	216B.185	902 KAR 20:008
211.015	902 KAR 10:085	216B.400	201 KAR 20:411
211.090	902 KAR 2:060	216B.990	900 KAR 6:095
	902 KAR 21:020		902 KAR 20:008

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	902 KAR 20:058		401 KAR 63:060
	902 KAR 20:081	224.20-120	401 KAR 60:005
	902 KAR 20:091		401 KAR 63:002
216B.935	902 KAR 20:081	224.40	401 KAR 45:060
217.005-217.215	902 KAR 55:035	224.46	401 KAR 45:060
217.015	907 KAR 23:001	224.50	401 KAR 4:070
	907 KAR 23:010		401 KAR 45:060
	907 KAR 23:020		401 KAR 46:101
217.055	201 KAR 2:076		401 KAR 46:110
217.065	201 KAR 2:076		401 KAR 46:120
217.822	907 KAR 23:010	224.50-760	401 KAR 45:010
217.952	902 KAR 55:076(r)	224.70	401 KAR 46:101
218A.010	16 KAR 1:030		401 KAR 46:110
	201 KAR 2:076		401 KAR 46:120
	202 KAR 10:030	224.99	401 KAR 4:070
218A.010-218A.030	902 KAR 55:035		401 KAR 45:060
218A.010-218A.050	902 KAR 55:015		401 KAR 46:101
218A.120	902 KAR 55:035		401 KAR 46:110
218A.130	902 KAR 55:035		401 KAR 46:120
218A.205	201 KAR 2:050	227.300	815 KAR 7:120
	201 KAR 20:056	227.550	601 KAR 1:018
	201 KAR 20:057		815 KAR 7:120
	201 KAR 20:215	229.011	201 KAR 27:005
222.211	902 KAR 20:091		201 KAR 27:007
223	400 KAR 1:001	229.021	201 KAR 27:005
	400 KAR 1:031		201 KAR 27:007
	400 KAR 1:090		201 KAR 27:008
	400 KAR 1:100		201 KAR 27:011
	401 KAR 100:011		201 KAR 27:012
223.160-223.220	401 KAR 8:010		201 KAR 27:016
	401 KAR 8:020		201 KAR 27:017
224	400 KAR 1:001		201 KAR 27:036
	400 KAR 1:031		201 KAR 27:040
	400 KAR 1:090		201 KAR 27:105
	400 KAR 1:100	229.031	201 KAR 27:005
	401 KAR 100:011		201 KAR 27:011
224.1	401 KAR 4:070		201 KAR 27:012
	401 KAR 45:060		201 KAR 27:016
	401 KAR 46:101		201 KAR 27:020
	401 KAR 46:110		201 KAR 27:105
	401 KAR 46:120	229.041	201 KAR 27:007
224.1-010	103 KAR 8:160		201 KAR 27:020
	401 KAR 45:010	229.051	201 KAR 27:005
224.10	401 KAR 4:070		201 KAR 27:007
	401 KAR 45:060		201 KAR 27:008
	401 KAR 46:101	229.061	201 KAR 27:007
	401 KAR 46:110	229.071	201 KAR 27:005
	401 KAR 46:120		201 KAR 27:008
224.10-100	401 KAR 8:010		201 KAR 27:011
	401 KAR 8:011(r)		201 KAR 27:012
	401 KAR 8:020		201 KAR 27:016
	401 KAR 8:040		201 KAR 27:017
	401 KAR 8:075		201 KAR 27:020
	401 KAR 8:250		201 KAR 27:021
	401 KAR 60:005		201 KAR 27:036
	401 KAR 63:002		201 KAR 27:105
	401 KAR 63:060	229.081	201 KAR 27:005
224.10-110	401 KAR 8:010		201 KAR 27:008
	401 KAR 8:011(r)		201 KAR 27:011
	401 KAR 8:020		201 KAR 27:012
	401 KAR 8:075		201 KAR 27:016
	401 KAR 8:100		201 KAR 27:017
	401 KAR 8:250		201 KAR 27:021
224.10-410	405 KAR 5:095		201 KAR 27:036
	405 KAR 7:092		201 KAR 27:040
	405 KAR 7:093	229.091	201 KAR 27:005
	405 KAR 5:095		201 KAR 27:008
224.10-470	401 KAR 8:020		201 KAR 27:011
224.16-050			201 KAR 27:012
224.20-100	401 KAR 60:005		201 KAR 27:016
	401 KAR 63:002		201 KAR 27:017
224.20-110	401 KAR 60:005		201 KAR 27:021
	401 KAR 63:002		

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	201 KAR 27:036		804 KAR 8:041
	201 KAR 27:040		804 KAR 9:010
	201 KAR 27:105		804 KAR 9:021
229.101	201 KAR 27:011		804 KAR 10:021
	201 KAR 27:016		804 KAR 11:021
	201 KAR 27:017	241.065	804 KAR 9:010
229.111	201 KAR 27:005	243.030	804 KAR 9:010
	201 KAR 27:016	243.090	804 KAR 4:390
	201 KAR 27:021		804 KAR 4:400
229.131	201 KAR 27:005	243.490	804 KAR 3:100
	201 KAR 27:011	241.110	804 KAR 10:010
	201 KAR 27:016	241.120	804 KAR 10:010
	201 KAR 27:017	241.130	804 KAR 10:010
229.155	201 KAR 27:005	241.160	804 KAR 10:010
	201 KAR 27:007	241.170	804 KAR 10:010
	201 KAR 27:011	241.180	804 KAR 10:010
	201 KAR 27:105	241.220	804 KAR 10:010
229.171	201 KAR 27:005	241.230	804 KAR 10:010
	201 KAR 27:007	241.240	804 KAR 10:010
	201 KAR 27:008	243.030	804 KAR 4:370
	201 KAR 27:011	243.040	804 KAR 4:370
	201 KAR 27:012	243.050	804 KAR 4:370
	201 KAR 27:016	243.155	804 KAR 4:381
	201 KAR 27:017	243.240	804 KAR 9:010
	201 KAR 27:021	243.250	804 KAR 9:010
	201 KAR 27:036	243.380	804 KAR 4:400
	201 KAR 27:040	243.390	804 KAR 4:400
	201 KAR 27:105	244.500	804 KAR 11:010
229.180	201 KAR 27:005	244.590	804 KAR 11:010
	201 KAR 27:016	250.021	12 KAR 1:116
	201 KAR 27:017		12 KAR 1:140
	201 KAR 27:020		12 KAR 1:155
	201 KAR 27:021	250.031	12 KAR 1:116
	201 KAR 27:036		12 KAR 1:140
229.190	201 KAR 27:105		12 KAR 1:155
	201 KAR 27:007	250.041	12 KAR 1:116
	201 KAR 27:105		12 KAR 1:140
229.200	201 KAR 27:007		12 KAR 1:155
	201 KAR 27:021	250.051	12 KAR 1:116
	201 KAR 27:105		12 KAR 1:140
229.991	201 KAR 27:007		12 KAR 1:155
	201 KAR 27:021	250.061	12 KAR 1:116
	201 KAR 27:105		12 KAR 1:140
230.215	810 KAR 1:009		12 KAR 1:155
	811 KAR 2:190	250.071	12 KAR 1:116
	811 KAR 1:215		12 KAR 1:140
	811 KAR 1:220		12 KAR 1:155
230.225	811 KAR 2:190	250.081	12 KAR 1:116
230.260	811 KAR 1:215		12 KAR 1:140
	811 KAR 1:220		12 KAR 1:155
230.280	811 KAR 1:220	250.091	12 KAR 1:116
230.290	811 KAR 1:220		12 KAR 1:140
230.310	811 KAR 1:220		12 KAR 1:155
230.398	811 KAR 1:220	250.101	12 KAR 1:116
230.443	811 KAR 2:190		12 KAR 1:140
230.445	811 KAR 2:190		12 KAR 1:155
230.770	811 KAR 1:215	250.111	12 KAR 1:116
230.802	811 KAR 1:215		12 KAR 1:140
230.990	811 KAR 1:215		12 KAR 1:155
235.010	301 KAR 1:015	260.165	302 KAR 39:020
235.990	301 KAR 1:015	260.166	302 KAR 39:020
237.110	301 KAR 2:172	260.167	302 KAR 39:020
	921 KAR 1:410	260.168	302 KAR 39:020
	921 KAR 1:430	260.175	302 KAR 39:020
241.060	804 KAR 1:071	273.405-273.453	922 KAR 6:010
	804 KAR 3:081	281	601 KAR 1:231
	804 KAR 4:041		601 KAR 2:011
	804 KAR 4:370	281.010	601 KAR 1:113
	804 KAR 4:400	281.600	601 KAR 1:113
	804 KAR 4:410	281.626	601 KAR 1:231
	804 KAR 5:031	281.630	601 KAR 1:113
	804 KAR 7:051	281.631	601 KAR 1:113

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
281.6301	601 KAR 1:113	304.9-054	806 KAR 9:360
281.640	601 KAR 1:113	304.10-010 - 304.10-070	601 KAR 1:113
281.650	601 KAR 1:113	304.12-010	806 KAR 18:020
281.655	601 KAR 1:113	304.17-412	906 KAR 1:081(r)
	601 KAR 1:231	304.17A	902 KAR 21:020
281.656	601 KAR 1:113	304.17A-162	806 KAR 17:575
	601 KAR 1:231	304.18-040	806 KAR 18:020
281.720	601 KAR 9:111	304.18-045	906 KAR 1:081(r)
281.838	601 KAR 1:018	304.20-020	601 KAR 1:113
281.900	601 KAR 1:231	304.32-080	806 KAR 18:020
281.905	601 KAR 1:231	304.32-147	906 KAR 1:081(r)
281.912	601 KAR 1:113	304.32-330	906 KAR 1:081(r)
281.990	601 KAR 1:113	304.38-010 - 304.38-230	902 KAR 20:053(r)
286.3-010	808 KAR 1:160	304.38-225	906 KAR 1:081(r)
286.3-020	808 KAR 1:160	304.39-020	601 KAR 1:113
286.3-050	808 KAR 1:160	304.39-040	601 KAR 1:113
286.3-065	808 KAR 1:081	304.39-320	601 KAR 1:113
286.3-095	808 KAR 1:160	309.080	902 KAR 20:091
286.3-100	808 KAR 1:081	309.081	201 KAR 35:030
	808 KAR 1:111	309.083	201 KAR 35:020
286.3-135	808 KAR 1:160		201 KAR 35:025
286.3-140	808 KAR 1:160		201 KAR 35:050
286.3-145	808 KAR 1:160		201 KAR 35:070
286.3-146	808 KAR 1:160	309.0831	201 KAR 35:020
286.3-170	808 KAR 1:160		201 KAR 35:025
286.3-172	808 KAR 1:160		201 KAR 35:070
286.3-174	808 KAR 1:160	309.0832	201 KAR 35:020
286.3-180	808 KAR 1:160		201 KAR 35:025
286.3-185	808 KAR 1:160		201 KAR 35:070
286.3-450	808 KAR 1:160	309.0833	201 KAR 35:020
286.3-480	808 KAR 1:160		201 KAR 35:025
286.3-530	808 KAR 1:160		201 KAR 35:070
286.3-820	808 KAR 1:160	309.0832	201 KAR 35:016
286.3-900	808 KAR 11:011	309.084	201 KAR 35:016
286.3-920	808 KAR 1:160		201 KAR 35:020
286.5-081	808 KAR 7:031	309.085	201 KAR 35:020
286.5-441	808 KAR 7:031	309.130	902 KAR 20:091
286.5-451	808 KAR 7:031	309.133	201 KAR 34:020
286.5-905	808 KAR 7:031		201 KAR 34:030
286.5-910	808 KAR 7:031	309.134	201 KAR 34:020
286.6-070	808 KAR 3:020		201 KAR 34:030
286.6-100	808 KAR 3:020	309.137	201 KAR 34:030
	808 KAR 3:030		201 KAR 34:050
286.6-405	808 KAR 3:020	309.138	201 KAR 34:020
286.7-440	808 KAR 5:011	309.1335	201 KAR 34:020
286.7-520	808 KAR 5:011		201 KAR 34:030
286.7-550	808 KAR 5:011	309.300	201 KAR 39:001
286.7-590	808 KAR 5:011	309.304	201 KAR 39:001
286.8-010	808 KAR 12:021		201 KAR 39:030
	808 KAR 12:055		201 KAR 39:050
286.8-020	808 KAR 12:021	309.312	201 KAR 39:030
286.8-030	808 KAR 12:021		201 KAR 39:050
286.8-036	808 KAR 12:021		201 KAR 39:070
286.8-060	808 KAR 12:021	309.314	201 KAR 39:050
286.8-070	808 KAR 12:021	309.331	201 KAR 45:110
286.8-080	808 KAR 12:021		201 KAR 45:120
286.8-090	808 KAR 12:021	309.334	201 KAR 45:120
286.8-255	808 KAR 12:055	309.335	201 KAR 45:100
286.8-260	808 KAR 12:021		201 KAR 45:120
286.8-290	808 KAR 12:021	309.337	201 KAR 45:130
304.1-050	806 KAR 9:360	309.357	201 KAR 42:020
	806 KAR 17:575		201 KAR 42:040
304.2-040	806 KAR 2:011	309.361	201 KAR 42:040
304.2-080	806 KAR 2:011	309.362	201 KAR 42:020
304.2-110	806 KAR 2:011		201 KAR 42:040
304.2-150	806 KAR 2:011	309.404	201 KAR 47:010
304.2-160	806 KAR 2:011	309.406	201 KAR 47:010
304.3-070	601 KAR 1:113		201 KAR 47:020
304.3-270	103 KAR 15:180	309.412	201 KAR 47:010
304.4-010	806 KAR 2:011		201 KAR 47:020
	806 KAR 2:097	309.414	201 KAR 47:010
304.9-053	806 KAR 9:360		201 KAR 47:020

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
309.416	201 KAR 47:010		201 KAR 20:220
	201 KAR 47:020	314.091	201 KAR 20:056
309.418	201 KAR 47:010	314.103	201 KAR 20:056
	201 KAR 47:020		201 KAR 20:411
309.420	201 KAR 47:010	314.109	201 KAR 20:056
	201 KAR 47:020	314.131	201 KAR 20:220
311	201 KAR 27:008	314.142	201 KAR 20:411
	902 KAR 20:058		920 KAR 2:040
311.131 - 311.139	906 KAR 1:081(r)	314.161	201 KAR 20:056
311.560	902 KAR 20:081	314.193	201 KAR 20:057
	902 KAR 20:091	314.196	201 KAR 20:057
311.571	902 KAR 20:280	314.470	201 KAR 20:056
311.530-311.620	201 KAR 9:270		201 KAR 20:411
311.950 - 311.966	902 KAR 55:076(r)	314.991	201 KAR 20:215
311.990	201 KAR 9:270	315.010	201 KAR 2:045
	202 KAR 7:520		201 KAR 2:074
	906 KAR 1:081(r)	315.020	201 KAR 2:045
311.991	902 KAR 55:076(r)		201 KAR 2:074
311A.010	202 KAR 7:520		201 KAR 2:076
311A.030	202 KAR 7:501	315.030	201 KAR 2:074
311A.035	202 KAR 7:520	315.035	201 KAR 2:050
311A.050	202 KAR 7:520		201 KAR 2:076
311A.055	202 KAR 7:520	315.036	201 KAR 2:050
311A.060	202 KAR 7:520	315.050	201 KAR 2:050
311A.155	202 KAR 7:520	315.060	201 KAR 2:050
311A.190	202 KAR 7:501	315.110	201 KAR 2:050
	202 KAR 7:520	315.120	201 KAR 2:050
311B.020	201 KAR 46:040	315.121	201 KAR 2:074
311B.050	201 KAR 46:040	315.191	201 KAR 2:045
	201 KAR 46:060		201 KAR 2:076
	201 KAR 46:090		201 KAR 2:351
311B.080	201 KAR 46:035	315.402	201 KAR 2:050
311B.100	201 KAR 46:040	315.518	201 KAR 2:050
	201 KAR 46:070	315.520	201 KAR 2:050
	201 KAR 46:090	315.0351	201 KAR 2:050
311B.110	201 KAR 46:040		201 KAR 2:076
	201 KAR 46:060	317.440	201 KAR 14:125
311B.120	201 KAR 46:040	317.450	201 KAR 14:125
	201 KAR 46:070	318	815 KAR 20:010
	201 KAR 46:090		815 KAR 20:080
311B.150	201 KAR 46:070	318.010	815 KAR 20:020
	201 KAR 46:090		815 KAR 20:090
311B.160	201 KAR 46:070		815 KAR 20:120
	201 KAR 46:090		815 KAR 20:130
311B.170	201 KAR 46:070	318.015	815 KAR 20:020
	201 KAR 46:090		815 KAR 20:090
311B.180	201 KAR 46:040		815 KAR 20:130
	201 KAR 46:070	318.130	815 KAR 20:020
	201 KAR 46:090		815 KAR 20:060
311B.190	201 KAR 46:040		815 KAR 20:090
	201 KAR 46:070		815 KAR 20:120
	201 KAR 46:090		815 KAR 20:130
312.019	201 KAR 21:025	318.150	815 KAR 20:020
312.055	201 KAR 21:025		815 KAR 20:060
312.085	201 KAR 21:041		815 KAR 20:090
312.095	201 KAR 21:041		815 KAR 20:120
312.145	201 KAR 21:041		815 KAR 20:130
312.175	201 KAR 21:041	318.165	815 KAR 20:120
314	902 KAR 20:058	318.200	815 KAR 20:020
314.011	201 KAR 20:056		815 KAR 20:090
	201 KAR 20:057		815 KAR 20:120
	201 KAR 20:215		815 KAR 20:130
	201 KAR 20:220	319.005	201 KAR 26:130
	201 KAR 20:411	319.010	902 KAR 20:280
	902 KAR 20:091	319.015	201 KAR 26:215
	920 KAR 2:040	319.032	201 KAR 26:145
	922 KAR 2:160		201 KAR 26:171
314.041	902 KAR 20:280		201 KAR 26:175
314.042	201 KAR 20:056		201 KAR 26:180
	201 KAR 20:057		201 KAR 26:185
	902 KAR 20:091		201 KAR 26:250
314.073	201 KAR 20:215	319.050	201 KAR 26:125

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	201 KAR 26:155	331B.080	201 KAR 46:040
	201 KAR 26:160	331B.100	201 KAR 46:040
	201 KAR 26:171	331B.110	201 KAR 46:040
	201 KAR 26:175	331B.120	201 KAR 46:040
	201 KAR 26:190	331B.180	201 KAR 46:040
	201 KAR 26:200	331B.190	201 KAR 46:040
319.053	201 KAR 26:175	333.130	902 KAR 2:020
	201 KAR 26:190	334A.020	902 KAR 20:280
	201 KAR 26:290	335.080	201 KAR 22:020
319.056	201 KAR 26:171		902 KAR 20:091
	201 KAR 26:190	335.090	902 KAR 20:280
	902 KAR 20:091	335.100	902 KAR 20:091
319.064	201 KAR 26:160	335.130	201 KAR 23:075
	201 KAR 26:171	335.300	201 KAR 32:060
	201 KAR 26:175		902 KAR 20:091
	201 KAR 26:190	335.320	201 KAR 32:050
	201 KAR 26:200	335.340	201 KAR 32:060
	201 KAR 26:250	335.348	201 KAR 32:050
	201 KAR 26:280	335.500	201 KAR 36:060
	902 KAR 20:091		201 KAR 36:065
319.071	201 KAR 26:160		201 KAR 36:070
	201 KAR 26:165		902 KAR 20:091
	201 KAR 26:175	335.500-335.990	201 KAR 36:030
	201 KAR 26:225	335.505	201 KAR 36:045
319.082	201 KAR 26:130		201 KAR 36:060
	201 KAR 26:145		201 KAR 36:065
	201 KAR 26:171	335.515	201 KAR 36:045
319.092	201 KAR 26:140		201 KAR 36:055
	201 KAR 26:171		201 KAR 36:090
319.118	201 KAR 26:130	335.525	201 KAR 36:020
	201 KAR 26:171		201 KAR 36:060
319.990	201 KAR 26:130		201 KAR 36:065
319A.080	201 KAR 28:230		201 KAR 36:070
319A.160	201 KAR 28:090	335.527	201 KAR 36:070
319A.300	201 KAR 28:230	335.535	201 KAR 36:005
319B.010	201 KAR 44:090		201 KAR 36:020
319B.030	201 KAR 44:040		201 KAR 36:075
	201 KAR 44:090	335.540	201 KAR 36:040
319B.110	201 KAR 44:090		201 KAR 36:050
319B.140	201 KAR 44:040	335.545	201 KAR 36:050
319C.010	902 KAR 20:091		201 KAR 36:090
319C.030	201 KAR 43:110	335.620	201 KAR 38:020
320.210	902 KAR 20:091		201 KAR 38:030
322	401 KAR 8:010	335.625	201 KAR 38:070
	401 KAR 46:120	335.640	201 KAR 38:070
322A	401 KAR 46:120	335.650	201 KAR 38:070
322.020	201 KAR 18:051	337.275	922 KAR 2:160
	401 KAR 8:100	338.015	803 KAR 2:180
322.040	201 KAR 18:051		803 KAR 2:300
322.080	201 KAR 18:051		803 KAR 2:305
322.340	401 KAR 8:100		803 KAR 2:317
324A.010	201 KAR 30:030		803 KAR 2:320
324A.030	201 KAR 30:030		803 KAR 2:412
324A.035	201 KAR 30:030		803 KAR 2:500
324A.040	201 KAR 30:030	338.031	803 KAR 2:320
324A.052	201 KAR 30:030		803 KAR 2:412
325.230	201 KAR 1:015	338.051	803 KAR 2:303
	201 KAR 1:065		803 KAR 2:305
	201 KAR 1:100		803 KAR 2:313
327.010	201 KAR 22:020		803 KAR 2:317
	201 KAR 22:045		803 KAR 2:403
	902 KAR 20:280		803 KAR 2:412
327.040	201 KAR 22:053	338.061	803 KAR 2:180
327.050	201 KAR 22:020		803 KAR 2:303
	201 KAR 22:070		803 KAR 2:305
327.060	201 KAR 22:020		803 KAR 2:313
	201 KAR 22:070		803 KAR 2:317
327.070	201 KAR 22:045		803 KAR 2:403
	201 KAR 22:053		803 KAR 2:412
327.075	201 KAR 22:020	338.121	803 KAR 2:180
331B.020	201 KAR 46:040	341.370	787 KAR 1:070
331B.050	201 KAR 46:040	341.392	921 KAR 1:430

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
341.420	921 KAR 1:430		400 KAR 1:090
341.530	787 KAR 1:070		405 KAR 5:095
342.125	803 KAR 25:010		405 KAR 7:092
342.260	803 KAR 25:010		405 KAR 7:093
342.265	803 KAR 25:010	350.0301	400 KAR 1:001
342.270	803 KAR 25:010		400 KAR 1:090
342.300	803 KAR 25:010		405 KAR 7:092
342.310	803 KAR 25:010		405 KAR 7:093
342.315	803 KAR 25:010	350.0305	400 KAR 1:001
342.710	803 KAR 25:010		400 KAR 1:090
342.715	803 KAR 25:010		405 KAR 7:093
342.732	803 KAR 25:010	360.210-360.265	808 KAR 4:021
342.760	803 KAR 25:010	365	601 KAR 1:113
342.0011	803 KAR 25:010	367.93101	40 KAR 2:145
344	922 KAR 6:010	367.93103	40 KAR 2:145
350.010	405 KAR 5:095		40 KAR 2:150
	405 KAR 7:092	367.93105	40 KAR 2:145
350.028	400 KAR 1:001		40 KAR 2:150
	400 KAR 1:031	367.93107	40 KAR 2:145
	400 KAR 1:090	367.93109	40 KAR 2:145
	405 KAR 7:092	367.93111	40 KAR 2:145
	405 KAR 7:093	367.93113	40 KAR 2:145
350.029	400 KAR 1:090	367.93115	40 KAR 2:145
350.032	400 KAR 1:001		40 KAR 2:150
	400 KAR 1:090	367.93117	40 KAR 2:145
	405 KAR 5:095		40 KAR 2:150
	405 KAR 7:093	367.93121	40 KAR 2:145
350.060	400 KAR 1:090	367.97501	40 KAR 2:145
	405 KAR 5:095		40 KAR 2:150
350.070	400 KAR 1:001	367.97504	40 KAR 2:150
	400 KAR 1:031	367.97507	40 KAR 2:150
	400 KAR 1:090	367.97511	40 KAR 2:150
	405 KAR 7:092	367.97514	40 KAR 2:145
	405 KAR 7:093		40 KAR 2:150
350.085	400 KAR 1:001	367.97517	40 KAR 2:150
	400 KAR 1:031	367.97521	40 KAR 2:150
	400 KAR 1:090	367.97524	40 KAR 2:145
	405 KAR 5:095		40 KAR 2:150
350.090	400 KAR 1:001	367.97527	40 KAR 2:145
	400 KAR 1:090		40 KAR 2:150
	405 KAR 7:092	369	401 KAR 8:020
	405 KAR 7:093	387.025	922 KAR 1:140
350.093	400 KAR 1:001	403.190	102 KAR 1:320
	400 KAR 1:031	403.211	921 KAR 1:380
	400 KAR 1:090	403.210-403.240	921 KAR 1:001
	405 KAR 7:092	403.311-403.215	921 KAR 1:410
	405 KAR 7:093	403.707	201 KAR 20:411
350.130	400 KAR 1:001	405.060	921 KAR 1:410
	400 KAR 1:031	405.405-405.991	921 KAR 1:410
	400 KAR 1:090	405.411	921 KAR 1:430
	405 KAR 5:095	405.430	921 KAR 1:380
	405 KAR 7:092	405.440	921 KAR 1:001
	405 KAR 7:093		921 KAR 1:430
350.240	400 KAR 1:090	402.450	921 KAR 1:430
	405 KAR 5:095	405.463	921 KAR 1:430
350.255	400 KAR 1:001	405.465	921 KAR 1:430
	400 KAR 1:090	405.467	921 KAR 1:380
	405 KAR 7:092		921 KAR 1:430
	405 KAR 7:093	405.470	921 KAR 1:430
350.300	400 KAR 1:090	405.490	921 KAR 1:430
	405 KAR 5:095	405.520	921 KAR 1:001
350.305	400 KAR 1:090		921 KAR 1:380
	405 KAR 5:095		921 KAR 1:420
350.465	400 KAR 1:001	406.021	921 KAR 1:380
	400 KAR 1:031	406.025	921 KAR 1:380
	400 KAR 1:090	407.5101	921 KAR 1:420
	405 KAR 7:092	407.5101-407.5902	921 KAR 1:410
	405 KAR 7:093	407.5101-407.5903	921 KAR 1:001
350.610	400 KAR 1:001		921 KAR 1:380
	400 KAR 1:090	421.500-421.575	201 KAR 20:411
350.990	400 KAR 1:001	427.125	921 KAR 1:410
	400 KAR 1:031	431.600	920 KAR 2:040

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
439	501 KAR 6:020	29 C.F.R.	601 KAR 1:231
	501 KAR 6:030		803 KAR 2:180
	501 KAR 6:040		803 KAR 2:300
	501 KAR 6:060		803 KAR 2:303
	501 KAR 6:110		803 KAR 2:305
	501 KAR 6:150		803 KAR 2:308
	501 KAR 6:160		803 KAR 2:313
	501 KAR 6:170		803 KAR 2:317
	501 KAR 6:999		803 KAR 2:320
439.3401	201 KAR 47:010		803 KAR 2:403
	201 KAR 47:020		803 KAR 2:425
	902 KAR 20:091		803 KAR 2:500
446.030	405 KAR 7:093	30 C.F.R.	400 KAR 1:001
504	908 KAR 2:040		400 KAR 1:031
514	921 KAR 2:015		400 KAR 1:090
527.100	922 KAR 1:140		405 KAR 7:092
527.110	922 KAR 1:140		405 KAR 7:093
532.060	601 KAR 1:113	31 C.F.R.	921 KAR 1:410
600.020	922 KAR 1:140	34 C.F.R.	11 KAR 4:080
	922 KAR 1:320	40 C.F.R.	401 KAR 4:070
	922 KAR 1:360		401 KAR 8:010
	922 KAR 1:400		401 KAR 8:020
	922 KAR 2:160		401 KAR 8:040
605.090	922 KAR 1:320		401 KAR 8:075
	922 KAR 1:360		401 KAR 8:100
605.120	922 KAR 2:160		401 KAR 8:250
610.110	922 KAR 1:140		401 KAR 46:101
	922 KAR 1:360		401 KAR 46:110
	922 KAR 1:400		401 KAR 46:120
	922 KAR 1:500		401 KAR 60:005
610.125	922 KAR 1:140		401 KAR 63:002
610.127	922 KAR 1:140		401 KAR 63:060
610.170	921 KAR 1:380	42 C.F.R.	907 KAR 1:041E
620	922 KAR 1:151		907 KAR 1:065
	922 KAR 3:011		907 KAR 4:020
620.020	920 KAR 2:040		907 KAR 7:010
	922 KAR 1:140		907 KAR 7:015
	922 KAR 1:320		907 KAR 17:015
	922 KAR 1:400		907 KAR 17:035
	922 KAR 1:500		907 KAR 17:040
	922 KAR 2:160		907 KAR 23:001
620.030	902 KAR 20:280		907 KAR 23:010
620.045	920 KAR 2:040		907 KAR 23:020
620.050	920 KAR 2:040	45 C.F.R.	806 KAR 9:360
620.060	922 KAR 1:140		900 KAR 10:041
620.090	922 KAR 1:140		900 KAR 10:200
620.140	922 KAR 1:140		902 KAR 20:058
	922 KAR 1:500		902 KAR 20:091
620.180	922 KAR 1:140		921 KAR 1:001
	922 KAR 1:320		921 KAR 1:380
620.230	922 KAR 1:320		921 KAR 1:410
625.040	922 KAR 1:140		921 KAR 1:420
625.090	922 KAR 1:140		922 KAR 1:140
645.020	902 KAR 20:091		922 KAR 1:320
2 C.F.R.	202 KAR 7:520		922 KAR 1:400
	803 KAR 2:412		922 KAR 1:500
7 C.F.R.	702 KAR 6:090		922 KAR 2:020
	804 KAR 3:100		922 KAR 2:160
	921 KAR 3:030		922 KAR 2:260
	921 KAR 3:035		922 KAR 6:010
	921 KAR 3:050	49 C.F.R.	202 KAR 10:020
	922 KAR 2:160		600 KAR 6:061
10 C.F.R.	921 KAR 4:119		601 KAR 1:018
12 C.F.R.	808 KAR 3:020		601 KAR 1:231
20 C.F.R.	921 KAR 2:015		601 KAR 2:011
	922 KAR 2:160	7 U.S.C.	804 KAR 3:100
21 C.F.R.	902 KAR 55:015		921 KAR 3:030
	902 KAR 55:035		921 KAR 3:035
23 C.F.R.	600 KAR 6:061		922 KAR 2:160
	601 KAR 1:018	8 U.S.C.	921 KAR 2:015
	603 KAR 4:046	15 U.S.C.	201 KAR 27:008
26 C.F.R.	921 KAR 3:050		201 KAR 27:011

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	201 KAR 27:017		922 KAR 1:400
	921 KAR 1:410		922 KAR 1:500
16 U.S.C.	401 KAR 4:070		922 KAR 2:020
	401 KAR 46:101		922 KAR 2:160
	401 KAR 46:110		922 KAR 2:260
	401 KAR 46:120		922 KAR 3:011
18 U.S.C.	601 KAR 2:030		922 KAR 6:010
20 U.S.C.	11 KAR 4:080	Pub.L. 109-58	921 KAR 4:119
	702 KAR 7:065	1986 Ky. Acts ch 401	603 KAR 8:011
	705 KAR 4:231	1998 Ky. Acts ch.615	600 KAR 5:011
	780 KAR 4:012	2010 ES Ky. Acts ch.1	101 KAR 5:016
	922 KAR 1:500	2014 Ky. Acts ch.117	922 KAR 2:160
21 U.S.C.	902 KAR 55:035	2016 Ky. Acts ch. 91	739 KAR 2:140
23 U.S.C.	600 KAR 6:061	2016 Ky. Acts ch. 149	922 KAR 2:160
	603 KAR 4:046	EO 2016-270	201 KAR 27:005
25 U.S.C.	922 KAR 1:140		201 KAR 27:105
	922 KAR 2:160		921 KAR 3:030
26 U.S.C.	102 KAR 1:320	Pres. EO 13166	
	103 KAR 15:180		
29 U.S.C.	787 KAR 2:040		
	921 KAR 4:119		
	922 KAR 2:160		
30 U.S.C.	400 KAR 1:001		
	400 KAR 1:031		
	400 KAR 1:090		
	405 KAR 7:092		
	405 KAR 7:093		
33 U.S.C.	401 KAR 4:070		
	401 KAR 46:101		
	401 KAR 46:110		
	401 KAR 46:120		
38 U.S.C.	922 KAR 2:160		
42 U.S.C.	106 KAR 1:081		
	106 KAR 1:091		
	401 KAR 8:075		
	401 KAR 46:101		
	401 KAR 46:110		
	401 KAR 46:120		
	401 KAR 60:005		
	401 KAR 63:002		
	401 KAR 63:060		
	815 KAR 20:060		
	900 KAR 10:041		
	900 KAR 10:200		
	902 KAR 20:058		
	902 KAR 20:091		
	906 KAR 1:190		
	907 KAR 1:041E		
	907 KAR 1:065		
	907 KAR 3:031		
	907 KAR 3:206E		
	907 KAR 4:020		
	907 KAR 4:030		
	907 KAR 7:015		
	907 KAR 15:010		
	907 KAR 15:015		
	907 KAR 17:015		
	907 KAR 23:001		
	907 KAR 23:010		
	907 KAR 23:020		
	910 KAR 1:210		
	921 KAR 1:001		
	921 KAR 1:380		
	921 KAR 1:410		
	921 KAR 1:420		
	921 KAR 2:015		
	921 KAR 3:030		
	921 KAR 3:035		
	921 KAR 4:119		
	922 KAR 1:140		
	922 KAR 1:320		
	922 KAR 1:360		

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		Date Corrected	Regulation Number	Date Corrected
16 KAR 6:020	‡	4-11-2017	103 KAR 43:110	6-28-2016
30 KAR 1:040		8-2-2016	103 KAR 43:140	6-28-2016
40 KAR 2:150		6-30-2016	103 KAR 43:310	6-28-2016
103 KAR 25:050		6-22-2016	103 KAR 43:330	6-28-2016
103 KAR 25:060		6-22-2016	103 KAR 44:060	6-28-2016
103 KAR 25:131		6-22-2016	103 KAR 44:070	6-28-2016
103 KAR 26:050		6-22-2016	201 KAR 22:053	11-16-2016
103 KAR 26:070		6-22-2016	201 KAR 27:005	‡ 10-26-2016
103 KAR 26:080		6-22-2016	201 KAR 27:007	‡ 10-26-2016
103 KAR 26:090		6-22-2016	201 KAR 27:008	‡ 10-26-2016
103 KAR 26:100		6-22-2016	201 KAR 27:011	‡ 10-26-2016
103 KAR 27:120		6-22-2016	201 KAR 27:012	‡ 10-26-2016
103 KAR 27:140		6-22-2016	201 KAR 27:016	‡ 10-26-2016
103 KAR 27:150		6-22-2016	201 KAR 27:017	‡ 10-26-2016
103 KAR 27:180		6-22-2016	201 KAR 27:020	‡ 10-26-2016
103 KAR 27:220		6-22-2016	201 KAR 27:021	‡ 10-26-2016
103 KAR 28:010		6-22-2016	201 KAR 27:036	‡ 10-26-2016
103 KAR 28:020		6-22-2016	201 KAR 27:040	‡ 10-26-2016
103 KAR 28:030		6-22-2016	201 KAR 27:105	‡ 10-26-2016
103 KAR 28:040		6-22-2016	201 KAR 35:015	1-27-2017
103 KAR 28:051		6-22-2016	201 KAR 35:070	1-27-2017
103 KAR 28:060		6-22-2016	301 KAR 2:030	8-29-2016
103 KAR 28:090		6-22-2016	401 KAR 4:010	7-8-2016
103 KAR 28:130		6-22-2016	401 KAR 4:060	7-8-2016
103 KAR 28:150		6-22-2016	401 KAR 4:100	7-8-2016
103 KAR 30:091		6-22-2016	401 KAR 4:140	7-8-2016
103 KAR 30:120		6-22-2016	401 KAR 4:220	7-8-2016
103 KAR 30:140		6-22-2016	401 KAR 5:002	7-8-2016
103 KAR 30:160		6-22-2016	401 KAR 5:005	7-8-2016
103 KAR 30:170		6-22-2016	401 KAR 5:006	7-8-2016
103 KAR 30:180		6-22-2016	401 KAR 5:060	7-8-2016
103 KAR 30:190		6-22-2016	401 KAR 5:320	7-8-2016
103 KAR 30:235		6-22-2016	401 KAR 6:310	7-8-2016
103 KAR 30:250		6-22-2016	401 KAR 6:320	7-8-2016
103 KAR 30:260		6-22-2016	401 KAR 6:350	7-8-2016
103 KAR 30:270		6-22-2016	401 KAR 8:020	7-8-2016
103 KAR 30:280		6-22-2016	401 KAR 8:040	7-8-2016
103 KAR 30:290		6-22-2016	401 KAR 8:100	7-8-2016
103 KAR 31:011		6-22-2016	401 KAR 9:010	7-8-2016
103 KAR 31:050		6-22-2016	401 KAR 10:026	7-8-2016
103 KAR 31:080		6-22-2016	401 KAR 10:030	7-8-2016
103 KAR 31:090		6-22-2016	401 KAR 10:031	7-8-2016
103 KAR 31:190		6-22-2016	401 KAR 11:050	7-8-2016
103 KAR 40:010		6-28-2016	401 KAR 31:070	7-8-2016
103 KAR 40:035		6-28-2016	401 KAR 32:010	7-8-2016
103 KAR 40:050		6-28-2016		12-21-2016
103 KAR 40:090		6-28-2016	401 KAR 32:040	7-8-2016
103 KAR 40:100		6-28-2016		12-21-2016
103 KAR 41:030		6-28-2016	401 KAR 33:010	7-8-2016
103 KAR 41:040		6-28-2016		12-21-2016
103 KAR 41:050		6-28-2016	401 KAR 34:060	7-8-2016
103 KAR 41:060		6-28-2016		12-21-2016
103 KAR 41:090		6-28-2016	401 KAR 34:080	7-8-2016
103 KAR 41:100		6-28-2016	401 KAR 35:060	12-21-2016
103 KAR 41:110		6-28-2016	401 KAR 38:040	7-8-2016
103 KAR 41:120		6-28-2016		12-21-2016
103 KAR 41:130		6-28-2016	401 KAR 38:050	7-8-2016
103 KAR 41:160		6-28-2016	401 KAR 38:080	7-8-2016
103 KAR 43:010		6-28-2016		12-21-2016
103 KAR 43:050		6-28-2016	401 KAR 42:020	7-8-2016
103 KAR 43:100		6-28-2016		12-21-2016

TECHNICAL AMENDMENT INDEX

401 KAR 42:030	7-8-2016	401 KAR 52:040	7-8-2016
	12-21-2016	401 KAR 52:050	7-8-2016
401 KAR 42:040	7-8-2016	401 KAR 52:060	7-8-2016
	12-21-2016	401 KAR 52:070	7-8-2016
401 KAR 42:060	7-8-2016	401 KAR 52:100	7-8-2016
	12-21-2016	401 KAR 58:005	7-8-2016
401 KAR 42:070	7-8-2016	401 KAR 58:025	7-8-2016
	12-21-2016	401 KAR 59:021	7-8-2016
401 KAR 42:080	7-8-2016	401 KAR 59:023	7-8-2016
	12-21-2016	401 KAR 59:174	7-8-2016
401 KAR 42:250	7-8-2016	401 KAR 59:760	7-8-2016
	12-21-2016	401 KAR 61:036	7-8-2016
401 KAR 42:290	7-8-2016	401 KAR 61:090	7-8-2016
	12-21-2016	401 KAR 63:031	7-8-2016
401 KAR 42:300	7-8-2016	401 KAR 68:010	7-8-2016
	12-21-2016	401 KAR 68:020	7-8-2016
401 KAR 42:316	7-8-2016	401 KAR 68:048	7-8-2016
	12-21-2016	401 KAR 68:065	7-8-2016
401 KAR 42:320	7-8-2016	401 KAR 68:090	7-8-2016
	12-21-2016	401 KAR 68:100	7-8-2016
401 KAR 42:330	7-8-2016	401 KAR 68:150	7-8-2016
	12-21-2016	401 KAR 68:200	7-8-2016
401 KAR 42:340	7-8-2016	401 KAR 100:030	7-8-2016
	12-21-2016		12-21-2016
401 KAR 44:030	7-8-2016	401 KAR 101:010	7-8-2016
401 KAR 45:030	7-8-2016		12-21-2016
	12-21-2016	401 KAR 101:020	7-8-2016
401 KAR 45:040	7-8-2016	401 KAR 101:030	7-8-2016
	12-21-2016	401 KAR 101:040	7-8-2016
401 KAR 45:070	7-8-2016		12-21-2016
	12-21-2016	401 KAR 102:010	7-8-2016
401 KAR 45:080	7-8-2016		12-21-2016
	12-21-2016	405 KAR 5:032	7-6-2016
401 KAR 45:090	7-8-2016	405 KAR 5:070	7-6-2016
	12-21-2016	405 KAR 5:078	7-6-2016
401 KAR 45:100	7-8-2016	405 KAR 5:082	7-6-2016
401 KAR 45:135	7-8-2016	405 KAR 7:080	7-6-2016
	12-21-2016	405 KAR 7:095	7-6-2016
401 KAR 47:090	7-8-2016	405 KAR 8:001	7-6-2016
	12-21-2016	405 KAR 8:010	7-6-2016
401 KAR 47:095	7-8-2016	405 KAR 8:030	7-6-2016
	12-21-2016	405 KAR 8:040	7-6-2016
401 KAR 47:110	7-8-2016	405 KAR 10:015	7-6-2016
	12-21-2016	405 KAR 10:025	7-6-2016
401 KAR 47:205	7-8-2016	405 KAR 10:030	7-6-2016
	12-21-2016	405 KAR 10:070	7-6-2016
401 KAR 48:205	7-8-2016	405 KAR 10:070	11-1-2016
	12-21-2016	405 KAR 10:080	7-6-2016
401 KAR 48:206	7-8-2016	405 KAR 16:001	7-6-2016
401 KAR 48:207	7-8-2016	405 KAR 16:200	7-6-2016
401 KAR 48:208	7-8-2016	405 KAR 18:001	7-6-2016
401 KAR 48:310	7-8-2016	405 KAR 18:200	7-6-2016
	12-21-2016	500 KAR 3:010	12-20-2016
401 KAR 49:011	7-8-2016	501 KAR 6:060	8-18-2016
	12-21-2016	791 KAR 1:010	4-12-2017
401 KAR 49:080	7-8-2016	791 KAR 1:030	4-12-2017
	12-21-2016	791 KAR 1:035	4-12-2017
401 KAR 49:090	7-8-2016	791 KAR 1:040	4-12-2017
401 KAR 49:100	7-8-2016	791 KAR 1:050	4-12-2017
401 KAR 49:210	7-8-2016	791 KAR 1:060	4-12-2017
	12-21-2016	791 KAR 1:070	4-12-2017
401 KAR 50:015	7-8-2016	791 KAR 1:100	4-12-2017
401 KAR 50:045	7-8-2016	791 KAR 1:150	4-12-2017
401 KAR 50:065	7-8-2016	791 KAR 1:155	4-12-2017
401 KAR 50:066	7-8-2016	802 KAR 1:010	9-27-2016
401 KAR 51:001	7-8-2016	805 KAR 1:070	7-6-2016
401 KAR 51:150	7-8-2016	805 KAR 1:100	7-6-2016
401 KAR 51:160	7-8-2016	805 KAR 1:110	7-6-2016
401 KAR 51:170	7-8-2016	805 KAR 1:140	7-6-2016
401 KAR 51:180	7-8-2016	805 KAR 1:160	7-6-2016
401 KAR 51:190	7-8-2016	805 KAR 1:170	7-6-2016
401 KAR 51:195	7-8-2016	805 KAR 1:180	7-6-2016
401 KAR 52:020	7-8-2016	805 KAR 1:190	7-6-2016
401 KAR 52:030	7-8-2016	805 KAR 9:010	7-6-2016

TECHNICAL AMENDMENT INDEX

805 KAR 9:020		7-6-2016
805 KAR 9:030		7-6-2016
805 KAR 9:040		7-6-2016
805 KAR 9:060		7-6-2016
805 KAR 9:080		7-6-2016
805 KAR 9:100		7-6-2016
805 KAR 4:010		7-6-2016
805 KAR 4:040		7-6-2016
805 KAR 4:085		7-6-2016
805 KAR 4:093		7-6-2016
805 KAR 4:100		7-6-2016
805 KAR 4:110		7-6-2016
805 KAR 5:070		7-6-2016
805 KAR 7:030		7-6-2016
805 KAR 7:080		7-6-2016
805 KAR 8:060		7-6-2016
805 KAR 11:010		7-6-2016
805 KAR 11:020		7-6-2016
902 KAR 2:020	‡	8-4-2016
907 KAR 1:672		3-15-2017

SUBJECT INDEX

ACCOUNTANCY

Continuing professional education requirements; 201 KAR 1:100
Individual license renewal and fee; 201 KAR 1:065
Per diem compensation; 201 KAR 1:015

AERONAUTICS

Airport Development
 Repeal of 602 KAR 15:010; 602 KAR 15:011
Airport Safety Standards
 Repeal of 602 KAR 20:090; 602 KAR 20:091

AGING AND INDEPENDENT LIVING

Services
 Long-term Care Ombudsman Program; 910 KAR 1:210

AGRICULTURE

Marketing and Product Promotion
 Small Farm Wineries Support Fund; 302 KAR 39:020

AGRICULTURAL EXPERIMENT STATION

Seed
 Charges for samples submitted for testing; 12 KAR 1:155
 Permits, reports, fees for persons using own tags; 12 KAR 1:140
 Sampling, analyzing, testing, and tolerances; 12 KAR 1:116

AIR QUALITY

Ambient Air Quality
 Ambient air quality standards; 401 KAR 53:010
Attainment and Maintenance of the National Ambient Air Quality Standards
 Attainment status designations; 401 KAR 51:010
General Standards of Performance
 40 C.F.R. Part 63 national emission standards for hazardous air pollutants; 401 KAR 63:002
 List of hazardous air pollutants, petitions process, lesser quantity designations, and source category list; 401 KAR 63:060
New Source Performance Standards
 40 C.F.R. Part 60 standards of performance for new stationary sources; 401 KAR 60:005

ALCOHOL AND DRUG COUNSELORS

Curriculum of study; 201 KAR 35:050
Code of ethics; 201 KAR 35:030
Examinations; 201 KAR 35:025
Fees; 201 KAR 35:020
Repeal of 201 KAR 35:015; 201 KAR 35:016
Supervision of study; 201 KAR 35:070

ALCOHOLIC BEVERAGE CONTROL, DEPARTMENT OF

Advertising Distilled Spirits and Wine
 Repeal of 804 KAR 1:090 and 804 KAR 1:120; 804 KAR 1:071
Conduct of Business; Employees
 Repeal of 804 KAR 5:030 and 804 KAR 5:050; 804 KAR 5:031
Fair Trade; Pricing and Sales
 License suspension or revoked for accepting SNAP benefits for alcohol purchases; 804 KAR 3:100
 Repeal of 804 KAR 3:080; 804 KAR 3:081
Licensing
 ABC basic application and renewal form incorporated by reference; 804 KAR 4:400
 Entertainment destination center license; 804 KAR 4:370
 Renewals; 804 KAR 4:390
 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
 Special applications and registration forms; 804 KAR 4:410
Local Administrators
 Administrator, appointment notification of; 804 KAR 10:010
 Repeal of 804 KAR 10:020 and 10:025; 804 KAR 10:021

Malt Beverage Equipment, Supplies, and Service
 Equipment and supplies; 804 KAR 11:010
 Repeal of 804 KAR 11:020; 804 KAR 11:021
Quotas
 Quota retail license limits for counties; 804 KAR 9:010
 Repeal of 804 KAR 9:020 and 9:030; 804 KAR 9:021
Retail Premises
 Repeal of 804 KAR 7:050; 804 KAR 7:051
Transportation of Alcoholic Beverages
 Repeal of 804 KAR 8:040 and 8:060; 804 KAR 8:041

APPLIED BEHAVIOR ANALYSIS

Per Diem; 201 KAR 43:110

ASSISTIVE TECHNOLOGY LOAN CORPORATION

General eligibility criteria; 789 KAR 1:010

ATHLETE AGENTS

Complaint review; 200 KAR 30:020
Definitions; 200 KAR 30:010
Fees; 200 KAR 30:040
Registration procedure; 200 KAR 30:030
Repeal of 200 KAR 30:050 and 30:060; 200 KAR 30:051

ATTORNEY GENERAL

Consumer Protection; 40 KAR Chapter 2
 Cremation forms and inspections, 40 KAR 2:150
 Funeral planning declaration form; 40 KAR 2:145

BANKS

See Financial Institutions

BARBERING

Fees; license, examination, renewal, expiration; 201 KAR 14:180
License, five (5) year expiration of; 201 KAR 14:030
New locations, notification and inspection of; 201 KAR 14:045
Retaking of examination; 201 KAR 14:015
School
 Curriculum; 201 KAR 14:090
 Equipment; plant layout; 201 KAR 14:110
 Records; 201 KAR 14:150
Teacher requirements; 201 KAR 14:125

BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Mental Health
 Hospital district assignments; 908 KAR 2:040
Institutional Care
 "Means test" for determining patient liability and per diem rates; 908 KAR 3:060
 Repeal of 908 KAR 3:050; 908 KAR 3:051
 Repeal of 908 KAR 3:080, 3:0910, 3:100, 3:110, 3:120, 3:130, 3:140, 3:150, 3:160, and 3:180; 908 KAR 3:081

BOARDS AND COMMISSIONS

See listing for specific subject headings:
Accountancy; 201 KAR Chapter 1
Alcohol and Drug Counselors; 201 KAR Chapter 35
Barbering; 201 KAR Chapter 14
Boxing and Wrestling; 201 KAR Chapter 27
Chiropractic Examiners; 201 KAR Chapter 21
Counselors, Professional; 201 KAR Chapter 36
Diabetes Educators; 201 KAR Chapter 45
Durable Medical Equipment Suppliers; 201 KAR Chapter 47
Engineers and Land Surveyors; 201 KAR Chapter 18
Interpreters for the Deaf and Hard of Hearing; 201 KAR Chapter 39
Marriage and Family Therapists; 201 KAR Chapter 32
Massage Therapy; 201 KAR Chapter 42
Medical Imaging and Radiation Therapy; 201 KAR Chapter 46
Medical Licensure; 201 KAR Chapter 9
Nursing; 201 KAR Chapter 20
Occupational Therapy; 201 KAR Chapter 28
Ophthalmic Dispensers; 201 KAR Chapter 13

SUBJECT INDEX

Pastoral Counselors; 201 KAR Chapter 38
Pharmacy; 201 KAR Chapter 2
Physical Therapy; 201 KAR Chapter 22
Orthotics, Prosthetics, and Pedorthics; 201 KAR 44
Real Estate Appraisers; 201 KAR Chapter 30
Respiratory Care; 201 KAR Chapter 29
Social Work; 201 KAR Chapter 23
Wrestling; *See Boxing and Wrestling*

BOXING AND WRESTLING

Definitions; 201 KAR 27:005
Disciplinary action; 201 KAR 27:105
Drug testing; 201 KAR 27:021
Elimination event requirements; 201 KAR 27:017
General requirements
 Boxing and kickboxing shows; 201 KAR 27:011
 Mixed martial arts matches, shows, or exhibitions; 201 KAR 27:016
 Wrestling shows; 201 KAR 27:012
Inspector, powers and duties; 201 KAR 27:007
License requirements and fees; 201 KAR 27:008
Managers; 201 KAR 27:040
Repeal of 201 KAR 27:035, 27:045, 27:050, 27:055, 27:060, 27:065, 27:070, 27:090, and 27:100; 201 KAR 27:036
Tickets; 201 KAR 27:020

BUILDING CODE

See Housing, Buildings and Construction

CHILD CARE

See Day Care

CHILDREN

See listings under the following headings:

Day Care
Early Childhood Development Authority
Education
Family Support
Protection and Permanency
Public Health

CHIROPRACTIC EXAMINERS

Board; officers, duties, and compensation; 201 KAR 21:025
Licensing; standards, fees; 201 KAR 21:041

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Emergency Medical Services; 202 KAR Chapter 7
Fire Commission; KAR Title 739

COMMUNITY BASED SERVICES

Family Support; KAR Title 921
Protection and Permanency; KAR Title 922
 Child Care; 922 KAR Chapter 2

CONSTRUCTION

See: Highways
Housing, Buildings and Construction

CONSUMER PROTECTION

Cremation forms and inspections; 40 KAR 2:150
Funeral planning declaration form; 40 KAR 2:145

CORRECTIONS

Office of the Secretary
 Correctional Industries; 501 KAR 6:160
 Corrections policies and procedures; 501 KAR 6:020
 Eastern Kentucky Correctional Complex; 501 KAR 6:150
 Green River Correctional Complex; 501 KAR 6:170
 Kentucky State Penitentiary; 501 KAR 6:040
 Kentucky State Reformatory; 501 KAR 6:030
 Northpoint Training Center; 501 KAR 6:060
 Roederer Correctional Complex; 501 KAR 6:110

COUNSELORS, PROFESSIONAL

Administrative hearings for denials and revocation of probation; 201 KAR 36:090
Administrative subpoena; 201 KAR 36:055
Application, education, and examination requirements; 201 KAR 36:070
Code of ethics; 201 KAR 36:040
Complaint management process; 201 KAR 36:050
Continuing education requirements; 201 KAR 36:030
Definitions for 201 KAR Chapter 36; 201 KAR 36:005
Distance counseling; 201 KAR 36:045
Fees; 201 KAR 36:020
Licensed professional clinical counselor supervisor; 201 KAR 36:065
Qualifying experience under supervision; 201 KAR 36:060
Renewal and reinstatement of license; 201 KAR 36:075

CREDIT UNIONS

See Financial Institutions

CRIMINAL JUSTICE TRAINING

Law Enforcement Foundation Program Fund
 Participation: requirements; application; withdrawal; 503 KAR 5:090

DAY CARE

Child Care Assistance Program; 922 KAR 2:160
Child Care Assistance Program improper payments, claims, and penalties; 922 KAR 2:020
Child care service appeals; 922 KAR 2:260
Children's advocacy center standards; 920 KAR 2:040

DIABETES EDUCATORS

Continuing education; 201 KAR 45:130
Fee for licensure of diabetes educators; 201 KAR 45:100
Renewal, reinstatement, and inactive status; 201 KAR 45:120
Supervision and work experience; 201 KAR 45:110

DURABLE MEDICAL EQUIPMENT SUPPLIERS

Licenses, requirements, and fees; 201 KAR 47:010
Inspections, discipline, reinstatement, and administrative appeals; 201 KAR 47:020

EARLY CHILDHOOD DEVELOPMENT AUTHORITY

Duties of the advisory council; 10 KAR 6:010

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

Repeal of 307 KAR 1:030, 1:040, 1:050, and 1:060; 307 KAR 1:031

EDUCATION AND WORKFORCE DEVELOPMENT

See headings listed below:

For Education:

General; KAR Titles 702, 703, 704, 705
Higher Education Assistance Authority; KAR Title 11
Professional Standards Board; KAR Title 16
Postsecondary Education; KAR Title 13
Technical Education; KAR Title 780

For Workforce Development:

Assistive Technology Loan Corporation; KAR Title 789
Employment and Training; KAR Title 787
Employment Services; KAR Title 788

EDUCATION

Assessment and Accountability
 Special populations in assessment and accountability programs; 703 KAR 5:070
Food Service Programs
 Nutritional standards for items available during the school day; required nutrition, physical activity reports; 702 KAR 6:090
Instruction
 Repeal of 704 KAR 3:340; 704 KAR 3:342

SUBJECT INDEX

Instructional Programs
General program standards for secondary career and technical education programs; 705 KAR 4:231
Repeal of 780 KAR 4:010; 780 KAR 4:012
Learning Results Services
Repeal of 703 KAR 4:040; 703 KAR 4:041
School Administration and Finance
Repeal of 702 KAR 3:170; 702 KAR 3:171
School Terms, Attendance and Operation
Agent designation to manage middle and high school interscholastic athletics; 702 KAR 7:065

EDUCATION PROFESSIONAL STANDARDS BOARD

Advanced Certification and Rank
Ranking of occupation-based career and technical education teachers; 16 KAR 8:04040
Assessment
Assessment requirements for occupation-based career and technical education teachers; 16 KAR 6:020
Examination prerequisites for teacher certification; 16 KAR 6:010
Certification Procedures
Certification fees; 16 KAR 4:040
Out-of-state recency; 16 KAR 4:080
Reissuance; 16 KAR 4:090
Educator Preparation
Admission standards to educator preparation; 16 KAR 5:020
General Administration
Educator certificate surrender, revocation, suspension, reinstatement, reissuance, and application denial; 16 KAR 1:030
Standards for certified teachers; 16 KAR 1:010
Internship
Kentucky Teacher Internship Program; 16 KAR 7:010
Teaching Certificates
Occupation-based career and technical education certification; 16 KAR 2:020

ELECTIONS

Forms and Procedures
Exceptions to prohibition on electioneering; 31 KAR 4:170

EMERGENCY MEDICAL SERVICES

Ambulance and medical first response agencies; 202 KAR 7:501
Block grant funding assistance for emergency medical services; allocation of; 202 KAR 7:520
Survivor benefits for death of EMS personnel; 202 KAR 7:810

EMPLOYMENT AND TRAINING

See also Occupations and Professions
Employment Services
Local workforce development area governance; 787 KAR 2:040
Unemployment Insurance
Reasonable time for protesting claim; 787 KAR 1:070

ENERGY AND ENVIRONMENT

Environmental Protection
See specific heading:
Air Quality
Environmental Protection
Natural Resources
Office of the Secretary
Waste Management
Water Quality

ENGINEERS AND LAND SURVEYORS

Repeal of 201 KAR 18:050; 201 KAR 18:051

ENVIRONMENTAL PROTECTION

Repeal of 100:011; 401 KAR 100:011
See specific heading:
Air Quality
Waste Management
Water

ETHICS

See: Executive Branch Ethics Commission, KAR Title 9
Legislative Ethics Commission, KAR Title 2

EXECUTIVE BRANCH ETHICS COMMISSION

Registration and expenditure statements; financial transactions and termination forms; and enforcement; 9 KAR 1:040
Requirements relating to fundraising activities and charitable nonprofit organizations; 9 KAR 1:060
Statement of financial disclosure; 9 KAR 1:010

FAMILY SUPPORT

Child Support
Application and intergovernmental process; 921 KAR 1:380
Child support administrative hearings; 921 KAR 1:430
Collection and enforcement; 921 KAR 1:410
Definitions; 921 KAR 1:001
Distribution; 921 KAR 1:420
Energy Assistance Program/Weatherization
Repeal of 921 KAR 4:118; 921 KAR 4:119
K-TAP, Kentucky Works, Welfare to Work, State Supplementation
Supplemental programs for persons who are aged, blind, or have a disability; 921 KAR 2:015
Supplemental Nutrition Assistance Program
Application process; 921 KAR 3:030
Certification process; 921 KAR 3:035
Claims and additional administrative provisions; 921 KAR 3:050

FINANCE AND ADMINISTRATION

Executive Branch Ethics Commission; 9 KAR Chapter 1
Revenue; KAR Title 103
Purchasing
Public-private partnership delivery method; 200 KAR 5:355
School Facilities Construction Commission
Emergency and targeted investment fund; 750 KAR 1:030
Travel Expense and Reimbursement
Employees' reimbursement for travel; 200 KAR 2:006
Teachers' Retirement System; KAR Title 102

FINANCIAL INSTITUTIONS

Administration
Fees for services rendered to banks and trust companies; 808 KAR 1:160
Repeal of 808 KAR 1:080 and 1:100; 808 KAR 1:081
Repeal of 808 KAR 1:110; 808 KAR 1:111
Check Cashing
Required forms, procedures, and fees for applicants and licensees; 808 KAR 9:050
Credit Unions
Recordkeeping requirements; 808 KAR 3:020
Repeal of 808 KAR 3:030; 808 KAR 3:031
Finance Charges
Repeal of 808 KAR 4:020; 808 KAR 4:021
Industrial Loans
Repeal of 808 KAR 5:010, 5:020, and 5:030; 808 KAR 5:011
Repeal of 808 KAR 11:010; 808 KAR 11:011
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
Savings and Loans
Repeal of 808 KAR 7:030 and 7:040; 808 KAR 7:031

FIRE COMMISSION

Personnel Standards and Education
Survivor benefits for death of a firefighter; 739 KAR 2:040
Volunteer fire department reporting requirements; 739 KAR 2:140

FISH AND WILDLIFE RESOURCES

Fish
Asian Carp and Scaled Rough Fish Harvest Program; 301 KAR 1:152

SUBJECT INDEX

Boat and motor restrictions; 301 KAR 1:015
Fish - Taking of by traditional methods; 301 KAR 1:201
Game
Black bear - Seasons and requirements; 301 KAR 2:300
Cervids - Holding and intrastate transportation of captive; 301 KAR 2:083
Deer control tags, deer destruction permits, and landowner designees; 301 KAR 2:176
Deer hunting seasons, zones, requirements; 301 KAR 2:172
Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas; 301 KAR 2:178
Elk - Hunting seasons, permits, zones, requirements; 301 KAR 2:132
Furbearers -
Hunting and trapping seasons, limits; 301 KAR 2:251
Hunting and trapping on public areas; 301 KAR 2:049
Small Game -
Hunting and trapping on public areas; 201 KAR 2:049
Seasons, methods, and limits; 301 KAR 2:122
Waterfowl -
Hunting requirements on public lands; 301 KAR 2:222
Seasons and limits; 301 KAR 2:221
Youth season; 301 KAR 2:226
Wildlife rehabilitation permit, 301 KAR 2:075
Youth waterfowl, moorhen, and gallinule hunting seasons; 301 KAR 2:226
Hunting and Fishing
Shooting ranges on department-owned or managed lands; 301 KAR 3:015
Licensing
Migratory Bird Harvest Information Program; 301 KAR 5:040

GOVERNOR'S OFFICE

Early Childhood Development Authority; 10 KAR Chapter 6

HEALTH AND FAMILY SERVICES

Aging and Independent Living; KAR Title 910
Behavioral Health, Developmental and Intellectual Disabilities; KAR Title 908
Community Based Services; KAR Titles 921 and 922
Health Benefit and Information Exchange
Federal Platform; 900 KAR 10:200
Repeal of 900 KAR 10:040 and 10:050; 900 KAR 10:041
Certificate of Need
Administrative escalations; 900 KAR 6:095
Application process; 900 KAR 6:065
Application timetable; 900 KAR 6:060
Forms; 900 KAR 6:055
Inspector General
Kentucky national background check program; 906 KAR 1:190
Repeal of 906 KAR 1:080; 906 KAR 1:081
Repeal of 906 KAR 1:090; 906 KAR 1:091910
Repeal of 906 KAR 1:150; 906 KAR 1:151
State Health Plan
Facilities and services; 900 KAR 5:020
Medicaid Services; KAR Title 907
Protection and Permanency; KAR Title 922
Public Health; KAR Title 902

HIGHER EDUCATION ASSISTANCE AUTHORITY

Authority
Student aid applications; 11 KAR 4:080
Kentucky Educational Excellence Scholarship Program
KEES program; 11 KAR 15:090

HIGHWAYS

Construction and Materials
Repeal of 603 KAR 1:030; 603 KAR 1:031
Division of Planning
Repeal of 603 KAR 9:020; 603 KAR 9:021
Mass Transportation
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

Nonpublic School Transportation
Repeal of 600 KAR 5:010; 600 KAR 5:011
Preconstruction
Public-private partnerships; 603 KAR 2:020
Professional Engineering and Related Services
Repeal of 600 KAR 6:020, 600 KAR 6:030, 600 KAR 6:060; 600 KAR 6:061
Right-of-way
Repeal of 603 KAR 4:045; 603 KAR 4:046
Traffic
Repeal of 603 KAR 5:020, 603 KAR 5:030, 603 KAR 5:080, 603 KAR 5:090, 603 KAR 5:301; 603 KAR 5:311
Transportation Scholarship Program
Repeal of 603 KAR 8:010; 603 KAR 8:011

HORSE RACING

Harness Racing
Harness racing at county fairs; 811 KAR 1:220
Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund; 811 KAR 1:215
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

Building Code Enforcement
Kentucky Building Code; 815 KAR 7:120
Plumbing; 815 KAR Chapter 20

HUNTING

See Fish and Wildlife Resources

INSURANCE

Agents, Consultants, Solicitors, and Adjusters
Pharmacy benefit manager license; 806 KAR 9:360
Administration
Filing of local government premium tax ordinances; notification to insurers; 806 KAR 2:097
Repeal of 806 KAR 2:010, 806 KAR 2:020, 806 KAR 2:030, 806 KAR 2:040, and 806 KAR 2:050; 806 KAR 2:011
Health and Life
Pharmacy benefit managers; 806 KAR 17:575
Group and Blanket Health Insurance
Preferred and exclusive provider arrangements; 806 KAR 18:020

INTERPRETERS FOR THE DEAF AND HARD OF HEARING

Application; qualifications for licensure; and certification levels; 201 KAR 39:030
Application and qualifications for temporary licensure; 201 KAR 39:070
Definitions for 201 KAR 39:001; 201 KAR 39:001
Renewal of licenses, extension of temporary licenses and reinstatement; 201 KAR 39:050

JUSTICE AND PUBLIC SAFETY

Corrections; KAR Title 501
Criminal Justice Training; KAR Title 503

LABOR

Workers' Claims; 803 KAR Chapter 25
Workplace Standards
Occupational Safety and Health; 803 KAR Chapter 2

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, legislative agents; 2 KAR 2:040

SUBJECT INDEX

LIBRARIES AND ARCHIVES

Certification of public librarians; 725 KAR 2:060
Certification renewal of public librarians; 725 KAR 2:070

MARRIAGE AND FAMILY THERAPISTS

Code of ethics; 201 KAR 32:050
Continuing education requirements; 201 KAR 32:060
Fees; 201 KAR 32:030

MASSAGE THERAPY

Fees; 201 KAR 42:020
Renewals; 201 KAR 42:040

MEDICAL IMAGING AND RADIATION THERAPY

Continuing education requirements; 201 KAR 46:060
Fees; 201 KAR 46:020
Licenses; 201 KAR 46:040
Practice and ethical standards, scopes of; 201 KAR 46:035
Violations and enforcement; 201 KAR 46:070

MEDICAL LICENSURE

Complaint process, administrative hearings; 201 KAR 46:090
Disciplinary proceedings; 201 KAR 9:081
Emergency orders and hearings; appeals, other proceedings; 201 KAR 9:240
Interpretation and application of KRS 311.571(10); 201 KAR 9:025
Pain management facilities; registration, oversight; 201 KAR 9:250
Prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone; 201 KAR 9:270

MEDICAID SERVICES

Behavioral Health
Definitions; 907 KAR 15:005
Providers; Individuals, groups, and multi-specialty groups
Coverage; 907 KAR 15:010
Reimbursement; 907 KAR 15:015
Certified Provider Requirements
Home and community based waiver services version 2
Coverage; 907 KAR 7:010
Reimbursement; 907 KAR 7:015
Children's Health Insurance Program
Medicaid Expansion Title XXI of the Social Security Act; 907 KAR 4:020
Phase III Title XXI of the Social Security Act; 907 KAR 4:030
Managed Care
Third-party review, external independent
Appeal and administrative hearing, after; 907 KAR 17:040
General; 907 KAR 17:035
Provider requirements and policies; 907 KAR 17:015
Outpatient Pharmacy Program
Definitions for 907 KAR Chapter 23; 907 KAR 23:001
Outpatient pharmacy program; 907 KAR 23:010
Reimbursement for outpatient drugs; 907 KAR 23:020
Payments and Services
Repeal of 907 KAR 3:030; 907 KAR 3:031
Repeal of 907 KAR 3:205; 907 KAR 3:206 E
Services
Community mental health center services
Community services; 907 KAR 1:045
Primary care services; 907 KAR 1:047
Payments for price-based nursing facility services; 907 KAR 1:065
Repeal of 907 KAR 1:018 and 1:019; 907 KAR 1:041E

MILITARY AFFAIRS

Disaster and Emergency Services
Kentucky Emergency Response Commission
Civil penalty assessment and hearing procedure; 106 KAR 1:131
Tier 2 reporting and fee schedule requirements; extremely hazardous substance (EHS) facility planning participation requirements; 106 KAR 1:081
Kentucky Emergency Response Commission Fee Account Grant Committee; 106 KAR 1:111

Distribution formula; 106 KAR 1:121
Local emergency planning committees; 106 KAR 1:091
Requirements for state agencies; 106 KAR 1:101

MOREHEAD STATE UNIVERSITY

Board of Regents
Capital construction procedures; 755 KAR 1:080

NATURAL RESOURCES

General Provisions
Administrative hearings and assessment conferences relating to matters brought under KRS Chapter 350 relating to surface coal mining and reclamation operations, and coal exploration operations; 405 KAR 7:092
Repeal of 405 KAR 7:091; 405 KAR 7:093
Surface Effects of Noncoal Mining
Administrative hearings, informal settlement conferences, and general practice provisions relating to a mineral operation; 405 KAR 5:095

NURSING

Continuing competency requirements; 201 KAR 20:215
Continuing education provider approval; 201 KAR 20:220
Licensure; certification requirements for APRN; 201 KAR 20:056
Scope and standards of practice of APRN; 201 KAR 20:057
Sexual assault nurse examiner program standards and credential requirements; 201 KAR 20:411
Telehealth; 201 KAR 20:520

OCCUPATIONAL THERAPY

Renewals; 201 KAR 28:090
Telehealth occupational therapy services; 201 KAR 28:230

OCCUPATIONS AND PROFESSIONS

See specific headings listed by occupation or profession
See also Secretary of State
Athlete Agents 200 KAR Chapter 30

OCCUPATIONAL SAFETY AND HEALTH

See Workplace Standards

OFFICE OF THE SECRETARY

Administrative hearings practice provisions, 400 KAR 1:090
Definitions; 400 KAR 1:001
General administrative hearing practice provisions relating to matters brought under KRS Chapters 146, 149, 151, 223, and 224.
Repeal of 400 KAR 1:030; 400 KAR 1:031

OPHTHALMIC DISPENSERS

Apprentices; 201 KAR 13:050
Licensing; application, examination; experience; renewal; and inactive status; 201 KAR 13:040

PASTORAL COUNSELORS

Application; 201 KAR 38:020
Equivalent course of study; 201 KAR 38:030
Renewal of licenses and continuing education; 201 KAR 38:070

PERSONNEL

Board
Plan year handbook for the public employee health insurance program; 101 KAR 2:210
Probationary periods; 101 KAR 1:325
Cabinet, Classified
Applying for employment, qualifications and examinations; 101 KAR 2:046
Certification and selection of eligible applicants for appointments; 101 KAR 2:066
Classified compensation administrative regulations; 101 KAR 2:034
Employee performance evaluation system; 101 KAR 2:180
Registers; 101 KAR 2:056

SUBJECT INDEX

Cabinet, General
 Repeal of 101 KAR 5:015; 101 KAR 5:016
Cabinet, Unclassified
 Compensation plan and pay incentives for unclassified service;
 101 KAR 3:045

PHARMACY

Compounding; 201 KAR 2:076
Licenses and permits; fees; 201 KAR 2:050
Repeal of 201 KAR 2:350; 201 KAR 2:351
Services in hospitals or other organized health care facilities; 201
 KAR 2:074
Technicians; 201 KAR 2:045

PHYSICAL THERAPY

Continued competency requirements, procedures; 201 KAR
 22:045
Eligibility and credentialing procedure; 201 KAR 22:020
Ethics and standards of practice; 201 KAR 22:053
Foreign-educated therapists; 201 KAR 22:070

PSYCHOLOGY

Code of conduct; 201 KAR 26:145
Continuing education; 201 KAR 26:175
Disciplinary hearings; 201 KAR 26:140
Fee schedule; 201 KAR 26:160
Grievance procedure; 201 KAR 26:130
Health service provider designation; 201 KAR 26:125
Inactive status; 201 KAR 26:165
Associate
 Application procedures and temporary license; 201 KAR
 26:280
 Educational requirements for licensure; 201 KAR 26:210
 Employment of; 201 KAR 26:250
Practitioner: application procedures; 201 KAR 26:290
Psychologist
 Application procedures; temporary license; 201 KAR 26:155
 Education requirements; 201 KAR 26:200
 Licensed in another state; 201 KAR 26:185
Nonresident status; 201 KAR 26:215
Renewal and reinstatement; 201 KAR 26:225
Reciprocity licensure requirements; 201 KAR 26:180
Supervised professional experience requirements; 201 KAR
 26:190
Supervision, requirements for; 201 KAR 26:171

PLUMBING

Definitions; 815 KAR 20:010
House sewers and storm water piping; methods of installation; 815
 KAR 20:130
Materials/Parts
 List; 815 KAR 20:020
 Quality and weight; 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

POSTSECONDARY EDUCATION

Public Educational Institutions
 Advanced practice doctoral degree programs at
 comprehensive universities; 13 KAR 2:110
 Degree program approval; equal opportunity goals; 13 KAR
 2:060
Interstate Reciprocity Agreements
 State authorization reciprocity agreement; 13 KAR 4:010

ORTHOTICS, PROSTHETICS, AND PEDORTHICS

Professional conduct and Code of Ethics; 201 KAR 44:040
Requirements for licensure as an orthotist, prosthetist, orthotist
 prosthetist, or orthotic fitter on or after January 1, 2013; 201
 KAR 44:090

PROFESSIONAL ART THERAPISTS

Complaint procedure; 201 KAR 34:050
Continuing education requirements; 201 KAR 34:030
Fees; 201 KAR 34:020

PROTECTION AND PERMANENCY

Adult Services
 Caregiver misconduct registry and appeals; 922 KAR 5:120
 Repeal of 922 KAR 5:080; 922 KAR 5:081
Block Grants
 Repeal of 922 KAR 3:010 and 922 KAR 3:020; 922 KAR 3:011
Child Welfare
 Educational and training vouchers; 922 KAR 1:500
 Foster care, adoption permanency services; 922 KAR 1:140
 Private child care placement, levels, payment; 922 KAR 1:360
 Supportive services; 922 KAR 1:400
 Repeal of 922 KAR 1:150, 1:170, 1:210, and 1:230; 922 KAR
 1:151
 Service appeals; 922 KAR 1:320
Community Action Agencies
 Standards; 922 KAR 6:010

PUBLIC HEALTH

Communicable Diseases
 Reportable disease surveillance; 902 KAR 2:020
Controlled Substances
 Repeal of 902 KAR 55:075 and 902 KAR 55:100; 902 KAR
 55:076
 Schedule I substances; 902 KAR 55:015
 Schedule V substances; 902 KAR 55:035
Health Services and Facilities
 Facilities specifications, operation and services; community
 mental health center; 902 KAR 20:091
 License procedures and fee schedule; 902 KAR 20:008
 Operation and services; primary care center; 902 KAR 20:058
 Operations and services; home health agencies; 902 KAR
 20:081
 Repeal of 902 KAR 20:014; 902 KAR 20:013
 Repeal of 902 KAR 20:054; 902 KAR 20:053
Kentucky Board of Family Health Care Providers
 Repeal of 902 KAR 22:010 and 902 KAR 22:030; 902 KAR
 22:011
Maternal, Child Health
 Health Access Nurturing Development Services (HANDS)
 Program; 902 KAR 4:120
Programs for the Underserved
 Colon Cancer Screening Program; 902 KAR 21:020
 Pediatric Cancer Research and Treatment Grant Program; 902
 KAR 21:030
Radiology
 Exempt concentrations; 902 KAR 100:085
 Exempt quantities; 902 KAR 100:080
 Quantities of radioactive material requiring labeling; 902 KAR
 100:030

PUBLIC PROTECTION CABINET

Alcoholic Beverage Control; KAR Chapter 804
Boxing and Wrestling Commission; 201 KAR Chapter 27
Financial Institutions; KAR Title 808
Insurance; KAR Title 806
Occupations and Professions; KAR Title 200

PUBLIC TRANSPORTATION INFRASTRUCTURE AUTHORITY

Public-private partnerships; 202 KAR 10:020
Tolling projects; 202 KAR 10:030
Unsolicited proposals; 202 KAR 10:010

REAL ESTATE APPRAISERS

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

SUBJECT INDEX

RESPIRATORY CARE

Fees; 201 KAR 29:015

REVENUE

Ad Valorem Tax, Administration

Repeal of 103 KAR 5:120; 103 KAR 5:121

Ad Valorem Tax; State Assessment

Valuation of municipal solid waste landfill facilities; 103 KAR 8:160

Corporation License Tax

Repeal of 103 KAR 20:010, 20:020, and 20:035; 103 KAR 20:011

Forms

Repeal of 103 KAR 3:010, 3:020, 3:030, 3:040, and 3:050; 103 KAR 3:011

Income Tax; Corporations

Repeal of 103 KAR 16:030; 103 KAR 16:031

Repeal of 103 KAR 16:220 and 16:300; 103 KAR 16:221

Income Tax; Miscellaneous

Repeal of 103 KAR 19:030; 103 KAR 19:031

Income Tax; General Administration

Kentucky New Markets Development Program tax credit; 103 KAR 15:180

Repeal of 103 KAR 15:020, 15:080, and 15:100; 103 KAR 15:021

Sales and Use Tax; Miscellaneous Retail Transactions

Repeal of 103 KAR 28:040; 103 KAR 28:041

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

SECRETARY OF STATE

Occupational License Fees

Return, standard form for; 30 KAR 7:010

Returns for dual tax districts, standard form for; 30 KAR 7:020

SOCIAL WORK

Continuing education for renewal; 201 KAR 23:075

Inactive status of license; 201 KAR 23:055

TEACHERS' RETIREMENT SYSTEM

General Rules

Disability retirement application, review, examinations; 102 KAR 1:290

Qualified domestic relations orders; 102 KAR 1:320

Surviving children's benefits; 102 KAR 1:165

TECHNICAL EDUCATION

Facilities and Equipment of the Kentucky TECH System

Equipment inventory and insurance; 780 KAR 7:060

TOURISM, ARTS AND HERITAGE

Fish and Wildlife Resources; KAR Title 301

TRANSPORTATION

Aeronautics; KAR Title 602

Highways; KAR Title 603

Vehicle Regulation; KAR Title 601

VEHICLE REGULATION

Administration

Ignition interlock; 601 KAR 2:030

Repeal of 601 KAR 2:010; 601 KAR 2:011

Motor Carriers

Overweight or over dimensional motor vehicle load permits; 601 KAR 1:018

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

Transportation Network Company; 601 KAR 1:113

Motor Vehicle Commission

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

Motor Vehicle Tax

Repeal of 601 KAR 9:010, 9:020, 9:060, 9:065, 9:095, and

9:105; 601 KAR 9:111

Transportation of Solid Waste

Repeal of 601 KAR 40:010; 601 KAR 40:011

WASTE MANAGEMENT

Coal Combustion Residuals (CCR)

Definitions for 401 KAR Chapter 46; 401 KAR 46:101

Disposal of, in CCR units; 401 KAR 46:110

Permit-by-rule; 401 KAR 46:120

Surface impoundments; 401 KAR 4:070

Identification and Listing of Hazardous Waste

Lists of hazardous wastes; 401 KAR 31:040

Special Waste

Definitions for 401 KAR Chapter 45; 401 KAR 45:010

Permit-by-rule; 401 KAR 45:060

WATER

Public Water Supply

Consumer confidence reports; public notification; 401 KAR 8:075

Definitions for 401 KAR Chapter 8; 401 KAR 8:010

Facilities: design, construction and approval of 401 KAR 8:100
Inorganic and organic chemical sampling, analytical techniques, maximum contaminant levels, radionuclides, and secondary standards; 401 KAR 8:250

Laboratory certification; 401 KAR 8:040

Public and semipublic water systems; submetering; general provisions; 401 KAR 8:020

Repeal of 401 KAR 8:070, 401 KAR 8:101, 401 KAR 8:550, and 401 KAR 8:600

WORKERS' CLAIMS

Medical fee schedule for physicians; 803 KAR 25:089

Procedure for adjustments of claims; 803 KAR 25:010

Repeal of 803 KAR 25:009; 803 KAR 25:014

WORKFORCE INVESTMENT

See Employment and Training

WORKPLACE STANDARDS

Occupational Safety and Health

Adoption of 29 C.F.R. 1926.1-6; 803 KAR 2:400

Fall protection; 803 KAR 2:412

General; 803 KAR 2:300

Hazardous materials; 803 KAR 2:307

Maritime employment; 803 KAR 2:500

Materials handling and storage; 803 KAR 2:313

Personal protective equipment; 803 KAR 2:308

Powered platforms, manlifts, vehicle-mounted work platforms; 803 KAR 2:305

Occupational health; environmental controls; 803 KAR 2:430

Recordkeeping, reporting, statistics; 803 KAR 2:180

Special Industries; 803 KAR 2:317

Toxic and hazardous substances; 803 KAR 2:320 and 803 KAR 2:425

Walking-working surfaces; 803 KAR 2:303

WRESTLING

See Boxing and Wrestling

SUBJECT INDEX